

COUNCIL OF MINISTERS

(14th Meeting)

12th June 2009**PART A**

All members were present, with the exception of: Senator F.E. Cohen, Minister for Planning and Environment; Senator A.J.H. Maclean, Minister for Economic Development; and, Deputy I.J. Gorst, Minister for Social Security, from whom apologies had been received.

Senator T.A. Le Sueur, Chief Minister
 Senator P.F. Routier, Assistant Minister for Economic Development
 Senator P.F.C. Ozouf, Minister for Treasury and Resources
 Senator T.J. Le Main, Minister for Housing
 Senator B.I. Le Marquand, Minister for Home Affairs
 Connétable M.K. Jackson of St. Brelade, Minister for Transport and Technical Services
 Deputy R.C. Duhamel, Assistant Minister for Planning and Environment
 Deputy J.G. Reed, Minister for Education, Sport and Culture
 Deputy A.E. Pryke, Minister for Health and Social Services
 Deputy A.E. Jeune, Assistant Minister for Social Security

In attendance -

Connétable K.P. Vibert, Chairman, Comité des Connétables
 Deputy S. Power, Assistant Minister for Housing (for item A5)
 W.D. Ogley, Chief Executive, States of Jersey
 W.J. Bailhache, Q.C, H.M. Attorney General
 I. Black, Treasurer of the States (for items B3 and B4)
 S. Austin-Vautier, Chief Officer, Home Affairs Department (for items B1 and B2)
 M. Heald, Assistant Chief Executive (for item A5)
 K. Hemmings, Head of Decision Support, Treasury and Resources Department (for item B4)
 R. Foster, Assistant Director – Finance and Strategy, Property Holdings (for item B3)
 D. Roberts, Chief Quantity Surveyor, Property Holdings (for item B3)
 P. Bradbury, Director, Population Office (for item A5)
 E. Walsh, Senior Assistant Law Draftsman (for item A5)
 M. Cavey, Project Officer, Population Office (for item A5)
 J. Marshall, Strategic Planning Manager (for item B5)
 J. Morris, Policy and Research Manager
 M.N. de la Haye, Greffier of the States
 I. Clarkson, Clerk to the Council of Ministers

Note: The Minutes of this meeting comprise Part A and Part B.

Minutes.

A1. The Minutes of the meeting held on 7th May 2009, having been circulated previously, were taken as read and were confirmed.

Matters
arising.

A2. The Council noted the following matters arising from the Minutes of the meeting held on 7th May 2009 –

- (a) **Island Health Check** (Minute No. A3 refers) – the Council was advised that the Minister for Health and Social Services had commenced a review of the draft New Directions health strategy with a view to identifying work streams within the strategy that could realistically be taken forward having regard to prevailing resource constraints;
- (b) **Tax Information Exchange Agreements** (Minute No. A6 refers) – the Council was pleased to note that on 10th June 2009 at the Australian High Commission in London Senator P.F.C. Ozouf and Mr John Dauth LVO had signed the Tax Information Exchange Agreement between Jersey and Australia;
- (c) **States Strategic Plan 2009 – 2014** (Minute No. B5 refers) – the Council congratulated the Chief Minister for demonstrating responsive leadership during the States debate on the States Strategic Plan. It further thanked the Strategic Planning Manager for her professional coordination of the development of the Plan.

States
business.
1240/7/1(1)

A3. The Council reviewed the list of public business scheduled for consideration by the States Assembly during the remainder of the First Session of 2009. Particular attention was paid to the following –

- (a) **Public Elections (Jersey) Law 2002: rescindment of Article 39A (P.18/2009)** – the Council agreed that further refinements to the Law would be beneficial. For example, it questioned whether rules governing the provision of lifts to polling stations should be strengthened. The Council nevertheless considered that Article 39A helped to preserve the integrity of public elections whilst also providing flexibility to provide proportionate assistance for persons needing help to exercise their right to vote. It therefore resolved to oppose the proposition;
- (b) **Composition and election of the States: revised structure (P.72/2009)** – having considered the significance of the changes proposed, the Council concluded that it should seek a deferral of debate on P.72/2009 in order that it might meet with the Privileges and Procedures Committee to discuss the proposition;
- (c) **Committee of Inquiry into the death of Mrs. Elizabeth Rourke (P.76/2009)** – the Council concurred with the view expressed by the Minister for Health and Social Services that the existing ongoing inquiries and the forthcoming inquest, when taken together, would provide a rigorous, independent and more timely analysis of the circumstances surrounding the death of Mrs. Rourke. It therefore resolved to oppose the proposition and noted that the Minister for Health and Social Services intended to present to the States a comment clarifying her position on the matter;
- (d) **Annual Business Plan 2009: variation in respect of pay freeze (P.78/2009)** – the Council considered that it would be more appropriate for the States to debate whether to pursue a public sector pay freeze before considering Projet No. P.68/2009 and the associated amendments, which proposed pay increases for public sector workers.

14th Meeting
12.06.09

It therefore recommended that the Minister for Treasury and Resources consider whether to request that the States Assembly defer debate on P.68/2009 until immediately after the debate on P.78/2009;

- (e) **Property and Infrastructure Regeneration: the States of Jersey Development Company Limited (P.79/2009)** – the Council noted that the Chairman of the Corporate Services Scrutiny Panel had requested that the Council defer debate on P.79/2009 to allow the Scrutiny Panel to review the proposition; and,
- (f) **Suspension of States Employees: Composition of Review Panel (P.98/2009)** – the Council agreed that the States Employment Board should convene to consider the proposition.

Pandemic flu:
preparation for
outbreak.
1444/4(2)

A4. The Council, with reference to Minute No. B5, dated 24th January 2008 of the Council as previously constituted, received an oral report from the Minister for Health and Social Services concerning ongoing preparations to prepare for an influenza pandemic.

It was reported that on 11th June 2009 the World Health Organization had declared a global influenza pandemic. Although the Health and Social Services Department had made comprehensive arrangements to prepare for such an outbreak, it had since become apparent that a second supply of influenza vaccines would be required. This need had arisen because the manufacturing process for the original stock of vaccines secured involved the use of chicken eggs. The use of such a vaccine could trigger side effects in a proportion of the Island's population.

The Council was advised that a contract for the supply of the second source of flu vaccine had necessarily been secured at short notice; however, it was apparent that the cost of securing the second supply would make it particularly difficult for the Health and Social Services Department to operate within its agreed cash limit for 2009.

The Council endorsed the decision to purchase a second supply of influenza vaccine and noted the resulting financial pressures facing the Chief Officer, Health and Social Services Department.

Migration
Advisory
Group:
migration
policy
development.
1444/6(4)

A5. The Council, with reference to its Minute No. B1 of 19th March 2009, recalled that it had requested the Migration Advisory Group (the MAG) to give further consideration to: the timetable for implementation of the new migration policy; management of the transitional period pending full implementation of the new policy; and, the manner in which progression of the new policy should be communicated to the public.

The Council, with: Senator P.F. Routier, Chairman, Migration Advisory Group; Deputy S. Power, Assistant Minister for Housing; M. Heald, Assistant Chief Executive; P. Bradbury, Director, Population Office; M. Cavey, Project Officer, Population Office and E. Walsh, Senior Assistant Law Draftsman in attendance, considered a report entitled, 'Migration Policy: Outstanding Issues Prior to the Publication of Proposals, Including Employment Rule, Timetable and Overall Approach'.

The Council observed that the MAG had given further consideration to the matter of employment rights and had concluded that the existing 5 year rule for access to employment should be retained on the understanding that it would not detract from the overall effectiveness of the migration policy controls and that it could be

effectively administered.

On the matter of controls over persons presently categorized as essentially employed, the Council noted that the MAG favoured an approach whereby a business licence issued under the new policy might include a stipulation that the employer would be permitted to allocate licensed posts in a manner consistent with the grounds on which the application for that licence was granted.

Turning to the matter of the timetable for progression of the policy, the Council noted that the MAG had recommended that the draft white paper concerning part 2 of the policy and appended to the report under consideration be published forthwith, together with the draft Register of Names and Addresses (Jersey) Law 200- and the Migration (Jersey) Law 200- (which in its existing form related to part 1 of the new policy only). It was proposed that consultation on the same close by September 2009, in order that the necessary draft legislation could be finalized by the end of the year and be submitted for a human rights audit. In turn this would allow for both laws to be lodged 'au Greffe' no later than February 2010, with a view to securing a States debate no later than June 2010. Adoption of the legislation would allow for development and implementation of the necessary administrative systems and processes over the course of the following 12 month period.

Ministers acknowledged that the proposal to reduce to 5 years the length of residence necessary to achieve access to work represented a proposal to deviate from the decision of the States Assembly in respect of P.25/2005 (Migration: Monitoring and Regulation). It nevertheless noted that the MAG had considered the operation of a dual residency criteria for access to work and to housing and had concluded –

- (a) that such a system would be administratively viable and
- (b) that a 5 year residency period for access to work would provide sufficient flexibility for Island employers without undermining the objectives of the proposed migration policy.

The Council was briefed on the various statutory protections that would exist in respect of the security of data held on the Names and Addresses Register under the new proposals, including the creation of a new oversight function, the limitations placed on the amount of data that could be held and who could use that data.

Clarification was sought regarding the extent to which the various draft Laws had been audited for compliance with the European Convention on Human Rights. The Council was advised that the Law Officers' Department would carry out the necessary audit on individual items of draft legislation once consultation had concluded and the drafts were considered to be substantively complete.

The Council endorsed the revised report and in particular, the revised timetable for progression of the migration policy and the revised proposal for continuation of the 5 year rule for access to employment. It further recommended that the Chief Minister proceed to publish the consultation paper and the associated draft Laws forthwith.

The Director, Population Office was authorized to take the necessary action.

14th Meeting
12.06.09

States
Employment
Board:
appointment of
member.
688/2(1)

A6. The Council, with reference to its Minute No. A4 of 15th December 2008, recalled that Senator J.L. Perchard had ceased to be a member of the States Employment Board following the decision of the States Assembly on 28th April 2009 to appoint Deputy A.E. Pryke to the post of Minister for Health and Social Services.

Senator T.J. Le Main advised that he would be prepared to serve as a member of the Board for a limited period.

The Council, in pursuance of Article 5 of the Employment of States of Jersey Employees (Jersey) Law 2005, as amended, appointed Senator T.J. Le Main as a member of the States Employment Board; however, the Council also delegated authority to the Chief Minister to invite and, if appropriate, to appoint Deputy I.J. Gorst to serve as a member of the Board. In the event that Deputy Gorst was prepared to serve as a member, the Council noted that Senator Le Main would be deemed to have resigned as a member of the Board.

The Head of Employee Relations was authorized to take the necessary action.