

COUNCIL OF MINISTERS

(27th Meeting)

26th November 2009**PART A**

All members were present.

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

In attendance -

Deputy A.E. Jeune, Assistant Minister for Social Security (for items A4,
 A5 and B1)
 W.D. Ogley, Chief Executive, States of Jersey
 T.J. Le Cocq, Q.C, H.M. Attorney General
 M. King, Chief Officer, Economic Development Department (for item B3)
 R. Bell, Chief Officer, Social Security Department (for items A4, A5 and
 B1)
 I. Black, Treasurer of the States (for item A8)
 C. Haws, Head of Financial Planning, Treasury and Resources Department
 (for item A8)
 M. Heald, Assistant Chief Executive (for item B2)
 A. Adkin, Legal Administration Officer, Health and Social Services
 Department (for item B2)
 S. Duhamel, Policy and Strategy Director, Social Security Department (for
 items A5 and B1)
 K. Morel, Policy Principal, Social Security Department (for item A4)
 T. Murphy, Policy and Research Officer
 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 meetings held on 29th October 2009 (Parts A and B),
 having been circulated previously, were taken as read and were confirmed.
- States
 business.
 1240/7/1(1) A2. The Council reviewed the list of public business scheduled for consideration
 by the States Assembly during the remainder of the Second Session of 2009.
 Particular consideration was given to the following –

- (a) **Pension Schemes: dealing with the past service liability (P.110/2009)** – the Council endorsed the comment presented by the Minister for Treasury and Resources;
- (b) **Plémont Holiday Village: acquisition by the Public (P.144/2009)** – the Council noted that the owner of the site had submitted a further planning application for permission to build homes on a proportion of the site only, and that Connétable K.P. Vibert of St. Ouen was minded to defer debate on his proposition in order to consider feedback on the application from parishioners;
- (c) **Young Offenders: naming by the media (P.148/2009)** – the Council noted that Deputy T.M. Pitman had indicated his intention to proceed with his proposition, notwithstanding the comment presented to the States by H.M. Attorney General;
- (d) **Planning and Building Bye-laws: provision of disabled toilets/changing rooms (P.168/2009)** – the Council noted that the Minister for Planning and Environment had lodged an amendment to the proposition to mitigate potentially undesirable cost implications for smaller developments;
- (e) **Provision of States Members' lunches at certain meetings and car parking (P.171/2009)** – the Council endorsed the proposal of the Privileges and Procedures Committee to refer the matter of States Members' parking to the States Members' Remuneration Review Body;
- (f) **H1N1 Influenza Pandemic Funding: expenditure approval (P.174/2009)** – the Council affirmed its support for the proposition;
- (g) **Draft Companies (Amendment No. 4) (Jersey) Regulations 200- (P.177/2009)** – the Council noted that the Economic Development Department had circulated further information to all States Members affirming the need for the amendment;
- (h) **Blackberries: costs for Ministers and Assistant Ministers and use in the Assembly (P.186/2009)** – the Council delegated to the Chief Minister authority to present to the States a comment outlining its opposition to the proposition;
- (i) **Fort Regent: establishment of a working group (P.188/2009)** – the Council noted that the Minister for Education, Sport and Culture had met with Deputy J.A.N. Le Fondré and the Director of Property Holdings to discuss the viability of the proposition and to commission further related work at officer level;
- (j) **Jersey New Waterworks Company Ltd: Report of Jersey Competition Regulatory Authority on Outsourcing (P.195/2009)** – the Council, having been unable to reconcile the core purpose of the JCRA with the subject matter and apparent objective of the proposed review, resolved to oppose the proposition.

Detailed consideration of other propositions listed for debate continued under the Council's Part B (confidential) agenda.

GAAP
accounting:
creation of
new capital
budgets.

A3. The Council considered a report dated 26th November 2009, which sought authority for the creation of 5 new capital budgets as part of the implementation of Generally Accepted Accounting Principles (GAAP) within the States of Jersey.

The Council recalled that Financial Direction 3.6 (Variations to Heads of

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1446/4(4)

Expenditure) issued under Article 34 (1) of the Public Finances (Jersey) Law 2005, required the approval of the Council of Ministers for transfers to new capital budgets. Moreover, GAAP required expenditure to be accounted for as capital if it met the GAAP accounting definition of capital expenditure. As capital allocations in the Annual Business Plan 2009 had been made by the States under the old system, a transfer of budgets was now required in order to achieve compliance. These budget transfers would move budgets between capital and revenue so as to align the budgeting treatment of the 2009 expenditure with the GAAP treatment.

The Council observed that 3 non-ministerial States funded Departments, Viscounts, the Probation and After Care Service and the Official Analyst had not previously had capital budgets and had identified expenditure in their 2009 revenue budgets which qualified as capital under GAAP. The States Assembly and Economic Development Department had capital budgets for specific projects for minor capital items which had been budgeted for as part of their 2009 revenue budgets. These Departments had, therefore, requested budget transfers from revenue to new capital budgets as follows -

Department	head of expenditure	amount
Official Analyst	minor capital	£37,000
Viscounts	minor capital	£44,800
Probation and After Care Service	minor capital	£25,500
States Assembly	minor capital	£14,790
Economic Development	minor capital	£11,995

The Council, having noted that the transfers proposed would not alter the total amount of expenditure approved by the States, approved the establishment of the new capital budgets, as detailed above.

Insolvency
Payments
Scheme: white
paper.
1058/12(536)

A4. The Council, with: Deputy A.E. Jeune, Assistant Minister for Social Security; R. Bell, Chief Officer, Social Security Department; and K. Morel, Policy Principal, Social Security Department in attendance, considered a draft white paper prepared by the Social Security Department entitled, 'Insolvency Payments Scheme', the purpose of which was to seek responses via public consultation on proposals to introduce a statutory insolvency scheme.

It was reported that the insolvency scheme had been designed to ensure that employees of insolvent businesses received compensation based upon a reasonable proportion of the monies owed to them by former employers (to include unpaid wages, holiday pay, statutory notice pay and statutory redundancy pay).

The Council recalled the background to the introduction of the proposed scheme, which had culminated in the Minister for Social Security undertaking to present a report to the States outlining proposals for a statutory scheme by the end of 2009. In this regard, the Council was advised that the proposed statutory scheme would accord with the aims of the States in terms of supporting the community through the economic downturn and promoting a safe, just and equitable society by giving legal rights to employees and employers, in line with best practice worldwide.

On reviewing the draft white paper, the Council observed that the proposed scheme would -

- (a) follow the principles of insolvency schemes operating in the United Kingdom and the Isle of Man;

- (b) be based largely upon the current temporary insolvency scheme;
- (c) entitle an individual to claim a number of outstanding payments from the statutory insolvency fund if that individual met 5 specific qualifying criteria;
- (d) cap the maximum payment from the statutory insolvency scheme at the same cap applied to the Jersey Employment Tribunal (£10,000);
- (e) provide a mechanism to transfer the employee's rights in insolvency proceedings to the Minister for Social Security so that he could take steps to recover as much as possible of the amount paid out; and
- (f) be subject to a right of appeal to the Social Security Tribunal.

The Council, having endorsed the white paper, recommended that the Minister for Social Security publish the same in early course and invite responses from interested parties over a period of 8 weeks. It further noted that a progress report would be presented to the States in December 2009 and that a corresponding bid for law drafting time in 2010 had already been submitted.

Long-term
Care in Jersey:
green paper.
1058/12(537)

A5. The Council, with: Deputy A.E. Jeune, Assistant Minister for Social Security; R. Bell, Chief Officer, Social Security Department; and S. Duhamel, Policy and Strategy Director, Social Security Department in attendance, considered a draft green paper prepared by the Social Security Department entitled, 'How should we pay for long-term care? A public consultation on the funding of long-term care in Jersey', together with an associated covering report.

Consideration of this item continued under the Council's Part B (confidential) agenda.

The Council recommended that the Minister for Social Security finalize the draft green paper and publish the same in January 2010.

Deputy A.E. Pryke was not present for this item.

Council of
Ministers:
administration.
1444/1(48)

A6. The Council, with reference to its Minute No. A3 of 9th July 2009, gave further consideration to its administrative procedures.

Having recalled the circumstances of the States debate on the draft Proceeds of Crime (Amendment of Schedule 2) (No. 2) (Jersey) Regulations 200- (P.166/2009 refers), the Council acknowledged the need for Departments to ensure that reports accompanying propositions contained sufficient information to allow both the Council and, ultimately, the States to make an informed decision. In this connexion it was pleased to note that the Corporate Management Board would implement revised procedures for production of accompanying reports. Consideration would also be given to the relative merits of hosting dedicated meetings of the Council to review forthcoming business. Any conclusions in this regard would be reported to the Council for approval.

Code of
Conduct for
Ministers.
1444/3(17)

A7. The Council, with reference to its Minutes Nos. A7 of 15th December 2008, gave further consideration to the Code of Conduct for Ministers.

The Council agreed that Ministers considering lodging 'au Greffe' a private members' proposition should first table the draft proposition for discussion at a meeting of the Council for consideration. It further agreed that, in the interests of corporate working, a Minister opposed to a proposition lodged by, or with the

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endorsement of, the Council should refrain from speaking during the relevant States debate, notwithstanding his absolute right to vote against the proposition.

Draft Budget
Statement
2010:
amendments
447/1/1/4(3)

A8. The Council, with I. Black, Treasurer of the States and C. Haws, Head of Financial Planning, Treasury and Resources Department in attendance, considered amendments to the Draft Budget Statement 2010, as lodged '*au Greffe*' by Senator T.J. Le Main, Senator A. Breckon and Deputy S.S.P.A. Power.

1st Amendment (lodged by Senator T.J. Le Main)

The Council noted that the amendment would bring about the introduction of a vehicle duty levied annually according to the engine size of the relevant vehicle, rather than a duty payable at the point of first registration only and levied according to the level of carbon dioxide emissions produced by the vehicle, as had been proposed in the Budget Statement.

Although there was agreement that the duty proposed by Senator Le Main had a degree of merit, it was considered that the amendment would be more acceptable from an environmental perspective if the duty would be levied according to the level of carbon dioxide emissions produced. The Council also observed that implementing the proposed duty would require a collection route for the duty to be determined and the adoption of primary legislation by the States Assembly.

The Council noted the intention of the Minister for Treasury and Resources to seek to amend the amendment lodged by Senator Le Main such that it would also be based on the level of carbon dioxide emissions produced, thus allowing the States to determine whether an annual or a one-off duty would be preferable.

2nd Amendment (lodged by Deputy S.S.P.A. Power)

The Council recalled that it had supported the proposed increases in alcohol and tobacco duties in order to provide additional financial support for front line service delivery at the Health and Social Services Department and to provide a proportion of the necessary funding for the environmental initiatives outlined in the Annual Business Plan 2010. It concluded that the States could not afford to accept the amendment on financial grounds and, further, that the proposed duty increases were entirely justifiable on health grounds.

The Council endorsed the intention of the Minister for Treasury and Resources and the Minister for Health and Social Services to present separate comments to the States opposing the amendment.

3rd Amendment (lodged by Senator A. Breckon)

The Council observed that the amendment would increase the Company Annual Registration Fee by 100% without consultation. Although this might in theory generate significant additional income for the States, the Council was somewhat reluctant to support the amendment without prior industry consultation as part of the Fiscal Strategy Review, particularly as fee comparisons with other comparable jurisdictions were not straightforward and the potential for the Island to lose custom had not been properly analysed. Neither were the administrative implications for the private sector fully understood. In this regard, it was believed that a number of trust company businesses had substantially completed their billing processes for the current year in the absence of notice of the potentially increased Annual Registration Fee.

The Council endorsed the intention of the Minister for Treasury and Resources to present a comment to the States opposing the amendment.