

PM/SC/068

COUNCIL OF MINISTERS

(9th Meeting)

4th March 2015**PART A (Non-exempt)**

All members were present, with the exception of Senator Sir P.M. Bailhache, Minister for External Relations and Deputy S.J. Pinel of St. Clement, Minister for Social Security, from whom apologies were received.

Senator I.J. Gorst, Chief Minister
 Senator A.J.H. Maclean, Minister for Treasury and Resources
 Senator L.J. Farnham, Minister for Economic Development
 Senator A.K.F. Green, M.B.E, Minister for Health and Social Services
 Deputy A.E. Pryke of Trinity, Minister for Housing
 Deputy E.J. Noel of St. Lawrence, Minister for Transport and Technical Services
 Deputy S.G. Luce of St. Martin, Minister for Planning and Environment
 Deputy R.G. Bryans of St. Helier, Minister for Education, Sport and Culture
 Deputy K.L. Moore of St. Peter, Minister for Home Affairs
 Deputy G.J. Truscott of St. Brelade, Assistant Minister for Social Security

In attendance -

Senator P.F. Routier, M.B.E., Assistant Chief Minister
 Senator P.F.C. Ozouf, Assistant Chief Minister
 Deputy T.A. Vallois of St. John, Assistant Minister for Treasury and Resources (for item B1)
 R. Bell, Treasurer of the States (for item B1)
 A. Rogers, Director of Treasury Operations, Treasury and Resources Department (for item B1)
 D. Peedle, Economic Adviser, Chief Minister's Department (for item B1)
 P. Bradbury, Director – Corporate Policy, Chief Minister's Department (for item B2)
 Dr. I. Skinner, Assistant Director – Strategy and Policy, Chief Minister's Department (for item B2)
 J. Moynihan, Director of Financial Services, Chief Minister's Department (for item B3)
 G.C. Powell, C.B.E., Adviser – International Affairs, Chief Minister's Department (for item B3)
 Advocate G. Pearmain, Financial Services Development, Chief Minister's Department (for item B3)
 J.D. Richardson, Chief Executive, States of Jersey
 M.N. de la Haye O.B.E., Greffier of the States
 T.J. Le Cocq, Q.C., H.M. Attorney General
 V. Page, Assistant to the Chief Minister
 C. Keir, Assistant Director – Ministerial Support and Communications
 P. Monamy, Clerk to the Council of Ministers

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

A1. The Council, with reference to its Minute No. A1 of 11th February 2015, noted the list of public business scheduled for consideration by the States Assembly on 10th March 2015 and commented specifically on the following –

10th March 2015:

Draft Loi (1914) sur la Voirie (Amendment) (Jersey) Regulations 201-
(P.4/2015)

The Council supported the draft Regulations.

Draft Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 201-
(P.6/2015) and Amendment

The Council supported the draft Regulations, as amended.

Public Holidays: designation of Friday 8th May 2015 (P.11/2015)

The Council, having considered a departmental response, determined that it did not support the proposition on the basis *inter alia* that the commemorative events being co-ordinated by the Bailiff's Chambers did not necessitate an extra holiday, and that proposals for a 'Jersey Week' were not being pursued for 2015 as arrangements were already in train for a month long 'Channel Islands Heritage Festival.' The Council delegated to the Chief Minister authority to finalise the wording of a comment to be presented to the States.

Jersey Overseas Aid Commission: re-appointment of Commissioner
(P.12/2015)

The Council supported the proposition.

Draft act annulling the Road Traffic (Public Parking Places – Charges)
(Amendment No. 6) (Jersey) Order 2015 (P.14/2015)

The Council, having considered a departmental response, determined that it did not support the proposition on the basis that the Minister for Transport and Technical Services had applied the same basis and process for the calculation of the annual increase in parking charges as in previous years, in accordance with Financial direction 4.1 'Increases in States Fees and Charges.' The Minister indicated that he would be presenting a comment to the States shortly.

Jersey Police Complaints authority: appointment of new members (P.15/2015)

The Council supported the proposition.

Draft Terrorist Asset-Freezing (Amendment of Law) (Jersey) Regulations
201- (P.16/2015)

The Council supported the draft Regulations.

Draft Financial Services Ombudsman (Jersey) Law 2014 (Appointed Day) Act
201- (P.17/2015)

The Council supported the draft Appointed Day Act.

Draft Foundations (Amendment of Law) (Jersey) Regulations 201- (P.21/2015)

The Council supported the draft Regulations.

Draft Proceeds of Crime (Amendment of Law) (Jersey) Regulations 201-
(P.22/2015)

The Council supported the draft Regulations.

Draft Terrorism (Amendment No. 4) (Jersey) Law 201- (P.23/2015)

The Council supported the draft Law.

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04.03.15

External Relations: report for the period September 2013 to January 2015
(R.15/2015) To be considered ‘in committee’

The Council noted that it was hoped that the ordinary business set down for 10th March 2015 would be concluded by mid-afternoon and that the ‘in committee’ debate would be able to be completed that day.

Sunstone
Holdings Ltd.
and De Lec
Ltd. inquiry:
report.
1240/26(69)

A2. The Council, with reference to Minute No. B2 of 3rd September 2014 of the Council as formerly constituted, discussed with the Director of Financial Services, the Adviser – International Affairs, and the Financial Services Development Officer, Chief Minister’s Department a report on the further review undertaken by Mr. D. Thomas arising from the inquiry into the fraudulent property schemes operated by Sunstone Holdings Limited and De Lec Limited.

It was recalled that although the States Assembly had, on 4th June 2014, accepted the principle that any decision on whether the taxpayer should compensate the investors should depend upon whether the circumstances could be seen as sufficiently exceptional in terms of the hardship suffered to justify public support, and had rejected in its entirety P.90/2013 (“Sunstone Holdings Ltd. and de Lec Ltd. – *ex gratia* payments to investors”), the Council had then recognised that a suggestion had been made that a number of investors might not have invested money or increased an existing investment if issues had come into the public domain in early 2007 which would have had a significant impact on the reputations of the perpetrators. Consequently, Mr. Thomas had been commissioned to carry out a further review as to whether a case could be made for the above-mentioned group of investors to be recompensed in some way.

The Council noted that it had been determined that, although the position of individual investors was not known, it was understood that some of the 50 investors defrauded in relation to Sunstone and De Lec had suffered hardship and difficulty as a result of the fraudulent activities of those responsible for these schemes. However, while there were 5 investors who might not have made an investment if they had had information earlier, there was no evidence to suggest that they had suffered greater hardship than other investors. Consequently, the Council concluded that, when considering the position of all 50 investors involved in the schemes, a decision to compensate 5 of those investors based solely on whether they invested before or after a certain date would be unfair on a large group of investors, and in particular those who might have suffered the greater hardship.

It was recognised that the situation relating to the investors defrauded by Sunstone and De Lec was so significantly different from those of the earlier Alternate Insurance Services Limited case that the latter did not establish a precedent of which advantage could be taken. The Council noted that lessons had been learned from the Sunstone and De Lec case, and from other cases, and that the Jersey Financial Services Commission had embarked on a programme of consumer education which included the desirability for potential investors to seek independent professional advice prior to committing any funds. Additionally, a system of civil penalties had since been introduced. The Director of Financial Services confirmed that other educational activity was also being undertaken, including advice offered by the Consumer Council.

The Council accepted that in order to justify the high test for *ex gratia* compensation from the public purse, the situation must be sufficiently exceptional in terms of the hardship suffered in order to justify support. It was considered that this requirement was not met in the present case and the Council agreed that it shared the view of its predecessor that an *ex gratia* payment to any of the investors could not be justified.

The Council agreed that the draft report before it should be presented to the States in due course; that a copy thereof should be provided to the 50 Sunstone and de Lec investors in the first instance prior to such presentation; and that it would be appropriate for a statement to be made to the States when the report was presented so as to afford an opportunity for States members to ask questions thereon.

The Adviser – International Affairs undertook to prepare a statement for the Chief Minister’s consideration in due course.

Appreciation
to H.M.
Attorney
General.

A3. The Council endorsed the sentiments expressed by the Chief Minister in his appreciation of the support and advice provided to the Council and its predecessor Councils over the years by Mr. Timothy Le Cocq, Q.C. in his capacity as H.M. Attorney General.

The Council accordingly wished Mr. Le Cocq well in his forthcoming role as Deputy Bailiff.