



BILLET D'ÉTAT

WEDNESDAY, 16th OCTOBER, 2019

XX
2019

ELECTIONS AND APPOINTMENTS

1. Committee *for* Employment & Social Security - Employment and Discrimination Tribunal: Appointment of Convenor, P.2019/95

LEGISLATIVE BUSINESS

Legislation Laid Before the States

The Water Charges (Amendment) Regulations, 2019
The Wastewater Charges (Guernsey) Regulations, 2019
Waste Disposal and Recovery Charges (No. 2) Regulations, 2019
The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 5) Regulations, 2019

Legislation for Approval

2. Committee *for* Home Affairs - The Population Management (Guernsey) (Amendment) Law, 2019, P.2019/89
3. Committee *for* Home Affairs - The Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019, P.2019/90
4. Committee *for* Economic Development - The Public Holidays Ordinance, 2019, P.2019/91
5. Committee *for* Home Affairs - The Probation (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019, P.2019/92

CONTINUED OVERLEAF

OTHER BUSINESS

6. Committee *for* Employment & Social Security – Contributory Benefit and Contribution Rates for 2020, P.2019/94
7. States’ Trading Supervisory Board – General Pilotage – Retirement Age of General Pilots, P.2019/93
8. States’ Assembly & Constitution Committee – Proxy Voting for Parental Absence, P.2019/96
9. Requête – Prohibition on Importation, Sale and Use of Glyphosate, P.2019/87
10. Schedule for future States’ business, P.2019/97

BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **16th October, 2019** immediately after the Meeting of the States of Election convened for **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

27th September, 2019

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

EMPLOYMENT AND DISCRIMINATION TRIBUNAL: APPOINTMENT OF CONVENOR

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Employment and Discrimination Tribunal: Appointment of Convenor', dated 9th September 2019, they are of the opinion:

1. To designate Mr Jason Hill as Convenor of the Employment and Discrimination Tribunal Panel from 1st November 2019 until 28th February 2021.

The above Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

EMPLOYMENT AND DISCRIMINATION TRIBUNAL: APPOINTMENT OF CONVENOR

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

9th September 2019

Dear Sir

1. Executive Summary

- 1.1. The Committee *for* Employment & Social Security recommends the appointment of Jason Hill as Convenor of the Employment and Discrimination Tribunal Panel, effective from 1st November 2019 until 28th February 2021.

2. Panel membership

- 2.1. The Employment and Discrimination Tribunal Panel ("the Tribunal Panel") is made up of independent people, appointed under the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005 ("the Ordinance"). Three panel members are required to hear and determine complaints under relevant employment and discrimination legislation, such as unfair dismissal, sex discrimination and failure to be paid the minimum wage.
- 2.2. Section 1 of the Ordinance requires the States, on the recommendation of the Committee for Employment & Social Security, to draw up and maintain the Employment and Discrimination Panel. Panel members are appointed for a three-year period, or such shorter period as the States may specify. The Ordinance requires that the Panel must consist of such number of persons as, in the opinion of the States, is necessary for the purpose of hearing and determining complaints under the provisions of the relevant enactments.
- 2.3. To ensure the States maintains a credible and appropriately skilled Panel, the Committee conducts a local advertising and recruitment campaign whenever recruitment is required. Applicants are shortlisted against objective criteria and the shortlisted candidates are required to take part in an assessment

process run by trained staff from the UK Advisory, Conciliation and Arbitration Service (ACAS). Following this independent assessment, recommendations for appointment are made for the Committee's consideration.

- 2.4. The States is required to designate one panel member as Convenor and another as Deputy Convenor in order to convene the panel members and appoint one as Chairman for each Tribunal. The current Convenor, Mrs Tina Le Poidevin, was elected to the position of Jurat of the Royal Court by the States on 7 June 2019, and as a result was required to immediately relinquish her position of Convenor to the Employment and Discrimination Tribunal. Her three year term would normally have expired on the 28th February 2021.
- 2.5. The Committee recommends that the States designate Mr Jason Hill to the role of Convenor for the remainder of the current term, until 28th February 2021. A profile for Mr Hill is in the Appendix. The remaining panel members, listed below, will continue in their roles until 28th February 2021:
- Mrs Christine Diane Le Lièvre (Deputy Convenor)
 - Mrs Paula Mary Brierley
 - Mr Roger John Brookfield
 - Mrs Joanne Antonia de Garis
 - Mr Darren Etasse
 - Mr Wayne Hassall
 - Mr George Charles Sidney Jennings
 - Ms Helen Sheena Martin (formerly Hubbard)
 - Ms Georgette Scott
 - Ms Alison Jayne Thompson Girollet (formerly Anderson)
 - Mr Andrew Douglas Vernon
 - Mr Peter Robert Woodward

3. New discrimination legislation

- 3.1. At the time of writing, the Committee is consulting on proposals for a new multi-ground discrimination law (see www.gov.gg/discriminationconsultation for further detail). The Committee anticipates that the Employment & Discrimination Tribunal would adjudicate cases under the new law. Thought is being given as to whether the Tribunal (and their Secretariat) has sufficient training, capacity, and other support, that they might require, and on how to ensure that they are equipped to hear cases when the new discrimination

legislation comes into force. The changes in law might also impact the timescales and process for filing claims, as outlined in the draft proposals.

- 3.2. Alongside a discrimination law, the Disability and Inclusion Strategy (Billet XXII of 2013) called for the establishment of an Equality and Rights Organisation. A business case for such an organisation is being developed. It is expected that, if established and involved in the complaint process, this organisation's role would be focused more at the earlier stages of a complaint (for example, in giving advice or supporting informal dispute resolution for people who feel they have experienced discrimination). Consequently, while this may have some effect on the Tribunal, it would not be likely to fundamentally alter the nature of the adjudication role that the Tribunal plays.

4. Conclusion

- 4.1. Through the drafting of this Policy Letter, the Committee has considered the need to consult with other bodies in accordance with Rule 4(5) of the Rules of Procedure of the States of Deliberation and their Committees. Consultation was not deemed necessary on this occasion.
- 4.2. The Committee has consulted with the Law Officers, who have not identified any legal difficulties with the proposition contained within this Policy Letter.
- 4.3. The proposition contained within this Policy Letter relates to the Committee's mandated responsibility for labour market legislation and practices.
- 4.4. In accordance with Rule 4(4) of the Rules of Procedure of the Assembly and their Committees, it is confirmed that the proposition above has the unanimous support of the Committee.

Yours faithfully

M K Le Clerc
President

S L Langlois
Vice-President

J A B Gollop
P J Roffey
E A Yerby

M J Brown
Non-States Member

A R Le Lièvre
Non-States Member

APPENDIX

5. Profile: Mr Jason Hill

- 5.1. Mr Hill is a Crown Advocate in the Civil Litigation Directorate of the chambers of the Law Officers of the Crown and as such is part of the team of lawyers that advises and represents the States of Guernsey and other quasi-governmental organisations in civil matters. He was appointed a Crown Advocate in 2013 having been called to the Guernsey Bar in 2011 and appears regularly before the various courts in the Bailiwick. He is particularly experienced in cases involving public law, land law, financial services, commercial litigation and company law. Prior to coming to Guernsey in 2009, he was a barrister in private practice in Sheffield after being called to the English Bar in 1995 and specialized in civil and chancery practice. He is also an accredited mediator and a Member of the Chartered Institute of Arbitrators. He was appointed to the Employment and Discrimination Tribunal Panel in 2016.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

EMPLOYMENT AND DISCRIMINATION TRIBUNAL – APPOINTMENT OF CONVENOR

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

9th September 2019

Dear Sir

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Employment & Social Security requests that 'Employment and Discrimination Tribunal – Appointment of Convenor' be considered at the States' meeting to be held on 16th October 2019.

It would be helpful for the policy letter to be considered at the earliest opportunity, so that the Convenor can be appointed to the Employment and Discrimination Tribunal from 1st November 2019, as proposed in the policy letter. The Tribunal has been without a Convenor since the previous Convenor vacated the role on 7th June 2019.

Yours faithfully



Michelle Le Clerc
President

Shane Langlois
Vice President

John Gollop, Peter Roffey, Emilie Yerby

Mike Brown, Andrew Le Lievre
Non-States Members

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 87 of 2019

THE WATER CHARGES (AMENDMENT) REGULATIONS, 2019

In pursuance of section 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, “The Water Charges (Amendment) Regulations, 2019”, made by the States’ Trading Supervisory Board on 25th July, 2019, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the charges which will be made for the supply of water for 2020.

These Regulations come into force on 1st January, 2020.

No. 88 of 2019

THE WASTEWATER CHARGES (GUERNSEY) REGULATIONS, 2019

In pursuance of section 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, “The Wastewater Charges (Guernsey) Regulations, 2019”, made by the States’ Trading Supervisory Board on 25th July, 2019, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe new wastewater charges and rates applying under the Wastewater Charges (Guernsey) Law, 2009.

These Regulations come into force on 1st January, 2020.

No. 89 of 2019

WASTE DISPOSAL AND RECOVERY CHARGES REGULATIONS (No. 2), 2019

In pursuance of Section 32(3)(c) and (4) and section 72 of the Environmental Pollution (Guernsey) Law, 2004 and all other powers enabling it in that behalf, the Waste Disposal and Recovery Charges Regulations, 2019, made by the Waste Disposal Authority on 19th August 2019, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the charges, or rates of charge, payable from 1st January 2020 as a pre-condition of the acceptance of waste of particular descriptions by the Waste Disposal Authority for disposal or recovery at specified public waste management sites (see Table 1 in Schedule 1). They also set out charges in 2020 for the reloading of waste which is not accepted at specified public waste management sites (see Table 2 in Schedule 1).

The only changes from the previous Waste Disposal and Recovery Charges Regulations, 2019 are to Schedule 1, Table 1, which sets out amended rates of charge as a pre-condition of the acceptance of certain wastes at sites operated by the Waste Disposal Authority.

These include an increase in charges (known as commercial gate fees) for certain wastes received at Longue Hougue Waste Transfer Station and Mont Cuët Landfill Site from £230 per tonne to £240 per tonne. There is also a corresponding increase for wastes received at the Longue Hougue Waste Transfer Station from £345 per tonne to £360 per tonne when a contamination charge is applied and an increase in hazardous sludge charges at the Mont Cuët Landfill Site from £45/tonne to £50/tonne. Inert waste disposal charges at the Longue Hougue Reclamation Site will also increase in accordance with the increase in the Retail Prices Index from £18.63 to £19.06 per tonne.

All other charges remain at the same rate as 2019.

These Regulations come into force on 1st January, 2020.

No. 91 of 2019

**THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT)
(AMENDMENT NO. 5) REGULATIONS, 2019**

In pursuance of sections 10 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, made by the Committee *for* Employment & Social Security on 27th August, 2019 are laid before the States.

EXPLANATORY NOTE

These Regulations add a drug to the list of drugs that may be prescribed as pharmaceutical benefit, substitute one drug on that list with another form of the same drug, and enable a

drug already on the list to be prescribed by a Learning Disability Specialist for people with learning disabilities.

These Regulations come into force on the 28th August, 2019.

The full text of the legislation can be found at:

<http://www.guernseylegalresources.gg/article/90621/Statutory-Instruments>

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

THE POPULATION MANAGEMENT (GUERNSEY) (AMENDMENT) LAW, 2019

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Population Management (Guernsey) (Amendment) Law, 2019", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

The Law comprises a number of technical amendments to the Population Management (Guernsey) Law, 2016 dealing with several matters, including: a power to grant a Short Term Employment Permit (STEP) on a "9 months on, 3 months off" basis, the removal of the requirement that an Open Market Employment Permit (Part B) and Open Market Employment Permit (Part C) specify the particular property in which the holder is accommodated, the removal of the concept of an Established Resident Permit, and provision that holders of STEPs and Open Market HMO Resident Permits (Part D) can occupy as a tenant a property inscribed in Part D without being accommodated by a householder.

PROJET DE LOI

ENTITLED

The Population Management (Guernsey) (Amendment) Law, 2019

THE STATES, in pursuance of their Resolutions of the 30th November, 2017^a and the 14th December 2018^b, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

Amendment of the Population Management Law.

1. (1) The Population Management (Guernsey) Law, 2016^c is amended as follows.

(2) For section 5(3) substitute –

"(3) An Established Resident may be the householder of a Local Market dwelling."

^a Article X of Billet d'État No. XXIII of 2017.

^b Article XX of Billet d'État No. XXVII of 2018.

^c Order in Council No. VI of 2016; as amended by No. IV of 2018, Ordinance No. VII of 2017, and Ordinance No. XXVII of 2018.

(3) In section 11(2), for "or (subject to section 24(4)) a Short Term Employment Permit" substitute "or (subject to section 24(4), including as applied by section 25A(2)) a Short Term Employment Permit or a Seasonal Employment Permit".

(4) Delete section 14(a).

(5) In section 16(2), for "one of the conditions in subsection (3) is satisfied in respect of him" substitute "the applicant is an Established Resident".

(6) Delete section 16(3).

(7) In section 17(1)(b)(ii), at the start insert "(subject to subsection (3))".

(8) After section 17(2) insert –

"(3) Where an application is made for an Open Market Resident Certificate and the dwelling the applicant is occupying or proposing to occupy is inscribed on Part D of the Open Market Housing Register, the Administrator may only issue an Open Market Resident Certificate if satisfied that the applicant is the owner of the entire premises in question (and so, for the avoidance of doubt, may not issue an Open Market Resident Certificate if the applicant is the lessee, or the owner of only part, of the premises in question).".

(9) In section 20(1), at the end of paragraph (c) delete "and" and after paragraph (c) insert –

"(ca) a Seasonal Employment Permit, and".

(10) For section 24(4), substitute –

"(4) The holder of a STEP –

(a) may be accommodated in a Local Market or
Open Market dwelling, and

(b) may occupy as a tenant a dwelling inscribed in
Part D of the Open Market Housing Register
without being accommodated by a householder,
but

(c) may not be the householder of a dwelling
(whether Local Market or otherwise)".

(11) In section 25 -

(a) for the section heading substitute "Employment
Permits: reissue, etc.",

(b) in subsection 1, after "subsections (2) and (3)" insert
"and section 25B", and for "or STEP" substitute ", STEP
or a Seasonal Employment Permit", and

(c) in subsection (2)(a), after "previous grant of a STEP"
insert "or a Seasonal Employment Permit".

(12) After section 25, insert -

"Seasonal Employment Permits.

25A. (1) A Seasonal Employment Permit may be granted for a period of up to nine months, and shall specify the date upon which it will (unless it ceases to be valid earlier under the provisions of this Law) cease to be valid.

(2) Subsections (2) to (4) of section 24 apply to Seasonal Employment Permits and the holders thereof as they apply to STEPs and the holders thereof.

Seasonal Employment Permits: reissue, etc.

25B. (1) Subject to subsection (2), the Administrator may grant a Seasonal Employment Permit to a person who has previously held a Seasonal Employment Permit.

(2) The Administrator may not grant a Seasonal Employment Permit to a person who has previously held a Seasonal Employment Permit if, without the consent of the Administrator, the person has been physically present in Guernsey at any time during the preceding three months."

(13) In sections 27(2)(a) and 28(2)(a), in both places delete "particular" and "specified on the face of the Permit".

(14) For section 29, substitute -

"Open Market Employment Permits: reissue.

29. The Administrator may grant an OMEP(B) or an OMEP(C) to a person who has previously been resident."

(15) After section 59, insert –

"Seasonal Employment Permits.

59A. (1) A person who –

(a) holds a STEP, and

(b) was, at any point in the six months prior to Commencement, resident under a short term housing licence falling within section 4(1)(a) of the Housing Control Law,

may apply to the Administrator for the conversion of that STEP to a Seasonal Employment Permit; and on receiving such an application the Administrator shall revoke that STEP, and grant the applicant a Seasonal Employment Permit for such period and subject to such conditions as the Administrator thinks fit.

(2) No charge may be levied in respect of an application made under subsection (1), and section 21(3) shall be construed accordingly."

(16) Delete paragraphs 3 and 4 of Schedule 2 (Established Resident Permit applications, and Established Resident Permits).

(17) Delete subparagraphs (1) and (3) of paragraph 6 of Schedule 2.

(18) For paragraph 19(2) of Schedule 2, substitute –

"(2) An Open Market HMO Resident Permit (Part D) shall have as a condition that the holder must –

(a) be accommodated at, or

(b) occupy as a tenant (without a requirement that he be accommodated by a householder),

the dwelling referred to in paragraph 17(2), as that paragraph applies in his case."

Citation.

2. This Law may be cited as the Population Management (Guernsey) (Amendment) Law, 2019.

Commencement.

3. This Law shall come into force on the day appointed by Ordinance of the States; and different dates may be appointed for different provisions and for different purposes.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE CUSTOMS AND EXCISE (DISCRETIONARY FINANCIAL PENALTIES) (BAILIWICK OF GUERNSEY) ORDINANCE, 2019

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

The Ordinance is made under section 62A of the Customs and Excise (General Provisions) (Bailiwick of Guernsey Law, 1972, which was inserted by the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 and which empowers the States by Ordinance to provide for the imposition of civil penalties by the Committee for Home Affairs where persons have engaged in dishonest conduct for the purpose of evading paying a duty of customs or excise duty, or where their conduct has led to a contravention of a duty or obligation under the customs and excise Laws. The Ordinance is based on and promotes correspondence with relevant UK legislation, pursuant to the Customs Arrangement entered into with the UK last year, and provides an additional tool to combat duty evasion and non-compliance (as opposed to reliance on the prosecution of offences).

Section 1 sets out the circumstances in which the Committee for Home Affairs may impose a penalty, and factors which it must (and must not) take into account when so deciding. Section 2 provides, for the avoidance of doubt, that a warning letter may be sent by the Committee instead of its imposing a penalty. Sections 3 and 4 set out a regime for written representations to be made the Committee in respect of a notice of intent to impose a penalty, and for appeals to be made to the Magistrate's Court.

Section 5 provides for the Committee to determine and publish default penalties (or ranges of penalty) that will normally be imposed for specific categories of conduct. It makes clear that the Committee is not bound to follow such determinations. Section 6 is concerned with the liability of directors and other officers where a body corporate is liable to a penalty in respect of the dishonest evasion of duty. The remaining provisions are concerned with the service of notices, the meaning of "evading duty", and extent, citation and commencement.

The Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019

THE STATES, in pursuance of their Resolution of 18th July, 2018^a, and in exercise of the powers conferred on them by section 62A of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^b, and all other powers enabling them in that behalf, hereby order:-

Discretionary financial penalties.

1. (1) Where the Committee is satisfied that a person has –
 - (a) engaged in any conduct for the purpose of evading any duty to customs, or excise duty, and the person's conduct involves dishonesty (whether or not such as to give rise to any criminal liability), or
 - (b) engaged in any conduct by which the person has contravened a duty, obligation, requirement or condition imposed by or under the customs Laws or

^a Article IV of Billet d'État No. XIX of 2018.

^b Ordres en Conseil Vol. XXIII, p. 573; amended by Ordres en Conseil Vol. XXIV, p. 87; Vol. XXXI, p. 278; Vol. XXXIII, p. 217; Order in Council No. X of 2004; No. II of 2010; No. XIV of 2007; No. XV of 2012; Ordinance No. XXXIII of 2003; No. XXIX of 2004; No. XLVIII of 2007; No. XXXV of 2007; No. VII of 2008; No. XLIII of 2013; No. XL of 2014; No. IX of 2016; No. XXXI of 2017; G.S.I. No. 56 of 2008; G.S.I. No. 76 of 2009; G.S.I. No. 97 of 2010; G.S.I. No. 42 of 2011; G.S.I. No. 54 of 2012; G.S.I. No. 53 of 2013; G.S.I. No. 61 of 2014; G.S.I. No. 70 of 2015; G.S.I. No. 46 of 2016; and G.S.I. No. 81 of 2017.

the excise Laws,

it may, subject to the provisions of this Ordinance, impose on that person a financial penalty in respect of the contravention in such amount as it considers appropriate and proportionate.

(2) For the avoidance of doubt, and subject to section 6, the Committee may impose a penalty on a body corporate under subsection (1).

(3) The Committee may not impose a penalty on a person under subsection (1) where that person is being or has been proceeded against in respect of an offence arising from the conduct in question.

(4) In a case falling within subsection (1)(a), the amount of the financial penalty that the Committee may impose may not exceed the amount of the duty evaded or, as the case may be, sought to be evaded; and in any other case the amount of the financial penalty may not exceed £2,500.

(5) In deciding whether or not to impose a penalty under this section and, if so, the amount thereof, the Committee must take into consideration any relevant determination made under section 5(1), and the following factors -

- (a) whether the conduct was brought to the attention of the Chief Revenue Officer or the Committee by the person concerned,
- (b) the seriousness of the evasion, intended evasion or contravention, as the case may be,

- (c) in the case of conduct falling within subsection (1)(b), whether or not the contravention was inadvertent,
- (d) in the case of conduct falling within subsection (1)(b), what efforts, if any, have been made to rectify the contravention and to prevent a recurrence,
- (e) whether a letter under section 2 has previously been issued to the person in respect of that person's engaging in broadly similar conduct,
- (f) the potential financial consequences to any third party of imposing a penalty, and
- (g) the penalties imposed by the Committee under this section in other cases (if any).

(6) In deciding whether or not to impose a penalty under this section and, if so, the amount thereof, the Committee may not take into consideration any of the following factors –

- (a) an insufficiency of funds available to a person obliged to pay any duty,
- (b) that reliance was placed by any person on another to perform any task,
- (c) that the contravention is attributable, in whole or in part, to the conduct of a person on whom reliance to

perform any task was so placed.

(7) Any financial penalty imposed under this section is payable to the States and is recoverable as a civil debt.

(8) Where the Committee proposes to impose a financial penalty, it must notify in writing the person on whom the penalty is to be imposed of –

- (a) the proposed penalty, and the reasons for the same,
- (b) the date on which it is proposed, subject to sections 3 and 4, to impose the penalty, which must not be less than 21 days after the date of the notice, and
- (c) that person's right to make written representations to the Committee under section 3(1).

(9) Where the Committee imposes a financial penalty it must -

- (a) issue to the person on whom the penalty is being imposed notice of the penalty, and
- (b) include in the notice a statement of the right of appeal under section 4.

Warning letters.

2. (1) For the avoidance of doubt, in a case falling within section 1(1), the Committee may, instead of imposing a financial penalty, decide to issue a letter to the person –

- (a) identifying the relevant conduct the Committee is satisfied that the person has engaged in, and
- (b) warning the person that if the person engages in broadly similar conduct within a specified period, a financial penalty is likely to be imposed.

(2) Sections 1(5) and (6) apply in respect of a decision as to whether to issue a letter under subsection (1) as they apply to a decision as to whether to impose a financial penalty under section 1(1).

Representations prior to financial penalty.

3. (1) The person on whom a notice is served under section 1(8) may make written representations to the Committee concerning the proposed financial penalty within 14 days of the date of the notice.

(2) If the person in question exercises their right under subsection (1) the Committee -

- (a) must consider the person's representations, and
- (b) may decide to –
 - (i) impose the penalty,
 - (ii) impose a penalty in a lesser amount,
 - (iii) withdraw the penalty, or

- (iv) postpone the date for imposing the penalty,

but in any event must inform that person of its decision in writing, and the reasons for the same, before the date on which financial penalty is imposed or would otherwise have been imposed.

(3) Without prejudice to section 4(7), and for the avoidance of doubt, where the Committee has imposed a financial penalty under section 1 it may not seek to recover payment of that penalty until –

- (a) 28 days immediately following the date of the notice of the penalty issued under section 1(9)(a), or
- (b) if an appeal is instituted within that period, the final determination, or withdrawal, of that appeal,

and for the purposes of this subsection, an appeal shall be deemed not to have been finally determined until the expiration of the time allowed for the institution of an appeal to the Court of Appeal under the Court of Appeal (Guernsey) Law, 1961^c or until the determination of any such appeal instituted within that time.

Appeals against Committee review decisions.

4. (1) A person aggrieved by a decision of the Committee under section 3(2) may appeal to the Court against the decision.

^c Ordres en Conseil Vol. XVIII, p. 315; as amended by Order in Council No. III of 2012; and Recueil d'Ordonnances Tome XXIX, p. 406.

(2) The grounds of an appeal under this section are that -

- (a) the Committee's decision was ultra vires or there was some other error of law,
- (b) the Committee's decision was unreasonable,
- (c) the Committee's decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(3) An appeal under this paragraph shall be instituted -

- (a) within a period of two months immediately following the date of the notice of the Committee's decision, and
- (b) by summons served on the Committee stating the grounds and material facts on which the appellant relies.

(4) The Committee may, where an appeal under this paragraph has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and on hearing the application the Court may -

- (a) dismiss the appeal or dismiss the application (in either

case on such terms and conditions as the Court may direct), or

(b) make such other order as the Court considers just.

(5) On an appeal under this paragraph the appellant shall have the burden of proof and the final right of reply.

(6) On an appeal under this paragraph the Court may -

(a) set the Committee's decision aside and, if the Court considers it appropriate to do so, remit the matter to the Committee with such directions as the Court thinks fit, or

(b) confirm the Committee's decision, in whole or in part.

(7) On an appeal under this paragraph against a decision of the Committee, the Court may, on the application of the appellant or the Committee or of its own volition, and on such terms as the Court thinks just, suspend or modify the operation of the Committee's decision pending the determination of the appeal.

(8) In this section "**the Court**" means the Magistrate's Court.

Committee may determine, and shall publish guidance in respect of, default penalty amounts.

5. (1) The Committee may determine from time to time the amount of a financial penalty that it will, subject to subsection (3), impose in respect of specified conduct and contraventions, for the purpose of ensuring fairness and

consistency in the administration of this Ordinance.

(2) A determination under subsection (1) may be in respect of specified categories of conduct and contravention, and may specify a range of amounts.

(3) For the avoidance of doubt, the Committee –

(a) is not bound by determinations made under subsection (1), and accordingly

(b) may in any case impose a financial penalty in a different amount from that specified in a relevant determination where it considers the circumstances so merit, or impose no penalty,

and subsection (1) shall be construed accordingly.

(4) When the Committee has made a determination under subsection (1) it shall publish guidance in respect of that determination in such manner as it thinks fit, including by publication on the States of Guernsey website.

Liability of directors etc. where body corporate liable to penalty for evasion.

6. (1) Where the Committee has decided to impose a penalty on a body corporate in respect of conduct falling within section 1(1)(a), and it appears to the Committee that the conduct giving rise to the penalty is attributable to the dishonesty of a person who is, or was at the material time, a director or managing officer of the body corporate ("**a relevant officer**"), the Committee may give a notice under this section to the body corporate (or its representative) and to the relevant

officer (or the relevant officer's representative).

(2) A notice under this section must state the amount of the penalty referred to in subsection (1) and that the Committee proposes to recover the penalty from the relevant officer.

(3) If a notice is given under this section, this Ordinance shall apply in relation to the relevant officer as if he or she were personally liable to the penalty, and the body corporate shall be treated as discharged from liability for the penalty.

(4) In this section, "**managing officer**" means –

- (a) a manager, secretary or similar officer of the body corporate, or
- (b) a person purporting to act in any such capacity or as a director.

(5) Where the affairs of a body corporate are managed by its members, this section applies in relation to the conduct of a member in connection with that member's functions of management as if he or she were a director of the body corporate.

Service of notices.

7. Any notice to be given to any person for the purposes of this Ordinance may be given by sending it by post in a letter addressed to that person or his or her representative at the last or usual residence or place of business of that person or representative.

Meaning of "evading" duty.

8. (1) Any reference in this Ordinance to a person's "**evading**" any duty to customs or excise duty includes a reference to that person obtaining or securing, without being entitled to it -

- (a) any repayment, rebate or drawback of the duty,
- (b) any relief or exemption from, or any allowance against, the duty, or
- (c) any deferral or other postponement of his or her liability to pay any relevant duty or of the discharge by payment of any such liability,

and also includes a reference to the person evading the cancellation of any entitlement to, or the withdrawal of, any such repayment, rebate, drawback, relief, exemption or allowance.

(2) In relation to any such evasion of any duty as is mentioned in subsection (1), the reference in section 1(4) to the amount of duty evaded is a reference to –

- (a) the repayment, rebate or drawback,
- (b) the relief, exemption or allowance, or
- (c) the payment which, or the liability to make which, is deferred or otherwise postponed,

as the case may be.

Extent.

9. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

10. This Ordinance may be cited as the Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019.

Commencement.

11. This Ordinance shall come into force on the day it is made.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE PUBLIC HOLIDAYS ORDINANCE, 2019

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Public Holidays Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance provides for Monday 4th May not to be a public holiday, and for Friday 8th May to be a public holiday.

The Public Holidays Ordinance, 2019

THE STATES, in pursuance of their Resolutions of the 19th June, 2019^a, and in exercise of the powers conferred on them by section 1 of the Bills of Exchange (Guernsey) Law, 1958, as amended^b, and all other powers enabling them in that behalf, hereby order:-

75th Anniversary of Liberation Day in 2020.

1. (1) Notwithstanding the provisions of section 1(e) of the Public Holidays Ordinance, 1994^c, Monday the 4th May, 2020 shall not be a public holiday.

(2) Notwithstanding the provisions of section 1 of the Public Holidays Ordinance, 1994, Friday the 8th May, 2020 shall be a public holiday.

Citation.

2. This Ordinance may be cited as the Public Holidays Ordinance, 2019.

^a Article I of Billet d'État No. XV of 2019.

^b Ordres en Conseil Vol XVII, p. 384; as amended by Vol. XXIV, p.84, Vol. XXXIV, p. 504; Vol. XXXV(1), p. 367; Ordinance No. XXXIII of 2003; No. XXIV of 2017; Alderney Ordinance No. VII of 2017; and Sark Ordinances No. XII of 2017 and No. VIII of 2018.

^c Recueil d'Ordonnances Tome XXVI, p. 289 as amended by Ordinance No. VI of 2010.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE PROBATION (BAILIWICK OF GUERNSEY) LAW, 2018 (COMMENCEMENT)
ORDINANCE, 2019**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Probation (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance commences the Probation (Bailiwick of Guernsey) Law, 2018, which will come into force on the 17th October, 2019.

The Probation (Bailiwick of Guernsey) Law, 2018

(Commencement) Ordinance, 2019

THE STATES, in pursuance of their Resolution of the 24th June, 2015^a, and in exercise of the powers conferred on them by section 29(1) of the Probation (Bailiwick of Guernsey) Law, 2018^b, and all other powers enabling them in that behalf, hereby order:-

Commencement of the Probation Law.

1. The Probation (Bailiwick of Guernsey) Law, 2018 shall come into force on 17th October, 2019.

Citation.

2. This Ordinance may be cited as the Probation (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019.

^a Article VIII of Billet d'État No. XI of 2015.

^b Order in Council No. IX of 2019.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

CONTRIBUTORY BENEFIT AND CONTRIBUTION RATES FOR 2020

The States are asked to decide:

Whether, after consideration of the policy letter entitled 'Contributory benefit and contribution rates for 2020', dated 9th September 2019, they are of the opinion:

1. To set the contributions limits and rates as set out in Table 4 of that policy letter, from 1st January 2020.
2. To set the standard rates of contributory social insurance benefits as set out in Table 6 of that policy letter, from 6th January 2020.
3. To set the prescription charge per item of pharmaceutical benefit at £4.10, from 1st January 2020.
4. To set the contribution (co-payment) required to be made by the claimant of care benefit, under the Long-term care Insurance Scheme, at £209.37 per week, from 6th January 2020.
5. To set the maximum weekly long-term care benefit at the rates set out below, from 6th January 2020:
 - a) £463.89 per week residential care benefit for persons resident in a residential home;
 - b) £611.24 per week elderly mentally infirm (EMI) benefit for qualifying persons in a residential home; and
 - c) £866.11 per week nursing care benefit for persons resident in a nursing home or the Guernsey Cheshire Home.
6. To set the maximum weekly respite care benefit at the rates set out below, from 6th January 2020:
 - a) £673.26 per week for persons receiving respite care in a residential home;

- b) £820.61 per week for the elderly mentally infirm (EMI) rate for persons receiving respite care in a residential home; and
 - c) £1,075.48 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home.
- 7. To rename “old age pension” as “States pension” and to make all necessary amendments to legislation to allow and reflect the name change.
 - 8. To note that the Committee intends to amend relevant legislation to enable prisoners of pension age to receive a lump sum payment of their pension, for that part of their imprisonment which is equivalent to the period that prisoners under pension age participate in the Release on Temporary Licence Scheme.
 - 9. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

The above Propositions have been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

CONTRIBUTORY BENEFIT AND CONTRIBUTION RATES FOR 2020

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

9th September 2019

Dear Sir

1. Executive summary

- 1.1. For the second year, the Committee *for* Employment & Social Security is presenting its annual proposals regarding benefit and contribution rates in two separate policy letters. This policy letter concerns the contributory benefits and contribution rates, and it is proposed that it is debated by the States at its meeting which is scheduled to commence on 16th October 2019. The policy letter on non-contributory benefits will be debated at the same meeting as the States' Budget for 2020, scheduled for 5th November 2019.¹ The intention is to provide greater transparency over States' expenditure.
- 1.2. This policy letter therefore considers contributions to, and benefits funded from, the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term Care Insurance Fund. These are the three funds supported by social insurance contributions.
- 1.3. Social insurance benefits are paid based on contribution records. In order to receive them an individual must have paid, or been credited, a certain number of weekly social security contributions, and often have to satisfy a residency test. In some cases, the amount of benefit payable varies depending on the completeness of the individual's contribution record. The most well-known of these benefits is the old age pension, but there are many other benefits provided through this fund as well, including sickness, unemployment, parental, and bereavement benefits.

¹ See rule 1(2) of the Rules of Procedure of the States of Deliberation and their Committees.

- 1.4. Eligibility for health and long-term care benefits is determined by a residency test, rather than a contribution test. In the case of health benefits, an individual must generally be resident in Guernsey or Alderney. In order to receive long-term care benefits, a person must have been a resident of Guernsey or Alderney for at least five years. Health benefits fund secondary medical care, a grant for primary medical care and prescription drugs. Long-term care benefit helps to fund the cost of residential and nursing care.
- 1.5. The States-approved pension uprating policy is to apply a rate at approximately one third of the difference between the Quarter 2 RPIX figure and the most recent annual median earnings index figure, which relates to the previous December. The June 2019 RPIX figure was 1.9% and the December 2018 median earnings figure was 3.3%. The calculation is shown below:

$$(3.3\% - 1.9\%) \div 3 + 1.9\% = 2.4\%$$

- 1.6. On the assumption that, in the long-term, earnings increase by more than prices, the uprating policy ensures that at least part of that gain is shared with pensioners and other recipients of earnings-replacement benefits. The Committee is therefore recommending that contributory benefits and contribution rates are increased in line with the uprating policy figure of 2.4% in 2020, except long-term care benefits, which the Committee proposes are uprated by RPIX only, at 1.9%, as has been done in recent years.

2. Uprating policy

- 2.1. Following the October 2015 debate of the policy letter on benefit and contribution rates for 2016 (Billet d'État XVIII of 2015, Article 3), the States resolved:

‘1. That a guideline for the annual uprating of statutory old-age pensions be established, set initially at one third of the real increase in median earnings, with the intention to reduce this to RPIX subject to suitable policies to enhance personal provision being in place.’

- 2.2. At the same States Meeting, it was also resolved:

‘3. That the Social Security Department be directed to review the guideline for the annual uprating of statutory old-age pensions no later than 2020, having regard to progress made in establishing supporting policies to enhance personal pension provision and the actuarial projections for the Guernsey Insurance Fund at that time.’

- 2.3. The Committee has been progressing this extant resolution and will be reporting back to the States more fully in next year's policy letter on contributory benefit and contribution rates for 2021. In the meantime, the Committee is progressing detailed proposals for the implementation of a second pillar pension scheme for Guernsey and Alderney, which will be brought to the States later this year. This will, at least in part, address the October 2015 resolutions.
- 2.4. Noting that the current contribution rates for the Guernsey Insurance Fund are insufficient for long-term financial sustainability, the Committee has considered whether to recommend a 0.5% contribution increase in rates for 2020. Having discussed this with the Policy & Resources Committee, the Committee acknowledges that there are several policy letters due for consideration by the States before the end of the political term that would impact on contribution rates, or other deductions from employers and employees. In addition to Guernsey Insurance Fund sustainability, there will be proposals for auto-enrolment to a secondary pension scheme. This will have a phased contribution increase, starting with a 1% contribution for both employees and employers in the first year and gradually increasing to 6.5% for employees and 3.5% for employers by the seventh year. The States will also receive options for sustainability of the Long-term Care Insurance Fund, including an option to increase contributions. Furthermore, proposals from Health & Social Care regarding the provision of NICE approved drugs are expected, which could result in an increase in the contribution rate for the Guernsey Health Service Fund.
- 2.5. The Committee agrees with the Policy & Resources Committee that it is important for States Members to have an appreciation of all of these potential sources of contribution increases rather than considering them separately as and when they are presented to the States. The Committee, therefore, has decided not to propose an increase in the contribution rate for the Guernsey Insurance Fund in this Policy Letter.
- 2.6. The periodic actuarial review of the Guernsey Insurance Fund for 2015 to 2019 inclusive will take place during 2020. This will help inform debate on the uprating policy and adequacy of contribution rates in the future.

PART I: INCOME

3. Contributions

Proposed contribution rates for 2020

- 3.1. The Committee is not recommending any changes in the percentage rates of contributions for 2020. Contribution rates will therefore remain as follows in Tables 1-3 below.

Table 1 – Contribution rates for 2020, and the proportions of income split between the funds for employed persons (Class 1)

Employed persons (Class 1)	2020
Employer	6.6%
Guernsey Insurance Fund	5.0%
Guernsey Health Service Fund	1.6%
Long-term Care Insurance Fund	-
Employee	6.6%
Guernsey Insurance Fund	3.5%
Guernsey Health Service Fund	1.3%
Long-term Care Insurance Fund	1.8%
Combined	13.2%
Guernsey Insurance Fund	8.5%
Guernsey Health Service Fund	2.9%
Long-term Care Insurance Fund	1.8%

Table 2 – Contribution rates for 2020, and the proportions of income split between the funds for self-employed persons (Class 2).

Self-employed persons (Class 2)	2020
Totals	11.0%
Guernsey Insurance Fund	6.5%
Guernsey Health Service Fund	2.7%
Long-term Care Insurance Fund	1.8%

Table 3 – Contribution rates for 2020, and the proportions of income split between the funds for non-employed persons (Class 3).

Non-employed persons (Class 3)	2020
Under pension age	10.4%
Guernsey Insurance Fund	5.7%
Guernsey Health Service Fund	2.8%
Long-term Care Insurance Fund	1.9%
Over pension age	3.4%
Guernsey Insurance Fund	-
Guernsey Health Service Fund	1.3%
Long-term Care Insurance Fund	2.1%

- 3.2. The Committee is mindful that contributions to all three funds will not meet the financial requirements of maintaining the same services in years to come. This is being addressed by a review of the provision of long-term care, through the Supporting Living and Ageing Well Strategy (SLAWS), and through the reform of healthcare funding, approved by the States in May 2019 (Billet d'État X of 2019, Article 7). More information about this is contained in part III of this policy letter.

Proposed contribution limits and rates for 2020

- 3.3. The Committee is recommending that all contribution earnings and income limits are increased by 2.4%, in accordance with the uprating policy.
- 3.4. Table 4 overleaf shows the effects of the 2.4% increase for 2020 uprating on the limits for all contributor classes. This includes the upper and lower earnings limits for employers, employees, and self-employed people, and the upper and lower income limits for non-employed people. It also shows the minimum and maximum weekly contribution rates payable for each class of contributor, including voluntary, overseas, and special rate contributions. These proposed rates are shown alongside the rates which applied in 2019.

Table 4 – Contribution limits and rates for 2020

		2020	2019
Class 1 – Employer/Employee		6.6% / 6.6%	6.6% / 6.6%
Upper Earnings Limit:	Weekly	£2,880.00	£2,814.00
	Monthly	£12,480.00	£12,194.00
Lower Earnings Limit:	Weekly	£144.00	£141.00
	Monthly	£624.00	£611.00
Weekly full rate:	Maximum	£190.08	£185.72
	Minimum	£9.50	£9.31
Class 2 – Self-employed people		11%	11%
Annual Earnings Limit:	Maximum	£149,760	£146,328.00
	Minimum	£7,488	£7,332.00
Weekly full rate:	Maximum	£316.80	£309.54
	Minimum	£15.84	£15.51
Voluntary overseas contribution		£108.86	£106.31
Class 3 – Non-employed people²:			
Under pension age		10.4%	10.4%
Over pension age		3.4%	3.4%
Annual Income Limit:	Maximum	£149,760.00	£146,328.00
	Minimum	£18,720.00	£18,330.00
Allowance (both under & over pension age)		£8,460.00	£8,285.00
Weekly full rate: (under pension age)	Maximum	£282.60	£276.09
	Minimum	£20.52	£20.09
Weekly full rate: (over pension age)	Maximum	£92.39	£90.26
	Minimum	£6.71	£6.57
Overseas contributor (per week)		£98.47	£96.16
Voluntary contribution (per week)		£20.52	£20.09
Special rate non-employed (per week)		£20.52	£20.09

- 3.5. Employers, employees, and self-employed persons whose earnings are at or above the lower earnings limit, will be liable to pay contributions on all of their earnings (unless the allowance applies) up to the relevant upper earnings limit, at the percentage rates set out in Tables 1 and 2.
- 3.6. As with self-employed people, non-employed contributors are liable to pay non-employed, Class 3, contributions at the maximum rate, unless an application is made to the Committee, and authorisation given, for the release of the relevant information by the Director of the Revenue Service. This allows an income-related contribution to be calculated. People with income at some point between the upper and lower income limits will pay pro-rata.

² In addition to these rates there is also a rate of 5.7% for special classes of voluntary contributors, although in practice people do not often opt to pay at this rate.

- 3.7. There are two categories of non-employed contributions:
- Full percentage rate contributions to cover social insurance, health service and long-term care insurance liabilities are the rate of contribution that non-employed adults under pension age are liable to pay, based on their personal income.
 - Specialist health insurance and long-term care insurance contributions, which are payable by people over pension age, go towards funding the specialist health insurance scheme and the long-term care insurance scheme.
- 3.8. Where a non-employed person's annual income is below the lower income limit, that person will be exempt from the payment of contributions. However, this could affect old age pension entitlement. A voluntary contribution, which counts towards old age pension, can be paid by, or on behalf of, non-employed people resident in Guernsey and under pension age with personal income below the lower income limit. The rate is calculated by applying the Guernsey Insurance Fund element of the non-employed contribution rate, being 5.7% of the total 10.4%, to the lower income limit.
- 3.9. Self-employed and non-employed people living outside of Guernsey and Alderney are able to pay overseas voluntary contributions in order to maintain their entitlement to old age pension.
- 3.10. A special rate non-employed contribution is payable by insured people who would normally rely upon their employee contribution record for their entitlements to benefit, but have a small gap in their record where they were neither employed nor receiving an unemployment contribution credit. The rate of this contribution is aligned with the voluntary contribution rate.

Number of contributors paying at the upper limits

- 3.11. The four quarter average, from Q2 2018 to Q1 2019 inclusive, of the number of contributors paying at the upper limits and the corresponding percentages shown in Table 5 overleaf.

Table 5 – Average number of contributors paying at the upper limits – Q2 2018 to Q1 2019

	No. contributors paying at upper limits³	Proportion of total for each classification
Employee	590	2.02%
Self-employed	301	11.15%
Non-employed	332	5.46%

4. States grants to the contributory funds

- 4.1. The Guernsey Insurance Fund currently receives a grant from General Revenue equal to 14.7% of the total amount collected in contributions. The estimated costs to General Revenue of the States grant to the Guernsey Insurance Fund in 2019 is £16.7m and is expected to be £17.0m in 2020.
- 4.2. The grant from General Revenue to the Guernsey Health Service Fund has been suspended since 2017. The grant had previously equalled 12% of contribution income into that Fund. Its removal has resulted in an operating deficit for the Fund from 2017 to date. The Committee notes the intention was to suspend the grant for one year to assist with the Committee *for* Health & Social Care's expenditure in 2017. As explained in the paragraph below, the Committee will not be proposing the reinstatement of the grant in 2020, which means that it will be the fourth year that the Guernsey Health Service Fund will not receive the grant. The Committee wants it noted that this amounts to £19.9m of income into the Fund foregone since 2017, which includes the forecast amount of £5.2m for 2020.
- 4.3. The Committee has noted the resolutions from the debate of the policy letter on the reform of healthcare funding (Billet d'État X of 2019, Article 7), which resolved, among other things, that some of the contributions allocations into the Guernsey Health Service Fund are redistributed to the Guernsey Insurance Fund. The effect of this will be that the Guernsey Insurance Fund would be funded entirely from contribution income and the top-up grant from General Revenue would be removed. In light of the forthcoming transfer of responsibility for health service benefits from the Committee to the Committee *for* Health & Social Care, this policy letter does not propose that the grant from General Revenue to the Guernsey Health Service Fund is reinstated in 2020. The Committee notes however, that the transfer of the responsibility for health funding from the Committee to the Committee for Health & Social Care will result in the partial or full reinstatement of the grant from General Revenue to support the current levels of expenditure.

³

Figures rounded to the nearest whole number.

PART II: EXPENDITURE – CONTRIBUTORY BENEFITS

5. Social insurance benefits

- 5.1. This section proposes the 2020 rates for social insurance benefits and makes policy recommendations in relation to those benefits.

Proposed benefit rates for 2020

- 5.2. As explained in section 1.6, the Committee is recommending that contributory benefits are increased by 2.4%, in line with the States-approved uprating policy.
- 5.3. The proposed new weekly rates of benefit, effective from 6th January 2020, are set out in Table 6. These rates of weekly benefit and grants apply to people who have fully satisfied the contribution conditions. Reduced rates of benefit are payable on incomplete contribution records, down to threshold levels, after which, no benefit is payable.

Table 6 – Proposed rates of contributory social insurance benefits for 2020

Weekly paid benefits	2020	2019
<u>Old age pension</u>		
Insured person	£222.58	£217.36
Increase for dependent wife ⁴	111.49	£108.88
Total	£334.07	£326.24
<u>Survivor's benefits</u>		
Widowed parent's allowance	£234.07	£228.58
Bereavement allowance ⁵	£201.27	£196.55
Maternal health allowance, newborn care allowance, and parental allowance	£223.02	£217.77
Unemployment benefit, sickness benefit, and industrial injury benefit	£163.80	£159.95
Incapacity benefit	£196.84	£192.22
Industrial disablement benefit (100%) ⁶	£179.37	£175.17
One off grants:		
Maternity grant and adoption grant	£410.00	£400.00
Death grant	£640.00	£625.00
Bereavement payment	£2,021.00	£1,974.00

⁴ For people whose marriages took place before 1st January 2004, and who reached pension age before 1st January 2014.

⁵ Widow's pension is also payable at this rate, new applications cannot be made but there are still historic cases in payment.

⁶ Lower rates are payable based on degree of disability.

Summary of expenditure financed by the Guernsey Insurance Fund

- 5.4. If the above proposals for benefit rates are approved, the 2020 Budget estimates that social insurance benefit expenditure will increase by 2.7% to £153.9m (2019 Forecast: +3.4% to £149.8m), as shown in Table 7 below. This includes the proposed 2.4% increase in the general rate of benefits (2019: also +2.4%), and further increases due to changes in the number of people claiming benefit, particularly old age pensions. In addition, administration costs in 2020 are estimated to be £5.1m (2019 revised: £5.1m).
- 5.5. Social insurance benefits are almost wholly statutory entitlements based on contributions paid. Pension expenditure accounts for over 85% of the total benefit expenditure of the Guernsey Insurance Fund. Expenditure is estimated to increase by 3.2% to £132.0m in 2020 (2019 Forecast: +3.6% to £127.9m). As of 1 July 2019, there were 18,501 people in receipt of a pension from Guernsey (2018: 18,199). Pension expenditure is increasing due to larger numbers of people reaching pension age, but it is also affected by lower mortality rates, meaning that people are enjoying longer retirements, with many more people living into and beyond their 80s.

Table 7 – Summary of expenditure for the Guernsey Insurance Fund

	2020 Budget £m	2019 Forecast £m	2018 Actual £m	2017 Actual £m	2016 Actual £m
Pension	132.0	127.9	123.5	117.5	115.4
Incapacity	8.8	8.6	8.6	8.0	8.1
Sickness	4.5	4.3	4.1	3.9	3.8
Parental	2.3	2.4	2.3	2.1	1.2
Travelling Allowance Grant	2.5	2.5	2.8	2.1	2.1
Bereavement	1.9	2.0	1.8	1.9	1.9
Unemployment	1.0	1.0	0.9	1.0	1.4
Industrial	0.9	0.8	0.9	0.8	0.8
Total benefit expenditure	153.9	149.5	144.9	137.3	134.7
Administration	5.1	5.1	4.6	4.5	4.8
Total expenditure	159.0	154.6	149.5	141.8	139.5

Old age pension policy decisions

- 5.6. The transition to increase pension age from 65 to 70 will start from January 2020. This will take place in two month increments every ten months, until transition is complete and pension age reaches 70 in 2049. This means that a person who reaches age 65 between 1st January and 31st October 2020 will have to wait an extra two months before receiving their old age pension. The

pension age increase changes will help to slow the decline of the Guernsey Insurance Fund as the population ages and people live longer into retirement.

- 5.7. The Committee has received a number of comments and complaints from individuals, regarding the terminology around the old age pension, noting that the name is outdated and no longer fit for purpose. The Committee has considered the comments received, and proposes that the old age pension is renamed 'States pension'. The Committee believes that this is a more modern and inclusive title. It reflects that it is the pension received in respect of social insurance contributions made to Social Security, so that it will not get confused with other pensions that people may have, or the secondary pension scheme that, subject to States approval, will be implemented in the near future.
- 5.8. It may not widely be known that when a person is imprisoned, all benefit payments stop automatically. This includes old age pension, for which the prisoner has paid contributions over their working life. As they are over pension age, they do not have a work requirement while in prison, and therefore cannot earn a small wage from participation in the Release on Temporary Licence (ROTL) scheme, which for prisoners under pension age, takes place during the last few months of their sentence. Those participating in the ROTL scheme are able to save the wages earned, which they can access upon their release from prison. This cash may help the ex-offender with the deposit on a rental property and to resettle into the community.
- 5.9. There has been international discussion on whether prisoners should be able to receive their state pension for the duration of their sentence. Ireland had a Supreme Court ruling in 2017, where legislation disqualifying a person from receiving any benefit while imprisoned was challenged on the basis that people have a right to access justice through the courts system, and that disqualification from receiving their pension could be considered to be an additional punishment to that which had been imposed by the court system. While this argument has not been tested through the Guernsey court system, it adds to the Committee's justification for reconsidering the total disqualification of pensions during imprisonment.
- 5.10. As private and occupational pensions continue to be paid during a term of imprisonment, the suspension of the old age pension disproportionately penalises those pensioners who do not have private or occupational pensions. The Committee also considers that the current suspension of pensions has a negative impact on prisoners' lives after prison, as they may be released with no savings to help them resettle in the community. This may increase their susceptibility to homelessness, the likelihood of reoffending, and their reliance on income support.

- 5.11. The Committee has therefore decided that the fairest and easiest way of implementing some support for pensioners in prison, is to pay their pension for the last 18 weeks of their sentence. This will align with the timeframe that prisoners under pension age can earn a small wage while participating in the ROTL scheme, which is up to the last four and a half months of their sentence. This means that they would receive a lump sum of their pension on release, which provides more equality between older prisoners and those of working age. This change can be implemented through a Regulation made by the Committee, which it proposes will come into operation on 1st January 2020.
- 5.12. The final policy change to mention in relation to old age pension is that progress is being made on the negotiation of a reciprocal social security agreement on pensions between Guernsey and Latvia. This will allow pension contributions made in either jurisdiction to count towards the calculation for pension entitlement in the other jurisdiction. Guernsey has been entrusted by the UK to enter into negotiations with Latvia. It is anticipated that negotiations could be concluded this year, or early next year, with implementation before the end of 2020, depending on how long it takes to obtain final approval. A condition of the entrustment is that the Agreement will be scrutinised by the Ministry of Justice prior to finalisation. This agreement is a positive step towards recognising the contributions paid by Latvians while working in Guernsey.

6. Health service benefits

- 6.1. This section concerns the benefits that are funded from the Guernsey Health Service Fund. Given that the States has resolved to transfer the responsibility for healthcare funding and associated benefits to the mandate of the Committee *for* Health & Social Care in due course, the Committee is not recommending any policy changes for 2020. The only change will be the usual increase in the prescription charge of ten pence, which is broadly in line with the uprating policy for contributory benefits.

Medical benefit grants

- 6.2. The total benefit expenditure on consultation grants is forecast at £3.3m for 2019. It was £3.4m in 2018. This represented a decrease of 2.6% on the 2018 cost. The consultation grants remained unchanged at £12 towards a consultation with a doctor and £6 towards a consultation with a nurse.
- 6.3. The Committee is not recommending any change in the level of the consultation grants for 2020. However, the Committee is mindful of Resolution 24 following the April 2015 debate on the Personal Tax, Pensions and Benefits Review (Billet d'État IV of 2015, Article I), which was:

‘To note that in the opinion of the Treasury & Resources Department and the Social Security Department, the Health Benefit grant for primary care appointments should be phased out by 2025.’

- 6.4. The Committee is not making any recommendation regarding the grants for 2020, to reflect the forthcoming reform of healthcare funding, and that consequently, any changes to the grants will become a matter for the Committee *for* Health & Social Care to consider.

Pharmaceutical service

- 6.5. Drugs, medicines and appliances, cost a total of £19.1m in 2018, before netting off prescription charges of £2.2m paid by patients, and rebates and discounts. Therefore the total cost of the service in 2018 was £16.8m. The number of items prescribed under the pharmaceutical service increased by 0.8%, compared to 2017, to approximately 1.5m items. Cost growth was kept under control by savings from generic expiries and reduced prescribing of low value products. In addition, significant costs were avoided by the controlled entry of new drugs onto the prescribing list. There was a decrease of 1.2% in the number of paid prescriptions, due to fewer prescriptions being issued by Primary Care for antibiotics, opioid analgesics, hypnotics and anxiolytics.
- 6.6. The significant reduction of the cost of drugs is due to the success of the Prescribing and Formulary Panel, which reviews drugs to ensure that only those that are low cost and medically effective are permitted onto the prescribing ‘white list’. The pragmatic use of generic drugs keeps overall costs down and allows the budget to be better allocated for the limited prescription of expensive specialist drugs, which are either new to market or have no equivalent alternative.
- 6.7. There was an above-average increase in the cost of medical appliances (8.1%), the monitored dosage system service (5.1%) and the oxygen service (18.9%). This is attributed to the ageing population, improved survival of patients with severe illnesses, and the overwhelming desire for older people to remain in their own homes for longer. The oxygen service’s significant increase is attributed to increased complexity of care, therefore the number of consumables required has increased. In previous years, expenditure in relation to the oxygen service had been stable or reduced.
- 6.8. The prescribing of drugs is carefully scrutinised and managed, to ensure that costs are reduced as far as possible. The Committee notes the proposal to allow all NICE approved drugs to be prescribed in Guernsey, and the significant additional estimated costs that would be incurred, should it be approved.

Prescription charge

- 6.8 The prescription charge has traditionally been uprated by ten pence each year. The standard prescription charge for people who are not exempt was set at £4.00 in 2019. The Committee is proposing for 2020 that the prescription charge be increased to £4.10. This is an increase of 2.5%, which is broadly in line with the uprating policy for contributory benefits.
- 6.9 The Committee notes that the total cost of prescriptions in 2018, including the drug costs and dispensing fees, was £19.1m. £2.2m was recovered through the payment of prescription charges, set at £4.00 per item. Although only 12% of the total cost is recovered in prescription charges, the fundamental importance of the pharmaceutical service is that patients can obtain drugs, some of which cost hundreds or thousands of pounds, for the standard prescription charge, or are exempt from paying altogether. In fact, nearly two-thirds of all items dispensed are to people who are exempt from paying the prescription charge.
- 6.10 Despite the ongoing work of the Prescribing Support Unit, the cost of providing these drugs is likely to increase in the coming years as rising life expectancy and an ageing population will lead to greater per capita demand for drugs. Factors such as a no-deal Brexit and the expansion of the list of approved drugs could result in even greater increases.

Specialist medical benefit

- 6.11 Under the Health Service (Benefit) (Guernsey) Law, 1990, and the Health Service (Specialist Medical Benefit) Ordinance, 1995, Specialist Medical Benefit is predominantly the secondary healthcare services provided through the contract with the Medical Specialist Group (MSG). The benefit also includes treatment by visiting medical specialists. A 15 year contract with the Medical Specialist Group ended on 31st December 2017. A new contract with the Medical Specialist Group has been in place since 1st January 2018.
- 6.12 The contract is designed to support the ongoing transformation of health and social care. Responsibility for managing the contract lies with the Committee *for* Health & Social Care. As the contract is financed through Social Security contributions, the role of the Committee *for* Employment & Social Security is focused primarily on the collection of funds and ensuring that sufficient funds are collected to meet current and future demands.
- 6.13 The MSG contract amounted to £18.1m in 2018. The forecast for 2019 expenditure is £18.5m. The increase in budget is due to the required appointment of an additional gastroenterologist, inflation, and an increase in insurance costs (which have been offset to some extent by the savings target

imposed on MSG under the contract). Throughout 2019, the Committee has approved funding for the Orthopaedic waiting list initiative, and increased spending for a mobile cardiac CT service.

Physiotherapy benefit

- 6.14. Under the Health Service (Benefit) (Guernsey) Law, 1990 and the Health Service (Physiotherapy Benefit) Ordinance, 1997, physiotherapy services are provided through a contract with the Guernsey Therapy Group. The contract was due to expire on 31st December 2017 but has been extended while the Committee *for* Health & Social Care reviews the existing model of service delivery. As with the MSG contract, this contract is managed by the Committee *for* Health & Social Care and the role of the Committee *for* Employment & Social Security is focused primarily on the collection of contributions to fund the service.
- 6.15. The contract with the Guernsey Therapy Group cost £2.3m in 2018, and expenditure for 2019 is forecast to remain at £2.3m.

Provision of contraception for people under 21 years old

- 6.16. In December 2017, the Committee *for* Health & Social Care and the Committee *for* Employment and Social Security established a pilot scheme to provide free contraceptive options to people under the age of 21, through GP practices and the sexual health clinics. Analysis after running the programme for 16 months showed a significant reduction in the number of under 18 pregnancies.
- 6.17. Following the debate of the reform of healthcare funding policy letter (Billet d'État X of 2019, Article 7), it has been approved that the current non-statutory pilot scheme would become permanent in the future. It will continue under the mandate of the Committee, funded through the Guernsey Health Service Fund, until responsibility for healthcare funding transfers to the Committee *for* Health & Social Care, when the service will be funded from General Revenue.

Summary of expenditure financed by the Guernsey Health Service Fund

- 6.18. Table 8 overleaf summarises the impact of the proposed benefit rates on projected expenditure from the Guernsey Health Service Fund for 2020, and the 2019 revised forecast at the time of writing. This is compared with the actual expenditure figures for 2016-2018.

Table 8 – Summary of expenditure for the Guernsey Health Service Fund

	2020 Budget £m	2019 Forecast £m	2018 Actual £m	2017 Actual £m	2016 Actual £m
Specialist Health Insurance	22.6	21.3	20.7	20.5	20.1
Pharmaceutical	18.8	17.9	16.8	16.2	16.3
Consultation grants	3.4	3.1	3.4	3.3	3.4
Visiting Medical Consultants	0.9	0.8	0.8	0.8	0.7
Primary Care Psychological Therapies	0.4	0.4	0.4	0.4	0.3
Free Contraception for the under 21s (pilot)	0.1	0.1	0.1	-	-
Total Benefit Expenditure	46.2	42.3	41.5	41.2	40.8
Administration	1.6	1.7	1.6	1.3	1.6
Total expenditure	47.8	43.9	43.1	42.5	42.4

7. Long-term care benefits

- 7.1. The Long-term Care Insurance Fund pays benefits to assist with the fees for private residential and nursing homes, including the Guernsey Cheshire Home, and States-run homes and long-stay wards.

Co-payment (personal contribution) from person in care

- 7.2. Under the long-term care insurance scheme, it is a condition of entitlement to benefit that the person in care should make a co-payment. The 2019 personal contribution is £205.45 per week. The Committee recommends a personal contribution of £209.37 per week from 6th January 2020.
- 7.3. It should be noted that the personal contribution, plus the cost of care funded by the Long-term Care Insurance Fund sets the level of fees to be charged for accommodation in States-run homes and long-stay wards. This includes the Corbinerie (or Lighthouse) Wards and the long-stay beds at the Mignot Memorial Hospital in Alderney.
- 7.4. In addition to the long-term care benefit payment and the personal contribution by the individual, many people in private care homes will be required to pay additional fees set by the homes. These ‘top-up fees’ are paid by approximately two thirds of those in care. Table 9 overleaf explains the breakdown of funding.

Table 9 – Overview of weekly long-term care benefit and fees (2019 values)

Element of funding		Cost	Paid by
Type of care	Residential	£455.21	Long-term Care Insurance Fund
	Residential (dementia/EMI)	£599.83	
	Private nursing home	£849.94	
Personal contribution		£205.45	Resident (or income support)
Top-up fees (homes may charge top-up fees above the States approved rate)		Discretionary	Resident

- 7.5. The cost and overall structure of long-term care is being investigated as part of the work to progress the resolutions following the 2016 policy letter on the Supported Living and Ageing Well Strategy (SLAWS) (Billet d'État III of 2016, Volume II, Article XIV). It is anticipated that proposals on the future of long-term care funding, in respect of those resolutions, will be brought to the States in December 2019. The proposals will provide States Members with a number of options to consider. A significant amount of progress has been achieved in attempting to get the correct balance to ensure that the Long-term Care Insurance Fund is sustainable, while not causing an unjust burden on Islanders accessing long-term care, and also ensuring that care homes are financially sustainable.

Long-term care benefit rates

- 7.6. The Committee recommends that the rates of long-term care benefit be increased by 1.9%, with effect from 6th January 2020, as set out in Table 10.

Table 10 – Weekly rates of long-term care benefit

	2020	2019
Residential care benefit	£463.89	£455.21
Residential – dementia (Elderly mentally infirm)	£611.24	£599.83
Nursing care benefit	£866.11	£849.94

Respite care benefit

- 7.7. People needing respite care in private sector residential or nursing homes are not required to pay a co-payment. The Long-term Care Insurance Fund pays instead. This is to acknowledge the value of occasional investment in respite care in order to allow the person concerned to remain in their own home for as long as practicable. It also acknowledges that people having respite care continue to bear the majority of their own household expenditure at the same time. The respite care benefits therefore, are the sum of the co-payment and

the residential care benefit with or without residential-dementia care, or nursing care benefit, as appropriate.

- 7.8. The Committee recommends that the rates of respite care benefit are set as shown in Table 11 below, with effect from 6th January 2020.

Table 11 – Weekly rates of respite care benefit

	2020	2019
Residential care respite benefit	£673.26	£660.66
Residential – dementia (EMI) respite benefit	£820.61	£805.28
Nursing care respite benefit	£1,075.48	£1,055.39

Summary of expenditure financed by the Long-term Care Insurance Fund

- 7.9. Table 12 below summarises the impact of the proposed benefit rates on projected expenditure from the Long-term Care Insurance Fund for 2020, along with the 2019 revised forecast at the time of writing, compared with the actual expenditure figures for 2016-2018.

Table 12 – Summary of expenditure for the Long-term Care Insurance Fund

	2020 Budget £m	2019 Forecast £m	2018 Actual £m	2017 Actual £m	2016 Actual £m
Residential care	11.3	10.8	10.6	9.8	8.6
Nursing care	10.0	9.6	9.0	9.6	9.8
Total benefits expenditure	21.3	20.4	19.6	19.4	18.4
Administration	0.4	0.4	0.3	0.3	0.3
Total	21.7	20.8	19.9	19.7	18.7

PART III: FINANCIAL POSITION

8. Financial position of the contributory funds

- 8.1. This section of the policy letter explains the financial position of the three funds, including reference to the actuarial reviews for the 2010-2014 period, undertaken by the UK Government Actuary's Department.
- 8.2. There is a legal requirement for an independent actuarial review of the contributory funds to take place every five years. The next review is due for the five year period from 2015 to 2019, which will take place during 2020. The anticipated cost is approximately £100K, which is based on the cost of the previous review. The review is likely to cover only the Guernsey Insurance Fund and the Long-term Care Insurance Fund. This is because, in line with the resolutions from the June 2019 policy letter on the reform of healthcare funding, the Guernsey Health Service Fund will be discontinued in due course, so it was decided that an actuarial review of that Fund would not be necessary.

Guernsey Insurance Fund: summary of the financial position

- 8.3. The financial performance of the Guernsey Insurance Fund is shown in Table 13. The 2020 budget estimates that the operating deficit will increase to £26.5m (2019 forecast: £24.9m deficit). The Fund has now been in deficit, before investment returns are taken into account, since 2009.
- 8.4. The operating deficit arises when benefit and administration expenditure exceeds contribution income and States grants. This shortfall is met by drawing down the Fund's reserves, and although planned, this causes the number of years expenditure cover to reduce.

Table 13 – Financial performance of the Guernsey Insurance Fund

	2020 Budget £m	2019 Forecast £m	2018 Actual £m	2017 Actual £m	2016 Actual £m
Income	132.5	130.0	125.9	122.3	117.3
Expenditure	(159.0)	(154.9)	(149.5)	(141.8)	(139.4)
Operating deficit	(26.5)	(24.9)	(23.6)	(19.5)	(22.1)
Investment returns	31.0	33.9	(33.1)	56.0	76.5
Net surplus/(deficit) for the year	4.5	9.0	(56.8)	36.5	54.4
Net assets at 1st January	721.5	712.5	769.3	731.2	676.8
Net assets at 31st December	726	721.5	712.5	767.7	731.2
Expenditure cover in years	4.6	4.7	4.8	5.4	5.2

- 8.5. The 2010-2014 actuarial review indicated that, if the assumptions were correct for the Guernsey Insurance Fund, and there were no further increases in contribution rates beyond those that were implemented in 2017, then the reserves would run out completely by 2046.
- 8.6. There is an outstanding work stream for the Committee to analyse the uprating policy applied to the old age pension to ensure the sustainability of the Guernsey Insurance Fund. This action will be taken once the Committee has received the conclusions from the 2015-19 actuarial review, which it hopes to receive no later than during 2021.

Guernsey Health Service Fund: summary of the financial position

- 8.7. The financial performance of the Guernsey Health Service Fund is shown in Table 14. The 2020 budget estimates that the operating deficit will be £4.7m (2019 forecast: £1.8m deficit), with the States grant not being reinstated.

Table 14 – Financial performance of the Guernsey Health Service Fund

	2020 Budget £m	2019 Forecast £m	2018 Actual £m	2017 Actual £m	2016 Actual £m
Income	43.1	42.3	41.0	39.5	43.6
Expenditure	(47.8)	(44.1)	(43.8)	(42.5)	(42.3)
Operating surplus/(deficit)	(4.7)	(1.8)	(2.8)	(3.0)	1.3
Investment returns	5.0	6.2	(5.3)	8.9	12.0
Net surplus/(deficit) for the year	(0.3)	4.4	(8.1)	5.9	13.3
Net assets at 1st January	118.8	114.4	122.5	116.4	103.1
Net assets at 31st December	119.1	118.8	114.4	122.3	116.4
Expenditure cover in years	2.5	2.7	2.9	2.9	2.8

- 8.8. The actuarial review for the 2010-2014 period showed the Fund to be in a favourable position over the 15 year projection period, out to 2030. It is expected that the Fund balance will increase through reinvested returns, from 2.7 to 3.3 times annual expenditure. However, future health costs are notoriously hard to predict, and the sustainability of the Fund is affected mostly by movements in the prices of prescription drugs. The assumption for the 15 year projection is that unit costs will increase by RPIX.
- 8.9. When the resolutions from the June 2019 reform of healthcare funding policy letter are discharged, the Guernsey Health Service Fund will be discontinued and the balance of the fund converted into ring-fenced General Revenue funds, which will be known as the Guernsey Health Service Allocation (GHSA). The GHSA will still be partly funded by contribution income, for which the policy decisions will remain the responsibility of the Committee.

Long-term Care Insurance Fund: summary of the financial position

- 8.10. The financial performance of the Long-term Care Insurance Fund is shown in Table 15 below. The 2020 budget estimates that the operating surplus will increase to £7.8m (2019 forecast: £8.2m surplus). The significant increase in income between 2016 and 2017 was a result of the 0.5% increase in contribution rates to the Fund, which applied from 1st January 2017.

Table 15 – Financial performance of the Long-term Care Insurance Fund

	2020 Budget £m	2019 Forecast £m	2018 Actual £m	2017 Actual £m	2016 Actual £m
Income	29.6	29.0	28.0	26.6	19.4
Expenditure	(21.8)	(20.8)	(19.9)	(19.7)	(18.7)
Operating surplus	7.8	8.2	8.1	6.9	0.7
Investing activities	3.8	4.0	(3.9)	5.0	6.4
Net surplus/(deficit) for the year	11.5	12.2	4.2	11.9	7.1
Net assets at 1st January	91.4	79.2	75.0	62.9	55.8
Net assets at 31st December	102.9	91.4	79.2	74.8	62.9
Expenditure cover in number of years	4.7	4.4	4.0	3.8	3.4

- 8.11. The actuarial review for the 2010-2014 period showed that an increase in contribution rates of 0.5% to the Fund, would extend the life of the Fund by 16 years to 2047. This increase took place from 1st January 2017. However, further measures will be required in the coming years to ensure the sustainability of the Fund in the longer term.
- 8.12. Following the States approval of the Supported Living and Ageing Well Strategy in February 2016, the Committee has been progressing work to investigate how the funding and delivery of long-term care services can be restructured to improve the sustainability of the Long-term Care Insurance Fund. Proposals will be brought to the States for debate in December 2019.

Investment returns

- 8.13. The reserves of the three funds are invested jointly in a portfolio supervised by a sub-committee and advised by investment professionals. Implementation of a revised strategic asset allocation was completed in 2018. The new allocation has reduced the level of risk in the portfolio.
- 8.14. The expected return of the investments on a 10 year forward view is Libor plus 3.7%. Actual performance in the calendar year 2018 was -4.15%. It should

be noted that the FTSE 100 fell by 12.5% that year. For the six months to June 2019, the investment return has been 5.7%.

- 8.15. A Member of the Policy & Resources Committee attends the meetings of the Employment & Social Security Investment Sub-Committee, and a Member of ESS attends the Policy & Resources Investment Sub-Committee meetings. Treasury staff provide the administrative support for both Sub-Committees. The Policy & Resources Committee and the Committee *for* Employment & Social Security have agreed to pursue new governance arrangements involving a single Investment Sub-Committee with a membership that includes additional non-States Members. One of the objectives would be to ensure continuity through the election cycle and changing Committee memberships.

PART IV: CONCLUSIONS

9. Resource and implementation plan

- 9.1. Table 16 shows how the Committee has considered the resources required to implement the propositions set out in this policy letter.

Table 16 – Resource and implementation plan

Details considered	Committee comment
Cost	This policy letter recommends that benefit rates are uprated by 2.4% for 2020, which is in line with the uprating policy, and that contribution rates are unchanged. Detailed financial information is provided in part III of this document.
Timescale	The timescales for the implementation of the proposals set out in this policy letter are commented on within the text, but will mostly take effect from 6 th January 2020.
Resource requirements	Consideration of the financial position has been given throughout this policy letter, as well as the results of the 2010-2014 actuarial reviews. The drafting of the necessary legislation has a moderate resource impact for the Law Officers.
Funding	Funding will come from contribution income, the States grants and the planned draw-down of the Funds.
Staffing implications	The Committee does not envisage that the proposals contained within this policy letter would result in a request for additional staffing resources.
Transitional arrangements	There are no transitional arrangements required.
Communications plan	The Law Officers and the Policy & Resources Committee have been consulted with.

10. Compliance with Rule 4 of the Rules of Procedure

- 10.1. Through the drafting of this policy letter, the Committee has consulted with the Policy & Resources Committee at joint meetings.
- 10.2. The Committee has consulted with the Law Officers regarding the legal implications and legislative drafting requirements resulting from the propositions.

- 10.3. The Committee has set out its proposals for the benefit and contribution rates for 2020 throughout this policy letter, and seeks the States support for the propositions, which are based on the Committee’s purpose:

“To foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through schemes of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation.”

- 10.4. In particular, the propositions are aligned with the priorities and policies set out in the Committee’s Policy Plan, which was approved by the States in June 2017 (Billet d’État XII, Article I). The Committee’s Policy Plan is aligned with the States objectives and policy plans.
- 10.5. In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions have the unanimous support of the Committee.

Yours faithfully

M K Le Clerc
President

S L Langlois
Vice-President

J A B Gollop
P J Roffey
E A Yerby

M J Brown
Non-States Member

A R Le Lièvre
Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

CONTRIBUTORY BENEFIT AND CONTRIBUTION RATES FOR 2020

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

9th September 2019

Dear Sir

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Employment & Social Security requests that 'Contributory benefit and contribution rates for 2020' be considered at the States' meeting to be held on 16th October 2019.

It would be helpful for the policy letter to be considered at the earliest opportunity for two reasons. Firstly, the timing of processes within Social Security's systems requires administrative actions on the resolutions from the debate of the policy letter to take place as early as possible following their approval. Secondly, there are a number of legislation requirements which will follow the debate, and these need to be completed before the end of the year, to ensure that the benefit and contribution rates for 2020 can be applied from 1st January 2020.

Yours faithfully



Michelle Le Clerc
President

Shane Langlois
Vice President

John Gollop, Peter Roffey, Emilie Yerby

Mike Brown, Andrew Le Lievre
Non-States Members



Date of Vote: 16th October, 2019

Billet d'État:	<u>Billet d'État XX</u>
Article:	6
Proposition No.:	P.2019/94
Committee:	Committee for Employment & Social Security
Subject:	<u>Contributory Benefit and Contribution Rates for 2020</u>
Proposition type:	Proposition 8

CARRIED: **Pour: 20 Contre: 17 Ne vote pas: 0 Absent: 3**

St. Peter Port South

Deputy Peter T. R. Ferbrache **C**
Deputy Jan Kuttelwascher **C**
Deputy Dawn A. Tindall **P**
Deputy Barry L. Brehaut **P**
Deputy Rhian H. Tooley **P**

St. Peter Port North

Deputy John A. B. Gollop **P**
Deputy Charles N. K. Parkinson **P**
Deputy Lester C. Queripel **P**
Deputy Michelle K. Le Clerc **P**
Deputy Marc P. Leadbeater **C**
Deputy Joseph I. Mooney **C**

St. Sampson

Deputy Lyndon S. Trott **C**
Deputy Paul R. Le Pelley **C**
Deputy Jennifer S. Merrett **C**
Deputy Gavin A. St Pier **C**
Deputy T. Jane Stephens **P**
Deputy Carl P. Meerveld **C**

Vale

Deputy Matthew J. Fallaize **P**
Deputy Neil R Inder **P**
Deputy Mary M. Lowe **C**
Deputy Laurie B. Queripel **A**
Deputy Jeremy C. S. F. Smithies **C**
Deputy Sarah T. Hansmann Rouxel **P**

Castel

Deputy Richard H. Graham **C**
Deputy Christopher J. Green **P**
Deputy Barry J. E. Paint **C**
Deputy Mark H. Dorey **P**
Deputy Jonathan P. Le Tocq **P**

West

Deputy Alvord H. Brouard **P**
Deputy Andrea C. Dudley-Owen **C**
Deputy Emilie A. McSwiggan **P**
Deputy David de G. De Lisle **C**
Deputy Shane L. Langlois **P**

South-East

Deputy Heidi J. R. Soulsby **P**
Deputy H. Lindsay de Sausmarez **P**
Deputy Peter J. Roffey **P**
Deputy Robert G. Prow **C**
Deputy Victoria S. Oliver **C**

Alderney

Alderney Representative Stephen Roberts **A**
Alderney Representative Alexander Snowdon **A**

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' TRADING SUPERVISORY BOARD

GENERAL PILOTAGE – RETIREMENT AGE OF GENERAL PILOTS

The States are asked to decide:-

Whether, after consideration of the policy letter entitled “General Pilotage – Retirement Age of General Pilots” (dated 25 July, 2019), they are of the opinion:-

1. To approve the preparation of an amendment to the Pilotage Ordinance, 1967 to remove the requirement that a general pilot retire as such on reaching the age of 65, and to provide that a general pilot's pilotage licence shall continue to be valid for so long as he or she holds a valid Seafarer's Medical Report and Certificate.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' TRADING SUPERVISORY BOARD

GENERAL PILOTAGE - RETIREMENT AGE OF GENERAL PILOTS

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

25 July, 2019

1. Executive Summary

- 1.1 The current Pilotage legislation contained in the Pilotage Ordinance, 1967 concerning the retirement age for General Pilots sets the retirement age at 65.
- 1.2 The existing Ordinance takes no account of physical fitness, ability and competence with regard to retirement. This situation could lead to the premature end to a General Pilot's career on reaching 65 even though he/she may be still perfectly able to execute the role.
- 1.3 The current legislation is in conflict with the spirit of the "Longer Working Lives" Policy Letter from the Committee for Employment and Social Security, debated in The States of Deliberation on 7th February 2018.
- 1.4 It is proposed that the Pilotage Ordinance 1967 should be amended to provide instead that General Pilots are permitted to remain in that post provided they hold a valid Seafarers Medical Report and Certificate (ML5).
- 1.5 A ML5 certificate held by someone below the age of 65 will expire after 5 years of issue or on the holder's 65th birthday (whichever is soonest). ML5 certificates held by a person over the age of 65 will require annual renewal. ML5 certificates can be issued by any registered General Practitioner.

- 1.6 Medical fitness is a clear requirement both within the Port Marine Safety Code and the International Maritime Organisation (IMO) resolution A960 (Recommendations on Training and Certification and Operational Procedures for Maritime Pilots). A Seafarers Medical Fitness Certificate (ENG1) and a valid Seafarers Medical Report (ML5) are both used by ports in the UK to determine medical fitness. The ENG1 may be adapted / supplemented at the discretion of the Competent Harbour Authority as there is no statutory requirement for the ENG1 to be applied to pilots. ENG1 certificates can only be issued by a Maritime and Coastguard Agency (MCA) approved doctor, however there are no MCA approved doctors on Guernsey. For this reason, it is proposed that a valid Seafarers Medical Report (ML5) will be used as the basis for determining medical fitness when considering whether General Pilots can be permitted to remain in post.

2. Consultation

- 2.1 Guernsey Harbours has consulted with the current Master Pilot and General Pilots regarding this matter, all of who are in favour of the proposition.

3. Cost/resources

- 3.1 These proposals would not lead to any increase in public expenditure, nor would they have any other significant impact on the public sector.

4. Compliance with Rule 4

- 4.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 4.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not to be put into effect.
- 4.3 In accordance with Rule 4(3), the Board has included Propositions which require no further public funding.
- 4.4 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions above have the unanimous support of the Board.

- 4.5 In accordance with Rule 4(5), the Propositions relate to the duties of the States' Trading Supervisory Board to ensure the efficient management, operation and maintenance of any States' unincorporated trading concerns and commercial interests which the States have resolved to include in the mandate of the Board, which includes Guernsey Harbours.
- 4.6 Also in accordance with Rule 4(5), the Board consulted the Master Pilot, General Pilots and States Harbourmaster.

Yours faithfully

P T R Ferbrache
President

J C S F Smithies
Vice-President

J Kuttelwascher
Member

S J Falla MBE
Non-States Member

J C Hollis
Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

PROXY VOTING FOR PARENTAL ABSENCE

The States are asked to decide whether, after consideration of the policy letter entitled "Proxy Voting for Parental Absence" dated 9th September, 2019, they are of the opinion:-

1. To agree that the Rules of Procedure of the States of Deliberation and their Committees should be amended with immediate effect as follows:

- a) for Rule 26.(2), substitute:

"(2) A Member may vote only from his or her seat in the States' Chamber (except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy). In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber. Immediately before announcing his or her vote in a division (appel nominal), a Member must switch on his or her microphone and switch it off again immediately after he or she has voted.",

- b) in Rule 26.(6), delete the words 'present and',

- c) insert the following paragraphs immediately after paragraph (2) of Rule 26. and renumber the existing, subsequent paragraphs accordingly:

"(3) A Member may, by reason only of absence from a Meeting of the States of Deliberation for the purpose of childbirth or care for an infant or newly-adopted child, by written notice in the form set out in Schedule 4 to these Rules arrange for their vote to be cast in accordance with this Rule by another Member acting as a proxy (a proxy vote) for a maximum duration of six continuous months.

- (4) A proxy vote may be cast on the following propositions:

- a) original propositions (excluding any propositions from the Presiding Officer);
- b) secondary propositions; and
- c) amended propositions.

- (5) A proxy vote may be cast only if the Presiding Officer has first certified that the Member for whom the vote is to be cast is eligible under the terms of this Rule and if that certificate, including the name of the Member nominated as a proxy, has been submitted to HM Greffier before the commencement of the States Meeting in question.
 - (6) A vote cast by a proxy shall be clearly indicated as such in the Official Report and voting records published.”,
- d) at the end of Rule. 26, immediately after paragraph (12) (as renumbered in accordance with paragraph c) of this Proposition), insert the following paragraph:
- “(13) The provisions of this Rule that enable a Member to vote by proxy do not apply to the Alderney Representatives;
- Provided that:
an Alderney Representative may act as a proxy for another Member,
other than a Member who is an Alderney Representative.”,
- e) in Rule 30. (1) at the end of the definition of "Member", insert "(and note qualification in Rule 26 (13) for purposes of proxy voting)", and
- f) insert the ‘Application for Proxy Voting for Parental Absence’ form at Appendix I as Schedule 4 to the Rules of Procedure of the States of Deliberation and their Committees.

The above Propositions have been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

PROXY VOTING FOR PARENTAL ABSENCE

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

9th September, 2019

Dear Sir

1 Executive Summary

- 1.1 On 29th January, 2019, a pilot scheme came into effect in the House of Commons to allow new parents (of both new-born and newly-adopted children) to have a proxy vote in divisions of the House and a temporary standing order introduced 'proxy voting for parental absence'.
- 1.2 The purpose of this policy letter is to propose that the States of Deliberation enable proxy voting for parental absence in specified circumstances and to recommend that 'The Rules of Procedure of the States of Deliberation and their Committees' (the 'Rules of Procedure') are amended accordingly.
- 1.3 If proxy voting for parental absence is introduced, any Deputy wishing to use this provision would be required to nominate a Member to act as their proxy. It would be the responsibility of the Deputy to advise their proxy as to how they should vote on their behalf in recorded votes. The manner in which this would be communicated between the two Members would be solely a matter for them to determine.
- 1.4 The Committee is recommending that Members would only be able to cast a vote by proxy on original propositions, secondary propositions and amended propositions. Proxy votes would not be permitted in elections (these are conducted by secret ballot, so it would not be possible to record the use of a proxy vote transparently) or procedural motions in the course of States Meetings.

- 1.5 Proxy voting would be available to parents of new-born or newly-adopted children for a period of up to six months around the time of the birth or adoption of their child. Deputies wishing to nominate a proxy would be responsible for communicating this to the Presiding Officer in advance, similar to the process introduced in the House of Commons.

2. Background

- 2.1. At present, if a Member is not physically present at a Meeting of the States of Deliberation, they are unable to vote on any proposition.
- 2.2. It has been previously suggested to the Committee that it introduce a mechanism to allow Deputies to vote by proxy. The Committee last reported on this in the appendix to its policy letter dated 10th September, 2018 entitled “Amendments to the Rules of Procedure of the States of Deliberation and their Committees”. This policy letter referenced the Committee’s March 2015¹ report where proxy voting was considered amongst other matters. The relevant extract is produced below:

77. *At present, Members can vote only if they are present in the Royal Court Chamber and in their places. It has been suggested by a Member of the States that there should be a provision for Members to leave a voting slip with a fellow Member if they are unable to be present for a vote (effectively proxy voting).*

78. *Such a system could increase the numbers of Members voting in divisions and ensure their views were taken into account. There are several practical issues. The whole point of holding a debate is to try to influence other Members to vote the same way as the speaker. The Proposition in the Billet d’État may well have been, and often is, amended before the vote on it is taken, perhaps by an amendment laid séance tenante². The Member might want to vote on an amended Proposition in a different way from on the original. The colleague who would be casting the proxy vote would have to cast the vote regardless but it might not accurately reflect the absent Member’s intentions at the point when the vote was held. Potentially it could encourage absenteeism.*

79. *The Committee does not therefore believe that such a system of proxy voting should be introduced.*

¹ Billet d’État VI, ‘The Rules of Procedure of the States of Deliberation, The Rules Relating to the Constitution and Operation of States’ Departments and Committees and Related Matters’, www.gov.gg/article/120649/States-Meeting-on-24th-March-2015-Billets-IV-V-VI

² Séance tenante - during a sitting

- 2.3. The Committee in 2018 remained of the view that proxy voting should not be introduced for all Deputies for the reasons above.
- 2.4. The Committee believes that Members should prioritise attending meetings of the States of Deliberation and does not intend to propose proxy voting for Deputies as a general rule. However, it does believe that there is an exceptional case for proxy voting for parental absence.
- 2.5. There are only a few Parliaments that make provisions for proxy voting. The Australian House of Representatives and the New Zealand House of Representatives have provisions for mothers with young infants. As detailed in the following section, in 2019 the House of Commons introduced a pilot scheme of proxy voting for parental absence. Some Parliaments allow a Member to be temporarily replaced by a substitute, which would not be applicable in Guernsey's political set-up.

3. The case for proxy voting for parental absence

- 3.1. During this political term, five babies have been born to serving Members. Whilst some provisions have been introduced this term for nursing mothers (the provision of a private room near the Chamber, with a mini-fridge and an audio feed from the debate, to nurse new-borns or to express milk), the Committee is of the view that these provisions do not go far enough to support Deputies who become new parents.
- 3.2. The Committee has monitored the developments in the House of Commons on this matter in 2017 and 2018. On 1 February 2018, the House of Commons resolved:

That this House believes that it would be to the benefit of the functioning of parliamentary democracy that honourable Members who have had a baby or adopted a child should for a period of time be entitled, but not required, to discharge their responsibilities to vote in this House by proxy.

- 3.3. The report from the House of Commons Procedure Committee 'Proxy voting and parental absence'³ makes the following comments:

The Committee has heard that representation of women in the House has consistently failed to reflect the gender balance in the population. In evidence, the current arrangements for voting in the House have been cited among the reasons women have been deterred from standing for election to Parliament and from pursuing political careers. It was put to the Committee that a guarantee of a recorded proxy vote would send "a strong symbolic message" to

³ [House of Commons Procedure Committee - Proxy voting and parental absence - Fifth report of session 2017 - 2019](#)

those of childbearing age that support is available to those combining the work of a Member of the House of Commons with early parental responsibility.

- 3.4. The proposals to introduce proxy voting were debated by the House of Commons on 28th January, 2019. They were subject to a successful amendment to enable the Speaker to also make provision for the exercise of a proxy vote for Members who had suffered a miscarriage.
- 3.5. The pilot scheme to allow new parents and those adopting children to have a proxy vote in divisions in the House of Commons came into effect on 29th January, 2019 and a temporary standing order has been put in place (the equivalent of the Rules of Procedure).
- 3.6. In early 2019, a Member of the States of Deliberation approached the Committee requesting it consider whether 'remote voting' could be facilitated specifically for any member of the States of Deliberation who is about to have, or has recently had, a baby.
- 3.7. It is important to note that Deputies cannot take leave from the responsibilities of their office as individuals in paid employment can by taking statutory parental leave.
- 3.8. The Committee does not wish individuals who intend to start a family or have more children to be deterred from standing for election or re-election given the potential difficulties of combining their role with early parental responsibility. Whilst Members can organise their 'constituency' work and to some degree, their Committee work, around their new-born or newly-adopted child, States' Meetings are a set monthly commitment which may be harder to manage in the first few months of their child's life, or too soon after the adoption of a child.
- 3.9. The Committee believes introducing a mechanism of proxy voting for new parents might reduce the barriers to people standing and modernise the way the States of Deliberation operate. It agrees that such Members should be entitled – but not required – to discharge their responsibilities to vote in the States of Deliberation by proxy.
- 3.10. The Committee agrees that the mechanism of proxy voting should be largely based on that introduced by the House of Commons. The Committee believes that new parents and those adopting children should be able to vote by proxy. It considered whether this should be extended to be available to Members who have had a miscarriage but considered, on balance, that it would not make this suggestion at this stage.
- 3.11. The Committee wished to make it clear – for the avoidance of doubt – that a Deputy who has already made arrangements to vote by proxy, and whose child

is subsequently stillborn, will still be entitled to make use of the proxy voting arrangements, should they wish to do so. The Committee wished to be clear on this provision at the outset to avoid a Member having to seek clarity on their position in such an event.

4. Voting in the States of Deliberation

- 4.1. The majority of votes are held "*de vive voix*" in the States of Deliberation. This means the Presiding Officer asks Members to call out their vote collectively '*Pour*' or '*Contre*' then announces the decision. No record of which Members voted Pour or Contre, or who is absent or abstaining from the vote, is made but the decision is recorded in the States' Resolutions.
- 4.2. On request or if a vote held "*de vive voix*" is too close to call, a vote is held by '*appel nominal*' i.e. a recorded vote, where each Member votes in turn by calling out his or her vote. A 'voting record' is then produced and published below the relevant item on the States' Meeting page.
- 4.3. There are a number of propositions that Members might be asked to vote upon during the course of a meeting of the States of Deliberation which include:
 - (a) original propositions; and
 - (b) secondary propositions (submitted in advance of or during the Meeting); and
 - (c) amended propositions
- 4.4. The Committee is of the view that should it be agreed that proxy voting for parental absence is introduced, the Deputy would be required to nominate a Member to act as their proxy. It would be the responsibility of the Deputy to advise the person acting as their proxy as to how they should vote on their behalf in recorded votes. The manner in which this is communicated between the two Members is solely a matter for them to determine.
- 4.5. It will not be possible for the Deputy to request the Member acting as their proxy to vote on the election of Members given, if there is a contested election, this will be conducted by secret ballot.
- 4.6. Given their physical absence from the debate, the Committee also believes it would be inappropriate for the Deputy to vote on procedural motions submitted during a meeting. In effect, this means that proxy voting would not be available in respect of original propositions laid by the Presiding Officer (that is, elections and procedural motions).
- 4.7. The Committee therefore recommends that Deputies can only cast a vote by proxy on:
 - (a) original propositions (excluding any propositions from the Presiding

- Officer);
- (b) secondary propositions; and
- (c) original propositions (as amended).

- 4.8. The Committee does not think it would be appropriate for the absent Deputy to form part of the quorum of the States for voting purposes. As Rule 26(6) provides that voting members must be present in order for a proposition to be carried, it suggests only a minor amendment is required to Rule 26.(6) to delete the words 'present and' as follows:

"Unless otherwise stated, in order for a proposition to be carried it needs to be supported by the nearest whole number above one-half of the Members ~~present and~~ voting on the proposition".

- 4.9. A Member nominated to act as a Deputy's proxy will only be able to vote on their behalf in a recorded vote. The Member will not be able to give a separate speech on the Deputy's behalf. This will not preclude the Member making points on behalf of the Deputy in their own speech, but will not enable them to give an entirely separate speech on behalf of the Deputy.
- 4.10. *The States of Guernsey (Representation of Alderney) Law, 1978* entitles two Alderney representatives to be full Members of the States of Deliberation and States of Election. The States of Alderney annually elects two members (the 'representatives'), and two other members (the 'alternative representatives') of the States of Alderney to sit in the States of Deliberation. The President of the States of Alderney may appoint an alternative representative to sit at a meeting of the States of Deliberation in place of a representative if that representative is for any reason unable to sit at the meeting. Given the ability of the States of Alderney to send an alternative representative to a Meeting, the ability to apply for a proxy vote for parental absence is not being extended to the States of Alderney representatives.

5. How proxy voting for parental absence will work

- 5.1. The Committee believes that a proxy voting scheme should be largely based on the scheme introduced by the House of Commons. It proposes that the arrangements for proxy voting should be as follows:

Eligibility for the scheme	The Deputy would make a written declaration – by completing the form 'Application for Proxy Voting for Parental Absence made pursuant to Rules 26 of the Rules of Procedure of the States of Deliberation and their Committees'.
Duration of the scheme	The maximum duration of the permission to vote by proxy, for any parent of a new-born or newly-adopted child, should be six continuous months

	The Deputy would need to determine the dates on which the parental absence will begin and end (taking into account the timeframes above)
Application process	<p>The Deputy would be required to write to the Presiding Officer specifying the dates on which the parental absence will begin and end. During that period the Deputy would be entitled, but not required, to vote by proxy.</p> <p>The Deputy would also specify the Member who has agreed to cast her/his proxy vote to confirm that an agreement has been entered into.</p>
Issue of certification by the Presiding Officer	<p>Further to the application being made in accordance with the criteria above, the Presiding Officer should issue a certificate setting it out in full and specify this should be noted on the Official Report ('the Hansard'). This certificate should be issued to:</p> <ul style="list-style-type: none"> (a) the Deputy applying for proxy voting; and (b) the Member who has agreed to act as a proxy; and (c) HM Greffier, as Clerk to the States of Deliberation.
Flexibility of arrangements	<p>(a) Voting in person It should be possible for a Deputy who wishes to vote in person at any time during the agreed period to do so, provided that the Presiding Officer and HM Greffier have been informed in writing prior to the day's sitting that the Deputy wishes the proxy arrangement to be suspended.</p> <p>(b) Changing the Deputy acting as their proxy If the Deputy wishes to change the Member who is to cast their proxy vote, the Presiding Officer and HM Greffier would need to be advised in writing prior to the day's sitting.</p> <p>(c) Ending the period of proxy voting earlier than originally specified If the Deputy wishes to end the period of proxy voting earlier than originally specified, this will need to be confirmed in writing to the Presiding Officer and HM Greffier.</p>
Recording the proxy vote	The Official Report and the voting record should make it clear that a vote has been cast by proxy, by marking a symbol (*) adjacent to the name of the absent Deputy and

	the Member who cast the proxy vote and inserting a footnote explaining that the Deputy's vote was cast by proxy by another named Member.
--	------------------------------------------------------------------------------------------------------------------------------------------

- 5.2. The Committee is recommending the scheme is piloted for two years and reviewed with experience.

6. Amendment to the 'Rules of Procedure of the States of Deliberation and their Committees'

- 6.1. Rule 26 covers 'Closure and Voting'. At present, Rule 26.(2) reads as follows:

(2) A Member may vote only from his or her seat in the States' Chamber. In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber. Immediately before announcing his or her vote in a division (appel nominal), a Member must switch on his or her microphone and switch it off again immediately after he or she has voted.

- 6.2. It is proposed that Rule 26.(2) is amended as follows (amendment shown in bold):

(2) A Member may vote only from his or her seat in the States' Chamber **(except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy)**. In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber. Immediately before announcing his or her vote (or vote by proxy) in a division (appel nominal), a Member must switch on his or her microphone and switch it off again immediately after he or she has voted.

- 6.3. It is suggested the following is inserted as Rules 26.(3) to (6) and the existing, subsequent paragraphs renumbered accordingly.

3 *A Member may, by reason only of absence from a Meeting of the States of Deliberation for the purpose of childbirth or care for an infant or newly-adopted child, by written notice in the form set out in Schedule 4 to these Rules arrange for their vote to be cast in accordance with this Rule by another Member acting as a proxy (a proxy vote) for a maximum duration of six continuous months.*

4 *A proxy vote may be cast on the following propositions:*
a) original propositions (excluding any propositions from the Presiding Officer); and
b) secondary propositions; and
c) amended propositions.

5 *A proxy vote may be cast only if the Presiding Officer has first certified that the Member for whom the vote is to be cast is eligible under the terms of this Rule and if that certificate, including the name of the Member nominated as a proxy, has been submitted to HM Greffier before the commencement of the States Meeting in question.*

6 *A vote cast by a proxy shall be clearly indicated as such in the Official Report and voting records published.*

6.4. The form proposed to be included as Schedule 4 of the Rules of Procedure is attached as Appendix I.

7. Compliance with Rule 4

7.1. Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

7.2. In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

7.3. In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

7.4. In accordance with Rule 4(5), the Propositions relate to the duties of the Committee to develop and implement policies in relation to "the procedures and practices of the States of Deliberation and committees of the States". It consulted with the Presiding Officer and the Law Officers of the Crown in the preparation of the propositions.

Yours faithfully

N. R. Inder
President

J S Merrett
Vice-President

P T R Ferbrache
J P Le Tocq
E A Yerby



APPLICATION FOR PROXY VOTING FOR PARENTAL ABSENCE
MADE PURSUANT TO RULES 26 OF THE RULES OF PROCEDURE
OF THE STATES OF DELIBERATION AND THEIR COMMITTEES

Surname:	Forenames in full:
----------	--------------------

I apply to vote by proxy from:

to

(Please insert the start date)

(Please insert the end date)

** Please note the maximum duration for the permission to vote by proxy under this Rule is six continuous months.*

I can confirm that the following Member has agreed to cast my proxy vote over the period stated above:

(Member's Full Name)

(Nominated Member's signature)

Signature:	Date:
------------	-------

For use by the Presiding Officer

Date form received:



Date of Vote: 17th October, 2019

Billet d'État:	<u>Billet d'État XX</u>
Article:	8
Proposition No.:	P.2019/96
Committee:	States' Assembly & Constitution Committee
Subject:	<u>Proxy Voting for Parental Absence</u>
Proposition type:	Rule 26 (1) Guillotine Motion
Proposed by:	Deputy M.P. Leadbeater

LOST: **Pour: 10** **Contre: 28** **Ne vote pas: 0** **Absent: 2**

St. Peter Port South

Deputy Peter T. R. Ferbrache **C**
Deputy Jan Kuttelwascher **P**
Deputy Dawn A. Tindall **C**
Deputy Barry L. Brehaut **C**
Deputy Rhian H. Tooley **C**

St. Peter Port North

Deputy John A. B. Gollop **C**
Deputy Charles N. K. Parkinson **C**
Deputy Lester C. Queripel **C**
Deputy Michelle K. Le Clerc **P**
Deputy Marc P. Leadbeater **P**
Deputy Joseph I. Mooney **P**

St. Sampson

Deputy Lyndon S. Trott **P**
Deputy Paul R. Le Pelley **C**
Deputy Jennifer S. Merrett **C**
Deputy Gavin A. St Pier **C**
Deputy T. Jane Stephens **C**
Deputy Carl P. Meerveld **P**

Vale

Deputy Matthew J. Fallaize **C**
Deputy Neil R Inder **C**
Deputy Mary M. Lowe **C**
Deputy Laurie B. Queripel **C**
Deputy Jeremy C. S. F. Smithies **C**
Deputy Sarah T. Hansmann Rouxel **C**

Castel

Deputy Richard H. Graham **C**
Deputy Christopher J. Green **C**
Deputy Barry J. E. Paint **C**
Deputy Mark H. Dorey **C**
Deputy Jonathan P. Le Tocq **P**

West

Deputy Alvord H. Brouard **C**
Deputy Andrea C. Dudley-Owen **P**
Deputy Emilie A. McSwiggan **C**
Deputy David de G. De Lisle **C**
Deputy Shane L. Langlois **C**

South-East

Deputy Heidi J. R. Soulsby **P**
Deputy H. Lindsay de Sausmarez **C**
Deputy Peter J. Roffey **C**
Deputy Robert G. Prow **P**
Deputy Victoria S. Oliver **C**

Alderney

Alderney Representative Stephen Roberts **A**
Alderney Representative Alexander Snowdon **A**

*Date of Vote: 17th October, 2019*

Billet d'État:	<u>Billet d'État XX</u>
Article:	8
Proposition No.:	P.2019/96
Committee:	States' Assembly & Constitution Committee
Subject:	<u>Proxy Voting for Parental Absence</u>
Proposition type:	1

CARRIED: **Pour: 22** **Contre: 16** **Ne vote pas: 0** **Absent: 2**

St. Peter Port South

Deputy Peter T. R. Ferbrache **P**
Deputy Jan Kuttelwascher **C**
Deputy Dawn A. Tindall **P**
Deputy Barry L. Brehaut **P**
Deputy Rhian H. Tooley **P**

St. Peter Port North

Deputy John A. B. Gollop **P**
Deputy Charles N. K. Parkinson **P**
Deputy Lester C. Queripel **P**
Deputy Michelle K. Le Clerc **P**
Deputy Marc P. Leadbeater **C**
Deputy Joseph I. Mooney **C**

St. Sampson

Deputy Lyndon S. Trott **C**
Deputy Paul R. Le Pelley **C**
Deputy Jennifer S. Merrett **P**
Deputy Gavin A. St Pier **P**
Deputy T. Jane Stephens **P**
Deputy Carl P. Meerveld **C**

Vale

Deputy Matthew J. Fallaize **P**
Deputy Neil R Inder **P**
Deputy Mary M. Lowe **C**
Deputy Laurie B. Queripel **C**
Deputy Jeremy C. S. F. Smithies **P**
Deputy Sarah T. Hansmann Rouxel **P**

Castel

Deputy Richard H. Graham **C**
Deputy Christopher J. Green **P**
Deputy Barry J. E. Paint **C**
Deputy Mark H. Dorey **C**
Deputy Jonathan P. Le Tocq **P**

West

Deputy Alvord H. Brouard **C**
Deputy Andrea C. Dudley-Owen **C**
Deputy Emilie A. Yerby **P**
Deputy David de G. De Lisle **C**
Deputy Shane L. Langlois **C**

South-East

Deputy Heidi J. R. Soulsby **P**
Deputy H. Lindsay de Sausmarez **P**
Deputy Peter J. Roffey **P**
Deputy Robert G. Prow **C**
Deputy Victoria S. Oliver **P**

Alderney

Alderney Representative Stephen Roberts **A**
Alderney Representative Alexander Snowdon **A**

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

Prohibition on importation, sale and use of Glyphosate

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation
SHEWETH THAT:

- (1) The chemical Glyphosate (commonly known as Roundup) is being used extensively on roads and farmland and in general household use as a weed killer in Guernsey. Roundup is the consumer product in most common use as a weed killer containing Glyphosate.
- (2) Your Petitioners are aware that Glyphosate has been identified as a Group 2A carcinogen (probably carcinogenic to humans) by the World Health Organisation (WHO) international agency for research on cancer. They also understand that it has been found to be bio-accumulative in women's bodies over time and found in breast milk of American women.
- (3) They note that Glyphosate has been linked to pollution of water sources, with residues in food supplies, and remains in the soil for long after it was sprayed, with a half-life of 47 days. As a result several countries and jurisdictions around the world have taken steps to limit Glyphosate use or ban it altogether.
- (4) Glyphosate has now been officially linked to cancer in court decisions in the USA. A recent case ended with \$2 billion being awarded in damages to individuals who claimed they were diagnosed with cancer after years of using Roundup. Several thousands of other lawsuits are understood by your Petitioners currently to be pending against the manufacturers of Roundup regarding the product and its side effects, including a cohort of more than 300 farmers, alleging that working with the chemical has given them cancer.
- (5) As part of the Biodiversity strategy the States of Guernsey are working to reduce the use of Pesticides and Herbicides to a minimum. Guernsey Airports and Harbours have indicated, for example, that they seldom use herbicides, preferring instead to use land management techniques to reduce weed growth and promote grass growth as an alternative on their properties.
- (6) States Works have reassessed the situation recently and have taken the decision to withdraw the use of Glyphosate by the end of 2020 due to the effect that it is having on the environment and biodiversity and the increase of the chemical in raw water.

(7) Despite this welcome change in policy Glyphosate will still be readily available to purchase and use in Guernsey for commercial and household use.

(8) Given:

- The increasing number of legal claims world-wide concerning Glyphosate;
- The number of jurisdictions taking action to reduce or ban altogether the use and sale of Glyphosate;
- The concerns and action being taken by States bodies to stop the use of Glyphosate;
- The serious health implications and the damaging environmental and biodiversity effects of the chemical Glyphosate;
- The need for public responsibility for safe practice;
- The fact that there are alternates to its use (except in respect of certain noxious weeds);
- The rising levels of contamination of Glyphosate in Guernsey's water supply,

your Petitioners are of the view that action should be taken in Guernsey to minimise or eradicate the threat to its inhabitants and its eco-structure posed by the continued use of Glyphosate in the Island.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:

1. To direct the Committee *for* Employment & Social Security, in exercising their powers under Regulation 11(8) of the Control of Poisonous Substances (Guernsey) Regulations, 2014, as amended, to revoke all existing approvals of plant protection products (pesticides) containing the active substance Glyphosate (CAS No. 1071-83-6, EU No. 213-997-4), including importation and sale to professional users and the public by 31 March 2020, and final use by professional users by 31 December 2020.
2. To recommend that the Committee *for* Employment & Social Security should consider granting licensed approval for Glyphosate for the use by professional users for the control of noxious weeds in Guernsey.
3. To direct the Committee *for* Employment & Social Security to review any licensed approvals for the use of Glyphosate for noxious weeds control by the end of 2022.

AND YOUR PETITIONERS WILL EVER PRAY
GUERNSEY

This th 29 day of August 2019

DAVID DE LISLE

BARRY PAINT

ROB PROW

JOHN GOLLOP

ANDREA DOOLEY-OWEN

PAUL R. LE PELLEY

LESTER QUERPEL

The original signed copy of this Requete is held at the Greffe and is available to view on request.

Date of Vote: 17th October, 2019

Billet d'État:	<u>Billet d'État XX</u>
Article:	9
Proposition No.:	P.2019/87
Committee:	Requête
Subject:	<u>Prohibition on Importation, Sale and Use of Glyphosate</u>
Proposition type:	Motion for a five-minute recess to enable the preparation of an amendment

LOST: Pour: 17 Contre: 17 Ne vote pas: 0 Absent: 6

St. Peter Port South

Deputy Peter T. R. Ferbrache **A**
 Deputy Jan Kuttelwascher **C**
 Deputy Dawn A. Tindall **C**
 Deputy Barry L. Brehaut **C**
 Deputy Rhian H. Tooley **C**

St. Peter Port North

Deputy John A. B. Gollop **P**
 Deputy Charles N. K. Parkinson **C**
 Deputy Lester C. Queripel **P**
 Deputy Michelle K. Le Clerc **C**
 Deputy Marc P. Leadbeater **A**
 Deputy Joseph I. Mooney **C**

St. Sampson

Deputy Lyndon S. Trott **C**
 Deputy Paul R. Le Pelley **P**
 Deputy Jennifer S. Merrett **P**
 Deputy Gavin A. St Pier **C**
 Deputy T. Jane Stephens **A**
 Deputy Carl P. Meerveld **A**

Vale

Deputy Matthew J. Fallaize **P**
 Deputy Neil R Inder **P**
 Deputy Mary M. Lowe **P**
 Deputy Laurie B. Queripel **P**
 Deputy Jeremy C. S. F. Smithies **C**
 Deputy Sarah T. Hansmann Rouxel **C**

Castel

Deputy Richard H. Graham **C**
 Deputy Christopher J. Green **P**
 Deputy Barry J. E. Paint **P**
 Deputy Mark H. Dorey **P**
 Deputy Jonathan P. Le Tocq **C**

West

Deputy Alvord H. Brouard **P**
 Deputy Andrea C. Dudley-Owen **P**
 Deputy Emilie A. McSwiggan **C**
 Deputy David de G. De Lisle **P**
 Deputy Shane L. Langlois **P**

South-East

Deputy Heidi J. R. Soulsby **C**
 Deputy H. Lindsay de Sausmarez **C**
 Deputy Peter J. Roffey **C**
 Deputy Robert G. Prow **P**
 Deputy Victoria S. Oliver **P**

Alderney

Alderney Representative Stephen Roberts **A**
 Alderney Representative Alexander Snowdon **A**



Date of Vote: 17th October, 2019

Billet d'État:	<u>Billet d'État XX</u>
Article:	9
Proposition No.:	P.2019/87
Committee:	Requête
Subject:	<u>Prohibition on Importation, Sale and Use of Glyphosate</u>
Proposition type:	Propositions 1, 2 & 3

LOST: **Pour: 11** **Contre: 22** **Ne vote pas: 0** **Absent: 7**

St. Peter Port South

Deputy Peter T. R. Ferbrache **A**
Deputy Jan Kuttelwascher **C**
Deputy Dawn A. Tindall **C**
Deputy Barry L. Brehaut **C**
Deputy Rhian H. Tooley **C**

St. Peter Port North

Deputy John A. B. Gollop **P**
Deputy Charles N. K. Parkinson **C**
Deputy Lester C. Queripel **P**
Deputy Michelle K. Le Clerc **C**
Deputy Marc P. Leadbeater **A**
Deputy Joseph I. Mooney **C**

St. Sampson

Deputy Lyndon S. Trott **C**
Deputy Paul R. Le Pelley **P**
Deputy Jennifer S. Merrett **C**
Deputy Gavin A. St Pier **C**
Deputy T. Jane Stephens **A**
Deputy Carl P. Meerveld **A**

Vale

Deputy Matthew J. Fallaize **C**
Deputy Neil R Inder **P**
Deputy Mary M. Lowe **P**
Deputy Laurie B. Queripel **P**
Deputy Jeremy C. S. F. Smithies **C**
Deputy Sarah T. Hansmann Rouxel **C**

Castel

Deputy Richard H. Graham **C**
Deputy Christopher J. Green **P**
Deputy Barry J. E. Paint **P**
Deputy Mark H. Dorey **C**
Deputy Jonathan P. Le Tocq **C**

West

Deputy Alvord H. Brouard **C**
Deputy Andrea C. Dudley-Owen **P**
Deputy Emilie A. McSwiggan **C**
Deputy David de G. De Lisle **P**
Deputy Shane L. Langlois **C**

South-East

Deputy Heidi J. R. Soulsby **C**
Deputy H. Lindsay de Sausmarez **C**
Deputy Peter J. Roffey **C**
Deputy Robert G. Prow **P**
Deputy Victoria S. Oliver **A**

Alderney

Alderney Representative Stephen Roberts **A**
Alderney Representative Alexander Snowdon **A**

*Date of Vote: 17th October, 2019*

Billet d'État:	<u>Billet d'État XX</u>
Article:	9
Proposition No.:	P.2019/87
Committee:	Requête
Subject:	<u>Prohibition on Importation, Sale and Use of Glyphosate</u>
Proposition type:	Proposition 4

LOST: **Pour: 13** **Contre: 20** **Ne vote pas: 0** **Absent: 7**

St. Peter Port South

Deputy Peter T. R. Ferbrache **A**
Deputy Jan Kuttelwascher **C**
Deputy Dawn A. Tindall **C**
Deputy Barry L. Brehaut **C**
Deputy Rhian H. Tooley **C**

St. Peter Port North

Deputy John A. B. Gollop **P**
Deputy Charles N. K. Parkinson **C**
Deputy Lester C. Queripel **P**
Deputy Michelle K. Le Clerc **C**
Deputy Marc P. Leadbeater **A**
Deputy Joseph I. Mooney **C**

St. Sampson

Deputy Lyndon S. Trott **C**
Deputy Paul R. Le Pelley **P**
Deputy Jennifer S. Merrett **P**
Deputy Gavin A. St Pier **C**
Deputy T. Jane Stephens **A**
Deputy Carl P. Meerveld **A**

Vale

Deputy Matthew J. Fallaize **C**
Deputy Neil R Inder **P**
Deputy Mary M. Lowe **P**
Deputy Laurie B. Queripel **P**
Deputy Jeremy C. S. F. Smithies **C**
Deputy Sarah T. Hansmann Rouxel **C**

Castel

Deputy Richard H. Graham **C**
Deputy Christopher J. Green **P**
Deputy Barry J. E. Paint **P**
Deputy Mark H. Dorey **C**
Deputy Jonathan P. Le Tocq **C**

West

Deputy Alvord H. Brouard **P**
Deputy Andrea C. Dudley-Owen **P**
Deputy Emilie A. McSwiggan **C**
Deputy David de G. De Lisle **P**
Deputy Shane L. Langlois **C**

South-East

Deputy Heidi J. R. Soulsby **C**
Deputy H. Lindsay de Sausmarez **C**
Deputy Peter J. Roffey **C**
Deputy Robert G. Prow **P**
Deputy Victoria S. Oliver **A**

Alderney

Alderney Representative Stephen Roberts **A**
Alderney Representative Alexander Snowdon **A**

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

16th October, 2019

Proposition No. P.2019/87

REQUÊTE

Prohibition on importation, sale and use of Glyphosate

AMENDMENT

Proposed by: Deputy D de G. de Lisle

Seconded by: Deputy R G Prow

To insert the following at the end of the Propositions in the Prayer:-

"Or, in the event that Propositions 1, 2 and 3 are not agreed:-

"4. To direct the Committee *for* Employment & Social Security:-

- (a) to consult all relevant stakeholders in Guernsey, and the authorities in Alderney and Sark, in connection with the use within the Bailiwick of products containing the active substance Glyphosate (CAS No. 1071-83-6, EU No. 213-997-4),
- (b) to review any available research results, including from research undertaken by reputable international bodies such as the IARC and WHO, about the effects on health and the environment of the use of such products, and
- (c) taking into account the results of such consultation and review, to return to the States with a Policy Letter and Propositions as soon as practically possible, but in any case before the end of the current term of the States, addressing and recommending appropriate legislative and other measures, which may be necessary or prudent to prevent harm to health and the environment from such products and which are compatible with Guernsey's international obligations with respect to trade."

Rule 4(3) Information

It is not believed that the amendment, if approved and adopted, would have significant financial implications for the States. The period within which the Committee *for* Employment & Social Security would be obligated to return to the States with the results of its work, should be sufficient to enable officers of the Committee to plan for and undertake the necessary work at a convenient time without the need for additional resources. Should that not prove to be the case and additional resources were required to be contracted in to deal with the matter as a stand-alone project, it is not believed that the cost of those resources would exceed a few thousand pounds.

Explanatory note

Following publication of the Requête, the RequéranTs have noted the Letter of Comment from the Policy & Resources Committee (P&R) dated 9th October 2019 and the consultation responses from the Principal Committees and the States' Trading Supervisory Board (STSB).

In particular they note, in her letter of 18 September 2019, the views of the President of the Committee *for* Employment & Social Security, which has political responsibility for the control of poisonous substances legislation, and her conclusion that her Committee cannot support the Requête in its current form. However, they also note that the Committee would nonetheless support a delay to enable an appropriate review of the scientific evidence on the risks of glyphosate and consultation and assessment to take place before any decisions on future use of glyphosate are taken.

They note the opinion of the STSB as indicated by the President of the STSB at the foot of the second page of his letter of 20th September 2019 as follows:-

"In conclusion, STSB is of the opinion that a more comprehensive consultation and review process is carried out on the use of herbicides and pesticides, their impact and alternative options, as well as considering the environmental, legal and financial impacts of a ban, before any policy decision is taken"

The RequéranTs note the comments and observations of the Policy & Resources Committee. They also note P&R's suggestion in the final paragraph that *"the Committee for the Environment and Infrastructure may wish to consider this matter further"*. In particular they are aware that there are already some pesticides which are approved for use in other countries (including the United Kingdom) but which are prohibited for use in Guernsey or which may only be used in Guernsey under licence. Details of such pesticides and the restrictions and prohibitions on their use are available on the States of Guernsey website via the following link:-

<https://www.gov.gg/CHttpHandler.ashx?id=112767&p=0>

The Requéranants note that these existing prohibitions do not appear to offend the application of Protocol 3.

Given Guernsey's size, population density and water collection infrastructure, Requéranants believe that there is reasonable and rational justification for Guernsey and the Bailiwick as a whole to treat the importation and use of glyphosate differently from other countries and territories.

The amendment recognises the need to consult and consider further the use of glyphosate in the light of the Letter of Comment and consultation responses from the committees of the States and all other stakeholders. This would include obligations to abide by international treaties and agreements.

In the light of the above they propose the amendment set out above and seek to have it inserted into the Propositions in the Prayer to the Requête as an alternative, that they would hope would find support from all or a majority of committees and members.

*Date of Vote: 17th October, 2019*

Billet d'État:	<u>Billet d'État XX</u>
Article:	9
Proposition No.:	P.2019/87
Committee:	Requête
Subject:	<u>Prohibition on Importation, Sale and Use of Glyphosate</u>
Proposition type:	Amendment 1

LOST: **Pour: 16** **Contre: 17** **Ne vote pas: 0** **Absent: 7**

St. Peter Port South

Deputy Peter T. R. Ferbrache **A**
Deputy Jan Kuttelwascher **P**
Deputy Dawn A. Tindall **C**
Deputy Barry L. Brehaut **C**
Deputy Rhian H. Tooley **C**

St. Peter Port North

Deputy John A. B. Gollop **P**
Deputy Charles N. K. Parkinson **P**
Deputy Lester C. Queripel **P**
Deputy Michelle K. Le Clerc **C**
Deputy Marc P. Leadbeater **A**
Deputy Joseph I. Mooney **P**

St. Sampson

Deputy Lyndon S. Trott **C**
Deputy Paul R. Le Pelley **P**
Deputy Jennifer S. Merrett **P**
Deputy Gavin A. St Pier **C**
Deputy T. Jane Stephens **A**
Deputy Carl P. Meerveld **A**

Vale

Deputy Matthew J. Fallaize **P**
Deputy Neil R Inder **P**
Deputy Mary M. Lowe **C**
Deputy Laurie B. Queripel **P**
Deputy Jeremy C. S. F. Smithies **C**
Deputy Sarah T. Hansmann Rouxel **C**

Castel

Deputy Richard H. Graham **C**
Deputy Christopher J. Green **P**
Deputy Barry J. E. Paint **P**
Deputy Mark H. Dorey **C**
Deputy Jonathan P. Le Tocq **C**

West

Deputy Alvord H. Brouard **P**
Deputy Andrea C. Dudley-Owen **P**
Deputy Emilie A. McSwiggan **C**
Deputy David de G. De Lisle **P**
Deputy Shane L. Langlois **C**

South-East

Deputy Heidi J. R. Soulsby **C**
Deputy H. Lindsay de Sausmarez **C**
Deputy Peter J. Roffey **C**
Deputy Robert G. Prow **P**
Deputy Victoria S. Oliver **A**

Alderney

Alderney Representative Stephen Roberts **A**
Alderney Representative Alexander Snowdon **A**

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

16th October, 2019

Proposition No. P.2019/87

REQUÊTE

Prohibition on importation, sale and use of Glyphosate

AMENDMENT

Proposed by: Deputy D de G. de Lisle

Seconded by: Deputy R G Prow

To insert the following at the end of the Propositions in the Prayer:-

"Or, in the event that Propositions 1, 2 and 3 are not agreed:-

"4. To direct the Committee *for* Employment & Social Security:-

- (a) to consult all relevant stakeholders in Guernsey, and the authorities in Alderney and Sark, in connection with the use within the Bailiwick of products containing the active substance Glyphosate (CAS No. 1071-83-6, EU No. 213-997-4),
- (b) to review any available research results, including from research undertaken by reputable international bodies such as the IARC and WHO, about the effects on health and the environment of the use of such products, and
- (c) taking into account the results of such consultation and review, to return to the States with a Policy Letter and Propositions as soon as practically possible, addressing and recommending appropriate legislative and other measures, which may be necessary or prudent to prevent harm to health and the environment from such products and which are compatible with Guernsey's international obligations with respect to trade."

*Date of Vote: 17th October, 2019*

Billet d'État:	<u>Billet d'État XX</u>
Article:	9
Proposition No.:	P.2019/87
Committee:	Requête
Subject:	<u>Prohibition on Importation, Sale and Use of Glyphosate</u>
Proposition type:	Amendment 2

CARRIED: **Pour: 29** **Contre: 4** **Ne vote pas: 0** **Absent: 7**

St. Peter Port South

Deputy Peter T. R. Ferbrache **A**
Deputy Jan Kuttelwascher **P**
Deputy Dawn A. Tindall **P**
Deputy Barry L. Brehaut **P**
Deputy Rhian H. Tooley **P**

St. Peter Port North

Deputy John A. B. Gollop **P**
Deputy Charles N. K. Parkinson **P**
Deputy Lester C. Queripel **P**
Deputy Michelle K. Le Clerc **P**
Deputy Marc P. Leadbeater **A**
Deputy Joseph I. Mooney **P**

St. Sampson

Deputy Lyndon S. Trott **P**
Deputy Paul R. Le Pelley **P**
Deputy Jennifer S. Merrett **P**
Deputy Gavin A. St Pier **P**
Deputy T. Jane Stephens **A**
Deputy Carl P. Meerveld **A**

Vale

Deputy Matthew J. Fallaize **P**
Deputy Neil R Inder **P**
Deputy Mary M. Lowe **P**
Deputy Laurie B. Queripel **P**
Deputy Jeremy C. S. F. Smithies **C**
Deputy Sarah T. Hansmann Rouxel **C**

Castel

Deputy Richard H. Graham **P**
Deputy Christopher J. Green **P**
Deputy Barry J. E. Paint **P**
Deputy Mark H. Dorey **P**
Deputy Jonathan P. Le Tocq **P**

West

Deputy Alvord H. Brouard **P**
Deputy Andrea C. Dudley-Owen **P**
Deputy Emilie A. McSwiggan **C**
Deputy David de G. De Lisle **P**
Deputy Shane L. Langlois **P**

South-East

Deputy Heidi J. R. Soulsby **C**
Deputy H. Lindsay de Sausmarez **P**
Deputy Peter J. Roffey **P**
Deputy Robert G. Prow **P**
Deputy Victoria S. Oliver **A**

Alderney

Alderney Representative Stephen Roberts **A**
Alderney Representative Alexander Snowdon **A**

**IN THE STATES OF THE ISLAND OF GUERNSEY
ON THE 16th DAY OF OCTOBER, 2019**

**The States resolved as follows concerning Billet d'État No XX
dated 27th September, 2019**

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

EMPLOYMENT AND DISCRIMINATION TRIBUNAL: APPOINTMENT OF CONVENOR

- I: After consideration of the Policy Letter entitled 'Employment and Discrimination Tribunal: Appointment of Convenor', dated 9th September 2019:
1. To designate Mr Jason Hill as Convenor of the Employment and Discrimination Tribunal Panel from 1st November 2019 until 28th February 2021.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

No. 87 of 2019

THE WATER CHARGES (AMENDMENT) REGULATIONS, 2019

In pursuance of section 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, "The Water Charges (Amendment) Regulations, 2019", made by the States' Trading Supervisory Board on 25th July, 2019, were laid before the States.

No. 88 of 2019

THE WASTEWATER CHARGES (GUERNSEY) REGULATIONS, 2019

In pursuance of section 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, "The Wastewater Charges (Guernsey) Regulations, 2019", made by the States' Trading Supervisory Board on 25th July, 2019, were laid before the States.

No. 89 of 2019

WASTE DISPOSAL AND RECOVERY CHARGES (No. 2) REGULATIONS, 2019

In pursuance of Section 32(3)(c) and (4) and section 72 of the Environmental Pollution (Guernsey) Law, 2004 and all other powers enabling it in that behalf, the Waste Disposal and Recovery Charges Regulations, 2019, made by the Waste Disposal Authority on 19th August 2019, were laid before the States.

No. 91 of 2019

**THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT)
(AMENDMENT NO. 5) REGULATIONS, 2019**

In pursuance of sections 10 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, made by the Committee *for* Employment & Social Security on 27th August, 2019 were laid before the States.

COMMITTEE *FOR* HOME AFFAIRS

**THE POPULATION MANAGEMENT (GUERNSEY) (AMENDMENT) LAW, 2019
P.2019/89**

- II: To approve the draft *Projet de Loi* entitled "The Population Management (Guernsey) (Amendment) Law, 2019", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

COMMITTEE *FOR* HOME AFFAIRS

**THE CUSTOMS AND EXCISE (DISCRETIONARY FINANCIAL PENALTIES)
(BAILIWICK OF GUERNSEY) ORDINANCE, 2019
P.2019/90**

- III: To approve the draft Ordinance entitled "The Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

COMMITTEE *FOR* ECONOMIC DEVELOPMENT

**THE PUBLIC HOLIDAYS ORDINANCE, 2019
P.2019/91**

- IV: To approve the draft Ordinance entitled "The Public Holidays Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

COMMITTEE *FOR* HOME AFFAIRS

**THE PROBATION (BAILIWICK OF GUERNSEY) LAW, 2018
(COMMENCEMENT) ORDINANCE, 2019
P.2019/92**

- V: To approve the draft Ordinance entitled "The Probation (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

CONTRIBUTORY BENEFIT AND CONTRIBUTION RATES FOR 2020

P.2019/94

VI: After consideration of the policy letter entitled 'Contributory benefit and contribution rates for 2020', dated 9th September 2019:-

1. To set the contributions limits and rates as set out in Table 4 of that policy letter, from 1st January 2020.
2. To set the standard rates of contributory social insurance benefits as set out in Table 6 of that policy letter, from 6th January 2020.
3. To set the prescription charge per item of pharmaceutical benefit at £4.10, from 1st January 2020.
4. To set the contribution (co-payment) required to be made by the claimant of care benefit, under the Long-term care Insurance Scheme, at £209.37 per week, from 6th January 2020.
5. To set the maximum weekly long-term care benefit at the rates set out below, from 6th January 2020:
 - a) £463.89 per week residential care benefit for persons resident in a residential home;
 - b) £611.24 per week elderly mentally infirm (EMI) benefit for qualifying persons in a residential home; and
 - c) £866.11 per week nursing care benefit for persons resident in a nursing home or the Guernsey Cheshire Home.
6. To set the maximum weekly respite care benefit at the rates set out below, from 6th January 2020:
 - a) £673.26 per week for persons receiving respite care in a residential home;
 - b) £820.61 per week for the elderly mentally infirm (EMI) rate for persons receiving respite care in a residential home; and
 - c) £1,075.48 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home.
7. To rename "old age pension" as "States pension" and to make all necessary amendments to legislation to allow and reflect the name change.
8. To note that the Committee intends to amend relevant legislation to enable prisoners of pension age to receive a lump sum payment of their pension, for that part of their imprisonment which is equivalent to the period that prisoners under pension age participate in the Release on Temporary Licence Scheme.

9. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

STATES' TRADING SUPERVISORY BOARD

GENERAL PILOTAGE – RETIREMENT AGE OF GENERAL PILOTS

P.2019/93

VII: After consideration of the policy letter entitled “General Pilotage – Retirement Age of General Pilots” (dated 25 July, 2019):-

1. To approve the preparation of an amendment to the Pilotage Ordinance, 1967 to remove the requirement that a general pilot retire as such on reaching the age of 65, and to provide that a general pilot's pilotage licence shall continue to be valid for so long as he or she holds a valid Seafarer's Medical Report and Certificate.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

S. M. D. ROSS

HER MAJESTY'S DEPUTY GREFFIER

**IN THE STATES OF THE ISLAND OF GUERNSEY
ON THE 17th DAY OF OCTOBER, 2019**

Adjourned from the 16th October

**The States resolved as follows concerning Billet d'État No XX
dated 27th September, 2019**

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

**PROXY VOTING FOR PARENTAL ABSENCE
P.2019/96**

VIII: After consideration of the policy letter entitled "Proxy Voting for Parental Absence" dated 9th September, 2019:-

1. To agree that the Rules of Procedure of the States of Deliberation and their Committees should be amended with immediate effect as follows:

- a) for Rule 26.(2), substitute:

- "(2) A Member may vote only from his or her seat in the States' Chamber (except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy). In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber. Immediately before announcing his or her vote in a division (appel nominal), a Member must switch on his or her microphone and switch it off again immediately after he or she has voted."

- b) in Rule 26.(6), delete the words 'present and',

- c) insert the following paragraphs immediately after paragraph (2) of Rule 26. and renumber the existing, subsequent paragraphs accordingly:

- "(3) A Member may, by reason only of absence from a Meeting of the States of Deliberation for the purpose of childbirth or care for an infant or newly-adopted child, by written notice in the form set out in Schedule 4 to these Rules arrange for their vote to be cast in accordance with this Rule by another Member acting as a proxy (a proxy vote) for a maximum duration of six continuous months.

- (4) A proxy vote may be cast on the following propositions:

- a) original propositions (excluding any propositions from the Presiding Officer);

- b) secondary propositions; and

- c) amended propositions.
- (5) A proxy vote may be cast only if the Presiding Officer has first certified that the Member for whom the vote is to be cast is eligible under the terms of this Rule and if that certificate, including the name of the Member nominated as a proxy, has been submitted to HM Greffier before the commencement of the States Meeting in question.
- (6) A vote cast by a proxy shall be clearly indicated as such in the Official Report and voting records published.”,
- d) at the end of Rule. 26, immediately after paragraph (12) (as renumbered in accordance with paragraph c) of this Proposition), insert the following paragraph:

"(13)The provisions of this Rule that enable a Member to vote by proxy do not apply to the Alderney Representatives;

Provided that:

an Alderney Representative may act as a proxy for another Member, other than a Member who is an Alderney Representative.”,
- e) in Rule 30. (1) at the end of the definition of "Member", insert "(and note qualification in Rule 26 (13) for purposes of proxy voting)", and
- f) insert the ‘Application for Proxy Voting for Parental Absence’ form at Appendix I as Schedule 4 to the Rules of Procedure of the States of Deliberation and their Committees.

REQUÊTE

PROHIBITION ON IMPORTATION, SALE AND USE OF GLYPHOSATE P.2019/87

IX: After consideration of the Requête titled “PROHIBITION ON IMPORTATION, SALE AND USE OF GLYPHOSATE” dated 29th August 2019:-

1. TO NEGATIVE THE PROPOSITION to direct the Committee *for* Employment & Social Security, in exercising their powers under Regulation 11(8) of the Control of Poisonous Substances (Guernsey) Regulations, 2014, as amended, to revoke all existing approvals of plant protection products (pesticides) containing the active substance Glyphosate (CAS No. 1071-83-6, EU No. 213-997-4), including importation and sale to professional users and the public by 31 March 2020, and final use by professional users by 31 December 2020.

2. TO NEGATIVE THE PROPOSITION to recommend that the Committee *for* Employment & Social Security should consider granting licensed approval for Glyphosate for the use by professional users for the control of noxious weeds in Guernsey.
3. TO NEGATIVE THE PROPOSITION to direct the Committee *for* Employment & Social Security to review any licensed approvals for the use of Glyphosate for noxious weeds control by the end of 2022.
4. TO NEGATIVE THE PROPOSITION to direct the Committee *for* Employment & Social Security:-
 - (a) to consult all relevant stakeholders in Guernsey, and the authorities in Alderney and Sark, in connection with the use within the Bailiwick of products containing the active substance Glyphosate (CAS No. 1071-83-6, EU No. 213-997-4),
 - (b) to review any available research results, including from research undertaken by reputable international bodies such as the IARC and WHO, about the effects on health and the environment of the use of such products, and
 - (c) taking into account the results of such consultation and review, to return to the States with a Policy Letter and Propositions as soon as practically possible, addressing and recommending appropriate legislative and other measures, which may be necessary or prudent to prevent harm to health and the environment from such products and which are compatible with Guernsey's international obligations with respect to trade.

POLICY & RESOURCES COMMITTEE

SCHEDULE FOR FUTURE STATES' BUSINESS P.2019/97

- X: After consideration of the attached Schedule for future States' business, which sets out items for consideration at the Meeting of the 6th November 2019 and subsequent States' Meetings, to approve the Schedule.

C. FOSTER

HER MAJESTY'S DEPUTY GREFFIER