



XXIV
2012

BILLET D'ÉTAT

WEDNESDAY 31st OCTOBER, 2012

REQUÊTE – SUNDAY TRADING

B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY, the 31st OCTOBER, 2012**, pursuant to Rule 1 (4) of the Rules of Procedure of the States of Deliberation, to consider the item contained in this Billet d'État which has been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey
12 October 2012

REQUÊTE**SUNDAY TRADING**

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

1. The Sunday Trading Ordinance 2002¹, as amended was approved by the States of Deliberation at their September 2002 meeting, in pursuance of their Resolutions of the 11th November, 1999² and 27th March 2002³, and in exercise of the powers conferred on them by sections 1, 2, 3 and 4 of the Sunday Trading (Guernsey) Law, 1973⁴.
2. The Sunday Trading Ordinance prohibits shops from opening on a Sunday unless they are licensed or open for an exempt purpose as defined in that legislation. In the opinion of your petitioners, since the enactment of that Ordinance, there has been progress towards a greater fairness regarding Sunday trading brought about by licences and changes allowing the sale of fuel, alcohol and other items. These changes are popular and further changes should follow.
3. Further, in the opinion of your petitioners, the current regime allows wide discretion by the Constables and Douzaine of the Parish in which a shop is situated and to whom licence applications are made. Subject to the provisions of the legislation, the relevant Constables and Douzaine are in theory entitled to license large non food retail outlets. Your petitioners believe that this is illogical and inconsistent so that a pan Island regime should be implemented.
4. It appears to your Petitioners that the people of Guernsey are divided on these matters not only in terms of religious and philosophical convictions but also in terms of perception of the likely implications; but that in the modern history of Sunday trading there has never been a period of total de-regulation on which the reality of those implications can be objectively judged. In the opinion of your Petitioners, therefore, it would be appropriate to suspend the operation of the Sunday Trading Ordinance, 2002 as amended, for a trial period of 12 calendar months, commencing from 1st December 2012, during which data concerning Sunday trading should be collected from relevant businesses, consumers and other relevant organisations and local opinion should be canvassed; and then the States can make better informed decisions for the future.

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

¹ Ordinance No. XIV of 2002.

² Article VII of Billet d'État XVIII of 1999.

³ Article V of Billet d'État IV of 2002.

⁴ Ordres en Conseil Vol. XXIV, p. 48.

- a) To direct the preparation of such legislation as may be necessary to suspend the operation of the Sunday Trading Ordinance, 2002 as amended, for a trial period of 12 calendar months commencing 1st December 2012,
- b) To direct the States Commerce and Employment Department to collect data from relevant businesses, consumers and other relevant organisations and to canvass local opinion during those 12 months concerning the social, economic and other consequences of the suspension, and to report back to the States as soon as possible with its conclusions and any recommendations arising therefrom.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

This sixth day of September 2012

Deputy Michael Hadley

Deputy Sandra James

Deputy Andrew Le Lievre

Deputy Mary Lowe

Deputy Peter Sherbourne

Deputy Robert Sillars

Deputy Jan Kuttelwascher

(NB In pursuance of Rule 17(2) (a) of the Rules of Procedure of the States of Deliberation, the views received from Departments and Committees consulted by the Policy Council, as appearing to have a particular interest in the subject matter of the Requête, are set out below. The Policy Council has also sought the views of the Douzaines, given their particular interest in the subject matter of this Requête and their responses also appear below. Torteval Douzaine has no comments to make on the Requête.)

COMMERCE AND EMPLOYMENT DEPARTMENT

Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

27th September 2012

Dear Sir

Requête – Sunday Trading

Thank you for your letter of 13th September requesting the views of the Department on the subject matter of this requête.

The Department's view on the general topic of the examination of possible changes (including the option of the removal of restrictions on trading on a Sunday entirely) was established and communicated earlier this year. By a majority, members do not consider the topic of Sunday Trading (or a review of it) to be of sufficient practical economic importance to the Island for it to be given a priority for action at the present time.

The Department's preference was, and remains, that the process of review and wide consultation should not be started at the present time, but would be considered for inclusion in a future Departmental business plan, on its merits at the time.

It was noted that the requête is seeking a trial period for twelve months and Board Members commented that such a proposal is an unusual approach and precedent. Changes to legislation are normally considered against the merits or otherwise of those changes.

Members also noted that the requête, if accepted in its current form or something similar, will necessarily bring about the situation where the currently postponed review will have to commence at some time in 2013 and be concluded in 2014.

Further, Members have noted and have concerns that some of the wording of the requête does not reflect the reality of the legislation. In particular, concern was expressed over the suggestion in paragraph 3 of the requête that the current legislation allows "wide discretion" to parishes when considering applications, which it does not. In an allied point it is suggested that the current system is not a "pan Island" one. Again, this is quite at odds with the approach, agreed in 2002 and set out in the Ordinance, for a uniform and centrally guided – albeit Parish administered - set of restrictions in line with views of the expectations and needs of Island society.

A majority of members are also concerned that the timings in the current form of the requête (a 12 month suspension of the powers in the Ordinance from December 2012 to

November 2013 inclusive) will create uncertainty and potentially unnecessary work and expense for Island Douzaines, island traders and staff at the Department.

Sunday Trading Licence applications for the following year are typically made in October, November and December and depending upon when the requête is debated and the outcome this could lead to a need to continue to process licence applications for 2013 (at a non-refundable cost of £25 to each shop). As the requête is currently drafted, licences will be needed for the month of December 2013 as well as for all of 2014. The Ordinance currently requires that these are separate licences as each one expires at the end of each calendar year (i.e. December).

Finally, Board Members are concerned over the rights of shop workers under the Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001 (the SSWP Law). Whilst this Law provides protection to some shop workers who do not wish to work on Sundays, under certain circumstances workers may initially have to work on some Sundays until completion of a statutory notification period which has to be given to their employer advising of their wish to opt out. In practice this period of notice may be between one and three months depending on the wording in the employee's terms and conditions of employment.

Again, the short notice of change arising from the wording of this requête has the potential to create uncertainty for businesses and for workers regarding shop worker protection and the requirement to work on Sundays, if requested to do so.

To try and ensure that there is an informed debate when this comes to the Assembly, the Department intends to provide States Members with some factual briefing notes which will explain in greater detail the provisions of the SSWP Law and also of the Sunday Trading Ordinance, 2002 itself.

Yours faithfully

Kevin A Stewart
Minister

ENVIRONMENT DEPARTMENT

Deputy P A Harwood
Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

27th September 2012

Dear Deputy Harwood

Thank you for your letter dated 13th September seeking the Department's comments on Deputy Hadley's proposal to trial Sunday opening.

The Environment Department's only observation in respect of this Requête is that if the uptake of Sunday trading proved to be significant such that it compared with Saturday trading, then it might prove necessary for the Department to extend the controlled parking periods to include Sunday's. If such action did take place, then the text of all the current parking signs would need to be revised. The Department doubts that such steps will be necessary during the trial period but the potential need for such action should at least be highlighted.

Yours sincerely

Deputy Roger Domaille

Minister

TREASURY AND RESOURCES

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

28th September 2012

Dear Chief Minister

Thank you for your letter dated 13 September 2012 seeing my Board's views on the requête submitted by Deputy Hadley which seeks to suspend the Sunday Trading Ordinance, 2002, as amended for a period of 12 months.

It is understood that the Commerce and Employment Department will not require any additional resources to fund the work required if the requête is successful and therefore my Board has no comment to make.

Yours sincerely

Gavin St Pier
Minister

HOME DEPARTMENT

Chief Minister
Policy Council
Sir Charles Frossard House
St Peter Port
GY1 1FH

26th September 2012

Dear Peter,

Sunday Trading Requête

Thank you for your letter dated 13 September 2012, requesting the Home Department's views on the above Requête, proposing the suspension of the Sunday Trading Ordinance 2002, as amended, for a trial period from 1st December 2012.

Whilst the Sunday Trading Ordinance 2002 has no direct impact on the Home Department, since the Requête has been submitted the Department has been approached by individuals regarding its impact on liquor licensing legislation and local gambling legislation. For the avoidance of doubt, the Department wishes to clarify that the proposed suspension of the Sunday Trading Ordinance will not override the existing provisions contained within the Gambling or Liquor Licensing Legislation and the provisions set out within those will stay namely;

- The liquor licensing legislation for off sale premises draws no distinction between Sundays and other days with liquor sales permitted between 7:00am and midnight. In practice, a significant proportion of off sales currently do not trade on Sundays either as they fall foul of the Sunday Trading Ordinance due to size or whilst small enough to potentially open, subject to the grant of the relevant permit, have made a commercial decision not to. Should the Sunday Trading Ordinance 2002 be temporarily suspended it may be that more off licences would open and trade on Sundays and would be able to do so in accordance with their current licence.
- The Gambling legislation prohibits bookmakers opening on a Sunday and this will continue to be the case irrespective of the States decision on the Requête

Other than the above clarification, the Home Department feel that the issue of Sunday opening is a matter of individual conscience for Board members rather than one on which the Home Department has a collective view.

Yours sincerely

Deputy J P Le Tocq
Minister
Home Department

SCRUTINY COMMITTEE

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

27th September 2012

Dear Deputy Harwood,

The Scrutiny Committee has conducted no enquiry and has gathered no evidence on Sunday Trading. Accordingly the Committee is not in a position to offer any report or comment to you or the Assembly. Members of the Committee will contribute to the Debate as they see fit when the Rêquete is debated.

Yours sincerely,

Alderney Representative P Arditti, Chairman

(N.B the following Departments and Committees wish to make no collective comment on the Requête: Social Security Department, Education Department, the Public Accounts Committee, Housing, Health and Social Services, Culture and Leisure, Public Services Department. However, Members may wish to give their personal views in debate.)

VALE DOUZAINE

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

27th September 2012

Dear Chief Minister,

The Requête regarding Sunday Trading which put forward the idea that the Sunday Trading Law be suspended for a year was discussed by the Vale Douzaine. There were various opinions put forward but when a vote was taken it was the opinion of the majority of Douzeniers (three abstained) that the Requête should not be approved by the States.

Yours sincerely

L.B Queripel, Senior Constable

ST SAMPSON'S DOUZAINÉ

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

2nd October 2012

Dear Chief Minister,

St. Sampson's Constables and Douzaine were of the opinion that Sunday Trading should remain as is – i.e. the Status Quo. We have great reservations about a trial time. We see reduced wages for Sundays rather than enhanced pay. Sunday will become part of their working week. People could be worse off as a result. A main concern is that this will only affect the retail trade which is suffering already.

Yours sincerely

R.J. Broome, Senior Constable

FOREST DOUZAINÉ

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

27 September 2012

Dear Chief Minister,

Following the September meeting of the Forest Douzaine held yesterday, 26th September, where we discussed your letter of 13 September, I am instructed to inform you that a majority of our assembly felt that the temporary suspension of Sunday Trading was an appropriate measure to take - "try before you buy" so to speak.

We wish you every success in your consideration of this matter.

Yours sincerely,

Jonathan Le Moignan, Senior Constable

ST PETER PORT

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

25th September 2012

Dear Chief Minister,

At a meeting of the Douzaine on Monday 24th September this subject was discussed and a vote taken. Four members of the Douzaine supported the Requête and ten Douzeniers did not support it. The Debate centred around the need to protect workers from being pressured into working on a Sunday and the negative effects to businesses in incurring additional staffing and running costs without any significant increase in revenue. Opinions were also expressed that the current legislation is untidy and inconsistent and that it should not be the business of government to dictate on which days shops can trade.

Thank you for permitting the Douzaine to comment on this no doubt contentious issue. We will eagerly await the outcome in November.

Yours sincerely

B J Cash DH Le Moignan Constables

CASTEL

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

27th September 2012

Dear Chief Minister,

Further to the Douzaine meeting on the 24th September 2012, where we considered the above recommendation, we feel that even though the present system is inconsistent, a global pan-Island amendment such as that proposed is not the answer. We believe that this will be difficult to reverse at the end of the trial period. Therefore, we regret that we, the Castel Constables and Douzaine, are unable to support the above Requête.

Yours sincerely

Kevin Walsh, Senior Constable

ST ANDREW

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

26th September 2012

Dear Chief Minister,

In response to your letter dated 13th September 2012, we the Constables and Douzeniers of St Andrews have debated this matter at our September meeting and agreed the following: it was voted that in our opinion, a twelve month suspension is inappropriate. We would rather the full matter be debated by the States and not some half-way work.

Yours sincerely

N Barton, J Barrett Constables

ST PIERRE DU BOIS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

26th September 2012

Dear Deputy Harwood,

Thank you for forwarding a copy of the Requête to be lodged by Deputy Hadley for debate at the November States meeting, proposing the suspension of the Sunday Trading Ordinance for a period of twelve months from 1st December 2012.

The Douzaine of St Pierre du Bois considered this matter at its meeting on 24th September 2012 and we are now able to inform you that Douzeniers were unanimous in rejecting the proposals put forward by the petitioners.

Thank you for the opportunity to submit comments.

Yours sincerely

S.A Fell F.D Jeffery, Constables

ST MARTINS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

3rd October 2012

Dear Sir,

The Douzaine of St Martin has discussed Deputy Hadley's Requête regarding Sunday trading.

The Douzaine does not support the Requête. They believe that the removal of the restrictions will result in increased costs for the trader which will no doubt be passed unto the consumer through higher prices.

In addition our concern is that these additional costs will be more easily absorbed by the larger businesses and put further pressure on the smaller establishments. This will of course be in addition to the pressure on the smaller businesses to open if they are in competition with the larger organisations as any loss of business will reduce their ability to continue trading.

The smaller businesses give St Martin, and the island as a whole a unique character, that if lost would be to the detriment of St Martin and Guernsey.

The Douzaine does not have a problem with Sunday being different to the other days of the week and again gives the island its own character.

The Douzaine do not have a problem with continuing to be responsible for granting Sunday Trading licences.

While there may be some anomalies with the existing legislation the Douzaine believes the current situation to be far better than the two extremes of no trading or no regulation. The existing legislation is 'Guernsey Common Sense' at its best, where it seeks to balance convenience and protection of staff and smaller businesses, providing a variety and quality of life that makes St Martin and Guernsey such a special place to live.

Yours faithfully

Graham Smale
Constable

SAINT SAVIOURS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

25th September 2012

Dear Peter,

Thank you for your letter dated 13th September 2012 seeking the views of the St Saviour's Douzaine concerning Sunday Trading.

We have has consistently opposed the opening of all large shops on Sundays and can see no reason to change this opinion in light of a Requête from Deputy Hadley.

We believe that Guernsey Sundays have a completely different feel about them to the other days of the week. Families, groups and individuals have a more relaxed outlook on these days and engage in a range of activities in an altogether different manner. We have no desire to see this change.

As far as business is concerned, opening all shops on a Sunday is not going to generate any additional trade. Guernsey people will have no additional money to spend simply because shops might be open on Sundays. Retailers will incur one sixth additional costs to generate, what in all likelihood will be, a similar income. This Requête, if successful, will result in the States giving the green light for an increase in the cost of operating a retail outlet in Guernsey and making such businesses less profitable.

If the Requête is successful we would find it at odds with the recent States' decision that resulted in a reduction of postal deliveries from six days to five at Guernsey Post Limited (a Company in which the States have a financial interest) in order to make the Company more profitable.

If Sunday trading is allowed, we believe that it will result, eventually, in all retail businesses having to follow the lead of the big UK-based multiples, who will be unable to resist operating as they do on the mainland.

The Douzaine sympathises with those lower paid members of our society who work in the retail industry and would feel pressure to work on a Sunday while others, better paid e.g. Office workers, Lawyers, Doctors etc are not prepared to provide their normal service on a Sunday. The Douzaine is aware that the cost to see a doctor in Guernsey doubles on a Sunday. Professional people do not seem to be shouting from the rooftops that they wish to work on Sundays.

We hope that you find these comments helpful.

Yours sincerely
Fergus Dunlop, Senior Constable

(NB The Policy Council has no comments to make.)

The States are asked to decide:-

Whether, after consideration of the Requête dated 6th September, 2012 signed by Deputy M Hadley and six other Members of the States, they are of the opinion:-

1. To direct the preparation of such legislation as may be necessary to suspend the operation of the Sunday Trading Ordinance, 2002 as amended, for a trial period of 12 calendar months commencing 1st December 2012.
2. To direct the States Commerce and Employment Department to collect data from relevant businesses, consumers and other relevant organisations and to canvass local opinion during those 12 months concerning the social, economic and other consequences of the suspension, and to report back to the States as soon as possible with its conclusions and any recommendations arising therefrom.