STATES OF DELIBERATION

8th March, 2016

Billet d'État No. VII (Vol.II)
Article 4

AMENDMENT

Proposed by: Deputy A R Le Lievre
Seconded by: Deputy A H Langlois

Commerce and Employment Department
Financial Measures to Mitigate the Likely Adverse Consequences Upon Existing Milk Distributors of the Dairy Being Free to Sell Milk and Milk Product to Any Commercial Customer

To delete "not to approve the payment of financial mitigation to milk distributors" and substitute:

":

1. To agree the payment of ex-gratia payments of financial mitigation to existing milk distributors as set out in the succeeding propositions.

2. To agree that the payments to existing milk distributors shall be determined on the basis of sub-paragraph (h) of paragraph 4.3 of that Policy Letter, namely: - "The distribution mechanism proposed is based on total milk sales and the proportion of the total milk sales revenue that is made by each distributor. This approach weights the allocations, taking into account different business structures - i.e. the proportion of milk sales conducted via doorstep or commercial and wholesale customers - and the different revenues arising from each type of sale.".

3. To agree that no existing Milk Distributors shall receive payments exceeding £40,000.

4. To note that, as is stated on the KPMG report entitled 'Financial mitigation for milk distributors' attached as Appendix 1 to that Policy Letter, the midway point of the difference between the current and future market valuation of existing Milk Distribution businesses is £750,000; and to agree that the aggregate sum paid to all existing Milk Distributors shall be as close as is reasonable possible to, but in any event shall not exceed, £750,000.

5. To agree that the payments to be made to existing Milk Distributors shall be drawn from the existing cash balances of the States Dairy.

6. To note paragraphs 5.6 and 5.7 of that Policy Letter, namely: "Should a financial settlement payment be approved, the Department considers that it is essential that any payments paid to milk distributors are explicitly given on the basis that they are

in full and final settlement of all claims in this matter. The Department is advised that distributors wishing to take a settlement should be required to sign an agreement by which they clearly waive their right to seek further damages through civil action.".

7. To direct the Treasury and Resources Department to administer the payments to existing Milk Distributors as set out in the preceding propositions; and further to direct that every effort must be made to make such payments by no later than 30th June 2016".

Explanatory Note

No matter what mitigation mechanism might be applied, the States would always wish to impose a limit on the aggregate sum disbursed. The KPMG study that accompanies the Policy Letter calculates the smallest loss of sector business at £0.4M and the greatest at £1.1M, the midpoint of these extremes being £0.75M.

The individual mitigation limit of £40,000 will ensure that the process described in (2) does not result in large distribution businesses receiving levels of mitigation that are not commensurate to their business risk.

In the 7 years 2008 to 2014, the Dairy has averaged cash surpluses of £478,000 per annum and at the end of 2015 its cash reserves stood at £2.8M. In the same period, farmers have received grants in excess of £14M by way of the Farm Contracts Subsidy Scheme. The Dairy's cash surpluses and the grants to farmers are derived from the milk consumer and the taxpayer who, in the most part, are one and the same source. Rather than require the taxpayer to further subsidise the dairy industry as a whole it seems reasonable that the cost of mitigation is borne from sums already contributed by that single source.

For the purposes of Rule 15(2) the financial implications for the States of carrying the amendment into effect are as set out in Propositions 4 and 5.

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MOTION UNDER SECTION 7(1) OF THE REFORM (GUERNSEY) LAW, 1948

Proposed by: Deputy Laurie B Queripel
Seconded by: Deputy Lester C Queripel

To suspend Rule 13(2) and any other provision of the Rules of Procedure to the extent necessary to permit the amendment set out below to be debated and take effect.

AMENDMENT

Proposed by: Deputy Laurie B Queripel
Seconded by: Deputy Lester C Queripel

Commerce and Employment Department
Financial Measures to Mitigate the Likely Adverse Consequences Upon Existing Milk Distributors of the Dairy Being Free to Sell Milk and Milk Product to Any Commercial Customer

To delete "not to approve the payment of financial mitigation to milk distributors" and substitute:

":

1. To agree the payment of ex-gratia payments of financial mitigation to existing milk distributors as set out in the succeeding propositions.

2. To agree that the payments to existing milk distributors shall be determined on the basis of sub-paragraph (h) of paragraph 4.3 of that Policy Letter, namely: - "The distribution mechanism proposed is based on total milk sales and the proportion of the total milk sales revenue that is made by each distributor. This approach weights the allocations, taking into account different business structures - i.e. the proportion of milk sales conducted via doorstep or commercial and wholesale customers - and the different revenues arising from each type of sale.".

3. To agree that no existing Milk Distributors shall receive payments exceeding £60,000.

4. To note that, as is stated on the KPMG report entitled 'Financial mitigation for milk distributors' attached as Appendix 1 to that Policy Letter, the maximum difference between the current and future market valuation of existing Milk Distribution businesses is £1.1m; and to agree that the aggregate sum paid to all existing Milk Distributors shall be as close as is reasonably possible to, but in any event shall not exceed, £1.1m.

5. To agree that the payments to be made to existing Milk Distributors shall be drawn from the existing cash balances of the States Dairy.

6. To note paragraphs 5.6 and 5.7 of that Policy Letter, namely: “Should a financial settlement payment be approved, the Department considers that it is essential that any payments paid to milk distributors are explicitly given on the basis that they are in full and final settlement of all claims in this matter. The Department is advised that distributors wishing to take a settlement should be required to sign an agreement by which they clearly waive their right to seek further damages through civil action.”.

7. To direct the Treasury and Resources Department to administer the payments to existing Milk Distributors as set out in the preceding propositions; and further to direct that payments should be made by the 30th June 2016”.

Explanatory Note

The KPMG study that accompanies the Policy Letter calculates the greatest loss of sector business at £1.1M.

The individual mitigation limit of £60,000 will enable large distribution businesses to receive levels of mitigation that is more commensurate to their business risk.

In the 7 years 2008 to 2014, the Dairy has averaged cash surpluses of £478,000 per annum and at the end of 2015 its cash reserves stood at £2.8M. In the same period, farmers have received grants in excess of £14M by way of the Farm Contracts Subsidy Scheme. The Dairy’s cash surpluses and the grants to farmers are derived from the milk consumer and the taxpayer who, in the most part, are one and the same source. Rather than require the taxpayer to further subsidise the dairy industry as a whole it seems reasonable that the cost of mitigation is borne from sums already contributed by that single source.

For the purposes of Rule 15(2) the financial implications for the States of carrying the amendment into effect are as set out in Propositions 4 and 5.