



BILLET D'ÉTAT

WEDNESDAY, 27th JANUARY, 2010

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**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 27th JANUARY 2010**, at 9.30am, to consider the items contained in this Billet d'État which have been submitted for debate.

G. R. ROWLAND
Bailiff and Presiding Officer

The Royal Court House
Guernsey
8 January 2010

PROJET DE LOI

entitled

THE INCOME TAX (GUERNSEY) (AMENDMENT) LAW, 2010

The States are asked to decide:-

I.- Whether they are of opinion:-

- (1) To approve the Projet de Loi entitled “The Income Tax (Guernsey) (Amendment) Law, 2010”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.
- (2) Considering it expedient in the public interest so to do, to declare, pursuant to the Taxes and Duties (Provisional Effect) (Guernsey) Law, 1992, that the said Projet de Loi shall have effect in respect of any year of charge after 2009 (but subject to the transitional provisions set out in section 51 of the Income Tax (Guernsey) Law, 1975), as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

PROJET DE LOI

entitled

THE CONTROL OF TRADE IN ENDANGERED SPECIES (ENABLING PROVISIONS) (BAILIWICK OF GUERNSEY) LAW, 2010

The States are asked to decide:-

II.- Whether they are of the opinion to approve the Projet de Loi entitled “The Control of Trade in Endangered Species (Enabling Provisions) (Bailiwick of Guernsey) Law, 2010” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

THE BETHANIE CHAPEL (GUERNSEY) LAW, 2010

The States are asked to decide:-

III.- Whether they are of the opinion to approve the Projet de Loi entitled “The Bethanie Chapel (Guernsey) Law, 2010” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

THE GUERNSEY FINANCE LBG (LEVY) (GUERNSEY) LAW, 2010

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the Projet de Loi entitled “The Guernsey Finance LBG (Levy) (Guernsey) Law, 2010” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENT
WITH AUSTRALIA) ORDINANCE, 2010**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreement with Australia) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

**THE DATA PROTECTION (BAILIWICK OF GUERNSEY)
(AMENDMENT) ORDINANCE, 2010**

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Data Protection (Bailiwick of Guernsey) (Amendment) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

THE MILK (CONTROL) (GUERNSEY) (AMENDMENT) ORDINANCE, 2010

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Milk (Control) (Guernsey) (Amendment) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

THE VEHICULAR TRAFFIC (AMENDMENT) ORDINANCE, 2010

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Vehicular Traffic (Amendment) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

THE DRIVING LICENCES (GUERNSEY) (AMENDMENT) ORDINANCE, 2010

The States are asked to decide:-

IX.- Whether they are of the opinion to approve the draft Ordinance entitled “The Driving Licences (Guernsey) (Amendment) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

INHERITANCE LAW REVIEW COMMITTEE

NEW MEMBER

The States are asked:-

X.- To elect a member of that Committee, who need not be a sitting member of the States, to replace the late Mr Paul Leslie Mathews.

LEGISLATION SELECT COMMITTEE

NEW MEMBER

The States are asked:-

XI.- To elect a sitting Member of the States as a member of the Legislation Select Committee to complete the unexpired portion of the term of office of Deputy S J Maindonald, who has resigned as a member of that Committee, namely to serve until May 2012 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.

LADIES’ COLLEGE BOARD OF GOVERNORS

NEW CHAIRMAN

The States are asked:-

XII.- To elect a sitting member of the States as Chairman of the Ladies’ College Board of Governors to complete the unexpired portion of the term of office of Deputy S J Maindonald, who has resigned as Chairman of that Board of Governors, namely, to 31st May 2010.

POLICY COUNCIL

APPOINTMENT OF CHAIRMAN AND ORDINARY MEMBER OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

Executive Summary

This report proposes the re-election of Mrs Sally-Ann Farnon (known as Susie) as an ordinary member of the Commission for three years and the re-election of Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year.

Report

In accordance with the provisions of sub-paragraph 3(1) of Schedule 1 of the Financial Services Commission (Bailiwick of Guernsey) Law 1987, as amended, Mrs Susie Farnon retires as an ordinary member of the Commission on 1st February, 2010.

The Chairman of the Commission must be elected annually by the States, from amongst the ordinary members having been nominated by the Policy Council. The Council is pleased to re-nominate Advocate Peter Harwood as Chairman of the Commission for a further year from 2nd February, 2010 until 1st February, 2011.

Both nominees are highly valued members of the Commission.

Recommendation

The Policy Council recommends the States to:

- (a) re-elect Mrs Sally-Ann Farnon as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2010;
- (b) re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February, 2010.

L S Trott
Chief Minister

21st December 2009

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 21st December, 2009, of the Policy Council, they are of the opinion:-

1. To re-elect Mrs Sally-Ann Farnon as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2nd February, 2010.
2. To re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February, 2010.

TREASURY AND RESOURCES DEPARTMENT**DOUBLE TAXATION ARRANGEMENT WITH
THE GOVERNMENT OF AUSTRALIA**

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

4th November 2009

Dear Sir

1. **Executive Summary**

This Report proposes that the States declare, by Resolution, that a Double Taxation Arrangement, entered into with the Government of Australia on 7 October 2009, should have effect, with the consequence that the Arrangement shall also have effect in relation to income tax, notwithstanding anything contained in the Income Tax (Guernsey) Law 1975, as amended (“the Income Tax Law”).

2. **Introduction**

- 2.1. The principal purpose of a Double Taxation Arrangement is for two governments to agree procedures for the prevention of double taxation – that is, taxation under the laws of both territories in respect of the same income.
- 2.2. Prior to 2008, Guernsey only had two Double Taxation Arrangements – one with the United Kingdom (which came into force in 1952) and one with Jersey (which came into force in 1955). Since 2008, several Double Taxation Arrangements have been signed with countries including the Netherlands, Ireland and the Nordic countries (see Billet d’Etat XXI of 2009 at page 1494).
- 2.3. Since 2001, Guernsey has been negotiating with a number of countries in relation to Tax Information Exchange Agreements (“TIEAs”). Part of the negotiation process is to discuss, with the country concerned, ways of preventing certain types of double taxation and related issues.

- 2.4. On 7 October 2009, Guernsey signed an Agreement with Australia, entitled “Agreement Between the Government of Australia and the States of Guernsey for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments” (“Agreement with Australia”).

A copy of the Agreement with Australia is appended to this Report.

- 2.5 Section 172(1) of the Income Tax Law provides:

“If the States by Resolution declare that arrangements specified in the Resolution have been made with the government of any other territory with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment.”

3. **Recommendations**

The Treasury and Resources Department recommends that the States should ratify the Agreement with Australia, as appended to this Report, as required by section 172(1) of the Income Tax Law.

Yours faithfully

C N K Parkinson
Minister

**AGREEMENT
BETWEEN
THE GOVERNMENT OF AUSTRALIA
AND
THE STATES OF GUERNSEY
FOR
THE ALLOCATION OF TAXING RIGHTS WITH RESPECT TO CERTAIN
INCOME OF INDIVIDUALS
AND
TO ESTABLISH A MUTUAL AGREEMENT PROCEDURE IN RESPECT OF
TRANSFER PRICING ADJUSTMENTS**

Agreement between the Government of Australia and the States of Guernsey for the Allocation of Taxing Rights with respect to Certain Income of Individuals and to establish a Mutual Agreement Procedure in respect of Transfer Pricing Adjustments

The Government of Australia and the States of Guernsey ("the Parties"),

Recognising that the Parties have concluded an Agreement for the Exchange of Information Relating to Tax Matters, and

Desiring to conclude an Agreement for the allocation of taxing rights with respect to certain income of individuals and to establish a mutual agreement procedure in respect of transfer pricing adjustments,

Have agreed as follows:

ARTICLE 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Parties.

ARTICLE 2

TAXES COVERED

1 The existing taxes to which this Agreement shall apply are:

- (a) in the case of Australia, the income tax imposed under the federal law of Australia;

(hereinafter referred to as "Australian tax");
- (b) in the case of Guernsey:
 - (i) income tax;
 - (ii) dwellings profits tax;
 (hereinafter referred to as "Guernsey tax").

2 This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other within a reasonable period of time of any substantial changes to the taxation laws covered by this Agreement.

3 This Agreement shall not apply to taxes imposed by states, municipalities, local authorities or other political subdivisions, or possessions of a Party.

ARTICLE 3

DEFINITIONS

1 For the purposes of this Agreement, unless the context otherwise requires:

(a) "Australia", when used in a geographical sense, excludes all external territories other than:

- (i) the Territory of Norfolk Island;
- (ii) the Territory of Christmas Island;
- (iii) the Territory of Cocos (Keeling) Islands;
- (iv) the Territory of Ashmore and Cartier Islands;
- (v) the Territory of Heard Island and McDonald Islands; and
- (vi) the Coral Sea Islands Territory,

and includes any area adjacent to the territorial limits of Australia (including the Territories specified in this subparagraph) in respect of which there is for the time being in force, consistently with international law, a law of Australia dealing with the exploration for or exploitation of any of the natural resources of the exclusive economic zone or the seabed and subsoil of the continental shelf;

(b) "Guernsey" means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;

(c) "competent authority" means in the case of Australia, the Commissioner of Taxation or an authorised representative of the Commissioner and, in the case of Guernsey, the Director of Income Tax or his delegate;

(d) "person" includes an individual, a company and any other body of persons;

(e) "tax" means Australian tax or Guernsey tax as the context requires; and

(f) "transfer pricing adjustment" means an adjustment made by the competent authority of a Party to the profits of an enterprise as a result of

applying the domestic tax law concerning taxes referred to in Article 2 of that Party regarding transfer pricing.

2 As regards the application of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party, for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

ARTICLE 4

RESIDENT

1 For the purposes of this Agreement, the term "resident of a Party" means:

- (a) in the case of Australia, a person who is a resident of Australia for the purposes of Australian tax; and
- (b) in the case of Guernsey, a person who is a resident of Guernsey for the purposes of Guernsey tax.

2 A person is not a resident of a Party for the purposes of this Agreement if the person is liable to tax in that Party in respect only of income from sources in that Party.

3 Where by reason of the preceding provisions of this Article a person, being an individual, is a resident of both Parties, then the person's status shall be determined as follows:

- (a) the individual shall be deemed to be a resident only of the Party in which a permanent home is available to that individual; if a permanent home is available in both Parties, or in neither of them, that individual shall be deemed to be a resident only of the Party with which the individual's personal and economic relations are closer (centre of vital interests);
- (b) if the Party in which the individual's centre of vital interests cannot be determined, the individual shall be deemed to be a resident only of the Party in which the individual has an habitual abode;
- (c) if the individual has an habitual abode in both Parties, or in neither of them, the competent authorities of the Parties shall settle the question by mutual agreement;

4 Where, by reason of paragraph 1, a person other than an individual is a resident of both Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

ARTICLE 5

GOVERNMENT SERVICE

- 1 (a) Salaries, wages and other similar remuneration paid by a Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or authority shall be taxable only in that Party.
- (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who:
 - (i) is a national or citizen of that Party; or
 - (ii) did not become a resident of that Party solely for the purpose of rendering the services.

2 Notwithstanding the provisions of paragraph 1, salaries, wages and other similar remuneration paid in respect of services rendered in connection with a business carried on by a Party or political subdivision or a local authority thereof may be taxed in accordance with the laws of a Party.

ARTICLE 6

STUDENTS

Payments which a student or business apprentice, who is or was immediately before visiting a Party a resident of the other Party and who is temporarily present in the first-mentioned Party solely for the purpose of their education or training, receives for the purpose of their maintenance, education or training shall not be taxed in that Party, provided such payments arise from sources outside that Party.

ARTICLE 7

MUTUAL AGREEMENT PROCEDURE IN RESPECT OF TRANSFER PRICING ADJUSTMENTS

- 1 Where a resident of a Party considers the actions of the other Party result or will result in a transfer pricing adjustment not in accordance with the arm's length principle, the resident may, irrespective of the remedies provided by the domestic law of those Parties, present a case to the competent authority of the first-mentioned Party. The case must be presented within three years of the first notification of the adjustment.
2. The competent authorities shall endeavour to resolve any difficulties or doubts arising as to the application of the arm's length principle by a Party regarding transfer pricing adjustments. They may also communicate with each other directly for the purposes of this Article.

ARTICLE 8

EXCHANGE OF INFORMATION

The competent authorities of the Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement. Information may be exchanged by the competent authorities for the purposes of this Article in accordance with the provisions of the Agreement for the Exchange of Information Relating to Tax Matters concluded by the Parties (whether or not this Agreement, in whole or in part, forms part of the domestic law of either Party).

ARTICLE 9

ENTRY INTO FORCE

The Parties shall notify each other, in writing, through the appropriate channel of the completion of their constitutional and legal procedures for the entry into force of this Agreement. This Agreement shall enter into force on the thirtieth day after the date of the last notification and shall, provided an Agreement for the Exchange of Information Relating to Tax Matters is in force between the Parties, thereupon have effect:

- (a) in respect of Australian tax, for any year of income beginning on or after the first day of July in the calendar year next following the date on which this Agreement enters into force; and
- (b) in respect of Guernsey tax, for any year of charge beginning on or after the first day of January in the calendar year next following the date on which this Agreement enters into force.

ARTICLE 10

TERMINATION

1 This Agreement shall continue in effect indefinitely, but either of the Parties may, after the expiration of 3 years from the date of its entry into force, give to the other Party written notice of termination.

2 Such termination shall become effective:

- (a) in respect of Australian tax, in the year of income beginning on or after the first day of July in the calendar year next following the date on which the notice of termination is given;
- (b) in respect of Guernsey tax, for any year of charge beginning on or after the first day of January in the calendar year next following the date on which the notice of termination is given.

3 Notwithstanding the provisions of paragraphs 1 and 2, this Agreement shall, upon receipt of written notice of termination of the Agreement for the Exchange of Information Relating to Tax Matters between the Parties, terminate and cease to be effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notice.

IN WITNESS WHEREOF the undersigned, being duly authorised in that behalf by their respective Parties, have signed this Agreement.

DONE at London, in duplicate, on this day of 2009.

FOR THE GOVERNMENT OF
AUSTRALIA:

FOR THE STATES OF
GUERNSEY:

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(NB The Policy Council has no comment on the proposal.)

The States are asked to decide:-

XIV.- Whether, after consideration of the report dated 4th November, 2009, of the Treasury and Resources Department, they are of the opinion:-

To ratify the Agreement with Australia, as appended to that Report, as required by section 172(1) of the Income Tax Law.

HOME DEPARTMENT

POLICE COMPLAINTS COMMISSION – APPOINTMENT OF CHAIRPERSON AND MEMBERS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

30th October 2009

Dear Sir

Executive Summary

The purpose of this report is to propose the appointment of one person to the position of Chairperson and five people to the position of ordinary members of the Police Complaints Commission.

Police Complaints Commission Law background

This Law will provide the opportunity for complaints to be supervised by an independent body and to be dealt with fairly. The key objectives of the legislation are to provide greater protection for the public should police officers act outside their powers and to increase public confidence and trust in the police and complaints system. This legislation will also offer a greater protection for police officers themselves. Other objectives are to improve the openness, accessibility and independence of the complaints process itself and provide an appropriate and time-defined structure

At its meeting on 26 January 2005 the States approved the establishment of the Police Complaints Commission and directed the preparation of the necessary legislation. An amendment to the appeals section was subsequently approved by the States on 28 November 2008.

The legislation was drafted as directed and approved in its entirety on 10 December 2008. The legislation has recently been given Royal assent.

Commissioners

The advertising campaign for the recruitment of commissioners was designed to reach as many areas of the population as possible and involved a radio and newspaper campaign.

No formal qualifications were required for the role, but the advertisements looked to attract individuals who are fair, objective and non-judgemental with the ability to read and understand complex matters. It was also expected that potential commissioners would have experience of working with confidential material and the ability to deal with a wide variety of people from different backgrounds. It was important that they could interpret and apply legislation appropriately and work with a minimal amount of supervision and under pressure. Experience of the Criminal Justice system is also desirable.

These criteria are relatively generic because the Commission ultimately sought to recruit a wide cross section of the general public. It is considered that the comprehensive training that will be given to the successful candidates, along with a supporting guidance handbook will be more than adequate to prepare them for the role.

Over one hundred information packs were sent out to prospective candidates resulting in forty three applications. All applicants were interviewed. These interviews sought to explain the role of the Police Complaints Commission in more detail and to assess whether the applicants met the key criteria. The twelve shortlisted candidates then underwent an in-depth interview which resulted in the proposals detailed in this Report.

It should be noted that the quality of the applicants was exceptional and the Department believes that those proposed will ensure that the Police Complaints Commission objectives are met, providing a robust and publically acceptable system for dealing with Police complaints.

The legislation states that the members must be appointed by the States. Next to each proposed commissioner is the proposed period of appointment. The legislation dictates that the Chairperson and two ordinary members are each appointed for a term of four years. The remaining three ordinary members are then appointed for a period of two years.

Chairperson – 4 year appointment

Mr Stewart Chisholm trained as a psychologist and has worked for the last 10 years in Guernsey for the Child and Adolescent Mental Health Service (CAMHS) before retiring this year. This gave him experience with a wide range of people and required him to demonstrate an objective approach to difficult situations along with an ability to understand lengthy and complex documents. He has experience in setting up and chairing working groups which puts him in an ideal position to take on the role of chairperson.

Ordinary member – 4 year appointment

Mr Gavin St Pier is a certified accountant and also a qualified but non-practising Barrister. This demonstrates an understanding of the Criminal Justice system and the ability to interpret legislation. He has a strong business background with a proven ability to act with integrity and deal with sensitive and confidential material and has

worked in an advisory capacity. He has experience within his previous and current work of being able to extract recommendations from material and works well as part of a team.

Mr Nigel Ward is currently a Vice President at Bank Sarasin (CI) Ltd on a part time basis and has extensive experience working in the private sector managing a variety of teams. He has experience of working with legislation and complex reports which often contain confidential and sensitive information. He is able to interpret and apply relevant legislation and works well under pressure. He has a proven ability to provide key recommendations while remaining objective.

Ordinary member – 2 year appointment

Mr Kevin McGoldrick currently works as a compliance officer for BWCI group and has previously undertaken work as a mediator. He is currently undertaking a distance learning law degree. He has a strong interest in community matters. He understands the benefit of the Commission's independence and the need for increased and improved communication and confidence in the Police complaints system.

Mrs Ann Nippers has experience working with children in education and more recently worked for the Pupil Support Advisory Service which allowed her to develop key skills such as working objectively and fair decision making. She has shown an ability to respect the rights of all those involved in any situation and ensures understanding before acting. An ability to interpret and implement changes and decisions has also been demonstrated throughout her career.

Mrs Bonita Hamilton is a Certified Account Technician and has experience with the implementation of and compliance with legislation. She has experience of working with sensitive and confidential material and can interact with a broad range of people while maintaining objective. Her communication skills are excellent and she has shown an ability to present information efficiently and effectively. Mrs Hamilton is a prominent local sportswoman and a strong team player.

Each of the above members greatly exceeds the required criteria and it is believed that they will collectively form an efficient and effective Commission.

Recommendation

The Home Department recommends the States to:

- 1 Approve the appointment of Mr Stewart Chisholm as Chairperson of the Police Complaints Commission for a period of four years with the option to be reappointed as defined in the legislation.
- 2 Approve the appointment of Mr Gavin St Pier and Mr Nigel Ward as ordinary members of the Police Complaints Commission for a period of four years with the option to be reappointed as defined in the legislation.

3. Approve the appointment of Mr Kevin McGoldrick, Mrs Ann Nippers and Mrs Bonita Hamilton as ordinary members of the Police Complaints Commission for a period of two years with the option to be reappointed as defined in the legislation.

Yours faithfully

G H Mahy
Minister

(NB The Policy Council has no comment on the proposals.)

(NB The Treasury and Resources Department has no comment on the proposals.)

The States are asked to decide:-

XV.- Whether, after consideration of the Report dated 30th October, 2009, of the Home Department, they are of the opinion-

1. To appoint Mr Stewart Chisholm as Chairperson of the Police Complaints Commission for a period of four years with the option to be reappointed as defined in the legislation.
2. To appoint Mr Gavin St Pier and Mr Nigel Ward as ordinary members of the Police Complaints Commission for a period of four years with the option to be reappointed as defined in the legislation.
3. To appoint Mr Kevin McGoldrick, Mrs Ann Nippers and Mrs Bonita Hamilton as ordinary members of the Police Complaints Commission for a period of two years with the option to be reappointed as defined in the legislation.

HEALTH AND SOCIAL SERVICES DEPARTMENT

IMPLEMENTING CHARGES FOR MOTORISED VEHICLE ACCIDENTS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

25th November 2009

Dear Sir

EXECUTIVE SUMMARY

1. The Health and Social Services Department is seeking States approval to enact legislation to achieve policy proposals previously approved by the States in 2006 (which were envisaged at that time as appropriate to proceed without legislation) for the introduction of charges to recover the cost of treatment following a motorised vehicle accident where the fees could be recovered under the terms of a motor insurance policy or, where the person is not insured, through the courts.

BACKGROUND

2. In June 2006 (Billet d'État XIII of 2006, pages 1334 to 1353), the States of Guernsey approved the future introduction of the ability by HSSD to charge insurance companies (or, in some circumstances, the UK Motor Insurers' Bureau) in cases where victims of motorised vehicle accidents suffered injuries incurring the HSSD time and cost. The reasons for those proposals were set out in that States Report, which is attached as an appendix. The Department sees no reason to reiterate them here other than to report that there has been no change to the logic behind the policy, which essentially relates to the ongoing need to consider how to reduce the Department's expenditure and increase income in order to manage with present and future budgets and minimise the amount of funding required in future years.
3. The Department had originally envisaged that the costs of treatment for any victims of an accident would simply be passed to the driver concerned, with a view to that driver recovering those costs from his insurance company.
4. Within the course of the ongoing work in designing a scheme, the Department has, in liaison with St James Chambers, examined this matter in quite some detail. It has concluded that there would be a number of problems with the original proposals, some of which were referred to in the 2006 Billet d'État.

These problems are as follows.

- Arguably, the most significant problem is that most motor insurance policies, including many fully comprehensive policies, do not insure drivers for their own injuries but cover third party injuries only. Even those fully comprehensive policies that do cover a driver's own injuries usually impose an upper limit upon recovery, which can be as low as £100. The implication of this is that, under the originally proposed scheme, some drivers would end up being charged but have no prospect of recovering the costs from their insurers.
- In some cases, there would be no recovery of sums because the driver was fatally injured.
- There would be no recovery of sums in the case of hit and run accidents.
- There are also some legal and practical issues relating to enforcement which would potentially involve the Department in costly and time consuming tasks in establishing liability.

PROPOSED SCHEME

5. The Department has reconsidered the design of the scheme to be recommended for implementation, and now proposes, by way of improvement on its original proposals, that legislation should be enacted creating a statutory obligation on the part of any person making a payment in respect of a motorised vehicle accident (i.e. the intention being that the Department would pursue claims against insurers or the Bureau) after liability has been determined, whether by agreement, litigation or payment into court.
6. The Department envisages the introduction of a local scheme along similar lines to that established in the UK under the Health and Social Care (Community Health and Standards) Act 2003. The 2003 Act, inter alia, contains the following provisions which the Department envisages would be included in any ensuing local legislation:
 - Provision for ambulance costs to be included within the scope of recovered sums. (The Department envisages that local legislation could contain similar enabling provisions, possibly to be implemented depending on the views of the St John Ambulance and Rescue Service);
 - Provision for contributory negligence to be taken into account in calculation of charges recoverable; and
 - Provision for compensators to be able to appeal against a certificate of charges and to seek a waiver of the requirement that any charges due must be paid before such an appeal can be made, on the grounds of exceptional financial hardship.

7. This proposal would have the following advantages over the original proposals.
 - There would be no risk of causing hardship to persons whose insurance did not cover them; the liability would always be borne by a party who was able to pay.
 - Sorting out matters such as negligence or causation would not be problematic for the Department.
 - Direct liability (towards the Department) would be established, on the part of the party making the payment.
 - The scheme would cover hit and run cases and other scenarios which would otherwise circumvent the system.
8. The Department accepts that there will be some limitations to the scheme.
 - It would, of course, be necessary for a claim to be made by a third party to trigger liability on the part of the insurer or the Bureau.
 - The system would not facilitate recovery of charges where no claim can be made such as accidents occurring due to nobody's fault.
 - The UK scheme involves various collection, enforcement and appeal procedures and it will be necessary for the Department to carry out further work in due course to design the details of these procedures.
9. The Department believes that the proposals set out above will overcome the difficulties identified in paragraph 4 above, without putting any individuals at risk of hardship but generating income for the Department on a basis which is fair and appropriate and where expense is borne by those who can genuinely afford it.
10. It is intended that the application of the legislation would not extend merely to road traffic accidents but the scope would include vehicles/vessels used in aviation and sea travel.

CONSULTATION AND EVALUATION OF PROPOSALS

11. Aside from the detailed liaison with St James Chambers referred to in paragraph 4 above, the Department has not carried out any further consultations subsequent or additional to those detailed consultations carried out in 2006, as the focus of this States Report is really on the question of "how" rather than "what", i.e. on the mechanics of how the 2006 policy is to be achieved, rather than any substantive policy changes.

12. Similarly, the Department has not, at this stage, carried out any evaluation of the fee proposals against the criteria recommended by the Treasury and Resources Department (in its report dated 5 December 2006, considered by the States of Guernsey on 31 January 2007). This is because this States Report does not concern the financial implications of the fees policy itself, merely the legislative mechanics. The Department trusts that it can proceed on the basis that the States have, in 2006, already approved the substantive policy.

RECOMMENDATIONS

13. The Health and Social Services Department recommends the States:
- i) to approve the Department's proposals to redesign, in the manner proposed in this report, the scheme previously approved by the States for recovering treatment fees in relation to motor vehicle accidents; and
 - ii) to direct the preparation of the necessary legislation.

Yours faithfully

A H Adam
Minister

HEALTH AND SOCIAL SERVICES DEPARTMENT

IMPLEMENTING CHARGES FOR MOTORISED VEHICLE ACCIDENTS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

24th May 2006

Dear Sir

Charges for Motorised Vehicle Accident Victims

Executive Summary

The Health and Social Services Department has been considering how to reduce its expenditure and increase its income in order to manage with the approved revenue budget for 2006 and minimise the amount of funding required in future years. Separate States reports have been submitted in respect of charges for Accident and Emergency, Pathology and Radiology Services and for registration and inspection of private businesses, such as nursing and residential homes.

The Health and Social Services Department considers that charging patients who receive treatment for motorised vehicle related accidents should now be introduced where the costs of such treatment can be claimed via a motor vehicle insurance policy or through the judicial system.

The term “Motorised Vehicle” includes any motorised means of transportation with a few exceptions for which vehicles where insurance cover is not required.

Comprehensive Insurance Cover

For those who are covered by fully comprehensive insurance, the patients will be charged and issued an invoice to send to the insurance company to pay. However, in the accompanying information, the insurance company will be able to ask for invoices to be amended to be charged directly to the company.

Third Party Insurance Cover

For those who are covered by third party insurance, where medical cover only allows for immediate and necessary treatment provided through the Accident and Emergency

Department and full treatment for any third parties involved, the patient will be charged and issued an invoice to send to the insurance company to pay. However, in the accompanying information, the insurance company will be able to ask for invoices to be amended to be charged directly to the company.

Non Insured

If, however, a motorised vehicle insurance policy is not in existence, then the Health and Social Services Department will charge the patient's debt record (not issue an invoice), assess the liability and seek to recover the charges from the offending party, directly, through the courts for both the offending individual and any other victims.

Exceptional circumstances

It is also envisaged that, on occasions, the Health and Social Services Department will need to cancel charges where claims cannot be pursued owing to the liability being irrecoverable, for example due to fatalities.

To allow the Health and Social Services Department to implement such a scheme from January 2007, agreement is sought to change two previous States resolutions and make a number of additional resolutions.

Introduction

The States have previously debated the issue of introducing charges for patients attending Health and Social Services Department facilities for treatment following a road traffic accident (November 1983 and May 1986 Billets d'Etat). On each occasion, States resolutions were passed that allowed the then Board of Health to introduce charges for patient stays as an inpatient and to levy charges in respect of Pathology and Radiology Services. To date, a charge for these services has not been introduced.

Extracts from the States Resolution on the Health and Social Services Department charging for treatment following Road Traffic Accidents.

The States of Guernsey, (Billet d'Etat XXI, November, 1983), resolved:-

III ---After consideration of the report dated the 14th October, 1983, of the States Board of Health:--

- 3) To authorise the States Board of Health to make a charge for hospital accommodation in the general wards of the Princess Elizabeth Hospital to the following categories of persons:-
 - (b) persons who receive treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy.

In Billet d'Etat XI, May, 1986, a further resolution was passed to remedy an oversight in the initial policy letter of October 1983 and a subsequent resolution in November of the same year. This further resolution gave authorisation to pursue charges for Pathology and Radiology, where such charges related to a person who received treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy.

Background

It is very apparent that the majority of the work involved in the treatment of victims of road traffic accidents (RTAs) and other motorised vehicle accidents (MVAs) occurs in the Accident and Emergency Department, with subsequent health treatments and checks occurring in the outpatient clinics.

In 2005, 273 cases, resulting from RTA's, were seen at the Accident and Emergency Department. Of these, 34 patients were admitted for a total of 91 days collectively. Some of these were in intensive care, which incurs a higher cost and, on rare occasions, patients have needed to be flown to the UK for treatment, increasing the Department's Reciprocal Health costs with the United Kingdom.

The NHS utilises a simple tariff system, accepted by the insurance providers in the UK, who also provide such cover for Guernsey residents through local brokers. This states, for 2006, on the Department of Health, Policy and Guidance, Organisation Policy – Finance and Planning web site:

“Road Traffic (NHS Charges) Act 1999: Annual amendment in the tariff and ceiling of charges on 1 April 2006

The tariff and ceiling of charges for the recovery of NHS costs following road traffic accidents will increase on 1 April 2006 to take account of Hospital and Community Health Services (HCHS) inflation.

The flat rate charge for treatment without admission will increase from £483 to £505, the daily rate charge for treatment with admission will increase from £593 to £620 and the ceiling of charges will increase from £35,500 to £37,100.”

The Association of British Insurers has accepted the above NHS rates in 2006, following agreement, in 2002, that the level of charges could increase annually by the HCHS inflation rate.

Financial implications to Victims

Implementing such a policy has no direct effect on individual policyholders, unless insurance premia rise, but this should not be the case, as it is understood that such cover should already be built into motor vehicle insurance policies. Policyholders should experience no additional financial impact, apart from the need to pay the excess on claims, unless they have inadequate insurance currently. This is not another tax, as the public already pay motor insurance premia, yet rarely claim against them.

The policy to be adopted by the Health and Social Services Department would be flexible to account for those cases where circumstances are judged to be unfair on the victims or the victims are unable to claim, as in the case of fatalities.

Inter departmental communications would be vital in cases where non insured victims have a liability and in those cases where liabilities need to be recovered through the courts.

Financial Implications for the Health and Social Services Department

The introduction of such a scheme would involve re-organisation of the Department's internal processing activities. However, no additional costs in raising charges should be incurred.

It is difficult to ascertain the cost of treating victims of MVAs, as the actual expenditure presently incurred is not separated from other expenditure within the Department's accounts and the Department does not have the resources or facilities to collect such information.

The Health and Social Services Department has concluded that the cost of providing the services as an overall sum per attendance and/or per day, depending on the length of the patient care episode, is probably not significantly different from that of the NHS. The Health and Social Services Department would, therefore, wish to adopt the rates applied by the NHS.

As indicated above, a review of 2005 Accident and Emergency attendances highlighted that 273 attendances occurred in 2005 as a result of RTA's, of which 34 victims were admitted to hospital as inpatients, resulting in a total of 91 days in hospital.

Using the NHS rates applicable from 1st April 2006, the potential income from 2005 Accident and Emergency attendances for patients who did not go on to be admitted, would have amounted to about £120,000 and from those who were admitted, about £56,000, giving a total of around £176,000.

The above takes no account of any charges for follow up outpatient appointments that may be needed or of the fact that the NHS rate for Accident and Emergency will include the medical costs, which are paid for by the patient in Guernsey and Alderney.

As mentioned previously, a States Report is also being submitted which proposes introducing charges for Accident and Emergency, Radiology and Pathology services. If these are approved, the charges made in respect of MVAs would be deemed to include these and there would be no additional charge to the patient.

Consultation

The Health and Social Services Department has consulted with local motor vehicle

insurance brokers, the Home Department, the Social Security Department, the Medical Specialist Group, the Primary Care Company Limited, the Guernsey Dental Association, the British Medical Association and Marsh, the States' insurance advisers.

The responses from the insurance brokers indicate that the premia paid are likely to increase if the payments made by the insurers increase as a result of the introduction of charges. This view is supported by the Social Security Department, the Home Department and the British Medical Association. There is some agreement from the insurance brokers on the principles of introducing charges and a request that tariffs be agreed with the insurance companies transacting business in Guernsey. It was noted that the majority of road traffic accidents involve younger drivers, who are likely to carry policy excesses of between £500 and £1,500.

The proposals are supported by the Medical Specialist Group and the Guernsey Dental Association and the Primary Care Company Limited supports charging for in-patient services. However the Primary Care Company Limited and the British Medical Association express concerns about charges for Accident and Emergency services.

The Home Department expresses concerns about the amount of administration work that will be required and that accepting the principles of charging for treatment following a motor vehicle accident may lead to the introduction of charges for the treatment of other injuries, the cost of which would be covered by insurers.

The Health and Social Services Department has considered these comments and accepts that there may be an increase in insurance premia if charges are introduced. However, the Department does not consider that this should stop charges being introduced, as the effect on the individual motorist of a slightly higher premium, which would probably still be lower than those paid in the UK, is going to be less than the effect of the Department having insufficient funds to maintain the provision of essential health and social services.

Similarly, the Department does not accept the arguments of the Primary Care Company Limited that charges should not be introduced for treatment in the Accident and Emergency Department. The fact that the doctor already makes a charge to patients who are treated there does not affect the fact that the Health and Social Services Department has to fund the premises, the nursing and other support staff, as well as making a payment to have a doctor on duty at all times. It is, however, accepted that the amount which should be charged may need to be adjusted, as the cost of treatment by the doctor in an Accident and Emergency Department in the UK would be included in the total sum charged. This point is also well made by the British Medical Association.

The Department, therefore, considers that the charges should be negotiated with the local insurers and be no more than the UK rates, which will allow for reductions where appropriate.

With reference to the administrative work, charges are already made for a number of services provided by the Health and Social Services Department, so the infrastructure to do this already exists. It would be able to take on the relatively small additional

numbers (some 200 – 300 per annum) that would result from these proposals.

It is not the Department's intention to seek expansion of the principle to other treatment which would be covered by insurance and this has not happened in the UK.

Conclusions

The Health and Social Services Department has identified an opportunity to charge for services provided that is practised in the United Kingdom and has been agreed there by the Association of British Insurers.

Recommendations

The Health and Social Services Department recommends that the States:

1. amend the States Resolution (Billet d'Etat XXI, November, 1983) Section 2, item 3, (b) from-

“persons who receive treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy.”

to

“persons who receive treatment following a motor vehicle accident where the fees could be recovered under the terms of a motor insurance policy or where the person is not insured, through the courts.”
2. amend the States Resolution (Billet d'Etat XI, May, 1986) page 529, Section 4, (c) from

“charges may be made for such examinations to persons who receive treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy”

to

“charges may be made for such examinations to persons who receive treatment following a motor vehicle accident where the fees could be recovered under the terms of a motor insurance policy or where the person is not insured, through the courts.”
3. authorise the Health and Social Services Department to make a charge for the use of the Accident and Emergency and Outpatient Department facilities to:-
 - a. Persons who receive treatment following a motor vehicle accident where the fees can be recovered under the terms of a motor vehicle insurance

policy or where the person is not insured, through the courts.

4. authorise the Health and Social Services Department to determine, and annually review, a scale of charges for treatment of people following a motor vehicle accident, in consultation with the insurance companies, these charges being no higher than those in the NHS scale of charges;
5. approve that the resolutions apply to all motorised vehicle users, as determined by the Health and Social Services Department and are not purely related to Road Traffic Accidents.

Yours faithfully

P J Roffey
Minister

**Clegg Gifford**

Lloyd's Broker

Mr P J Roffey
Health & Social Services Minister
Corporate Headquarters, Le Vauquiedor
St Andrews, Guernsey
GY6 8TW

KR/slm
27th April 2006

Dear Mr Roffey

CHARGES FOR VICTIMS OF MOTORISED VEHICLE ACCIDENTS

Thank you for your letter dated 21st April 2006 enclosing the proposed changes to the charges made following motor accidents.

As you will be aware, we are an insurance brokers, and therefore not directly responsible for the imposing of premium rates and settlement of claims.

I can however confirm that the insurers with whom we deal would be fully aware of the current U.K. practices and I would not envisage any major problems with the implementation of such a scheme.

I do however note the comments on page 3 regarding financial implications to victims, and I disagree with the comments made. In my opinion, the premiums charged would be affected for both U.K. Insurance Companies dealing here in Guernsey, and also, with those special schemes offered through certain intermediaries. The rates imposed by insurers are based on claims costs locally, and we generally benefit from rates which are much discounted compared to U.K. standard rates. Implementation of these charges would clearly have an effect and impact on claims costs, and therefore, in my view premiums would certainly rise.

I would also comment that in my experience the majority of RTA's involve younger drivers, who are likely to carry policy excesses between £500 and £1,000, but this would relate to the entire claim.

Finally, I would comment that as happens in the U.K. any tariffs should be agreed in advance by Insurance Companies transacting business here in Guernsey to ensure that all parties concerned are aware of the changes.

I hope that my comments are of assistance to you, and I would be more than happy to comment further should you feel this necessary.

Yours sincerely

KARL RICHARDS ACH
MANAGING DIRECTOR
CLEGG GIFFORD

Clegg Gifford PO Box 332 Admiral House Place Du Commerce St Peter Port Guernsey GY1 3UD
T: +44 (0)1481 728987 F: +44 (0)1481 713036 E: gsy@cglloyds.co.uk W: www.cglloyds.co.uk

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The logo for Islands Insurance features the word "islands" in a lowercase, sans-serif font, with "insurance" in a smaller, lowercase, sans-serif font directly below it. To the right of the text is a stylized, curved line resembling a crescent moon or a swoosh, and to the left is a small, circular, dotted pattern.

P J Roffey
Health and Social Services Minister
Health and Social Services
Corporate Headquarters
Le Vauquiedor
St Andrews
Guernsey
GY6 8TW

Your Ref:
Our Ref:

12th May 2006

Dear Mr Roffey

Charges for Victims of Motorised Accidents

Thank you for your letter dated 21st April 006. We have studied the draft report and broadly agree with the principle of making the guilty party pay, either directly or via their insurance.

However, as insurance brokers who operate a delegated authority on behalf of insurers we would firstly like to comment on page 3 "**Financial implications to Victims**".

This paragraph suggests that insurance premia should not rise as a result of the implementation of the policy as cover is already built into motor vehicle insurance policies. In our experience this comment misses the point that motor insurance premiums generally reflect claims experience. The implementation of the policy will result in an increase in claims cost to insurers and may therefore result in a price increase.

Secondly, we would like to comment on page 4 in relation to this paragraph in respect of situations where it is not clear who is responsible for an accident. Often responsibility for an accident is disputed by the insurers acting for the various parties involved and may only be resolved by lengthy "out of court" negotiation or ultimately court action. This process is often distressing those involved in such accidents.

Yours sincerely
THE ISLANDS' INSURANCE BROKERS LIMITED

A handwritten signature in black ink, appearing to read "Peter Rowe", written in a cursive style.

Peter Rowe
Director

The Islands' Insurance Brokers Limited, Lancaster Court, Forest Lane, St Peter Port, Guernsey GY1 1WJ
Telephone: 01481 710731 • Facsimile: 01481 712223

The Islands' Insurance Brokers Ltd is licensed by the Guernsey Financial Services Commission



SOCIAL SECURITY

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Edward T. Wheadon House
Le Truchot, St. Peter Port, Guernsey
GY1 3WH

Telephone +44 (0) 1481 732581

Facsimile +44 (0) 1481 732501

Email enquiry@ssd.gov.gg

www.gov.gg

Deputy P J Roffey
Minister
Health and Social Services Department
Le Vauquiedor
St Martins
Guernsey
GY4 6UU

Our Ref: ML

Your Ref:

Date: 11 May 2006

Dear Deputy Roffey

Charges for victims of motorised vehicle accidents

Thank you for your letter of 21 April 2006, with attached draft States report which was considered by the Social Security Department on 3 May 2006.

The Social Security Department believes that the draft report overlooks the fact that motor insurance premiums in Guernsey are discounted by comparison with those for UK motorists. There are understood to be several reasons for this, including the fact that no compensation recoveries are currently pursued in respect of either health service or social security benefit expenditures.

The social security angle was investigated in 2003, when the Department's Chief Officer visited the Compensation Recovery Unit in the Newcastle area. The project was shelved, however, when the Department came to understand the implication for local motor insurance premiums. As premiums are priced on a cost-plus basis, they could be expected to rise to cover fully the claims experience and the mark-up for profit.

The Department does not consider it possible to comment further on the draft States Report until the Health and Social Services Department has discussed with the insurance industry the likely impact on motor insurance premiums and that information has been included in the report.

Yours sincerely

Mary Lowe
Minister

NOT PROTECTIVELY MARKED



Deputy P Roffey
Minister
Health and Social Services Department
Princess Elizabeth Hospital
Le Vauquiedor
St Andrews
Guernsey

Home
Sir Charles Frossard House
PO Box 43, La Charroterie
St Peter Port, Guernsey
GY1 1FH
Telephone +44 (0) 1481 717000
Facsimile +44 (0) 1481 736972
www.gov.gg

11 May 2006

Dear Deputy Roffey

Charges for Victims of Motorised Vehicle Accidents

Thank you for your letter dated 21 April 2006 (enclosing a draft States Report) seeking the Home Department's views on your proposals to introduce charges for victims of motorised vehicle accidents.

This matter was considered at the Department's Board meeting held on 8 May 2006.

First of all, the Home Department fully appreciates the considerable financial constraints currently facing all States Departments, not least those providing front-line services to the public such as the Health and Social Services Department. As you quite rightly point out, it is incumbent on all of us to look at both expenditure and income generation for the foreseeable future.

The issue of introducing charges for the treatment of victims of motorised vehicle accidents was discussed in some depth during our meeting. Overall, Members felt there could be considerable difficulties associated with introducing the sort of scheme that you have outlined.

Unfortunately, there will always be a minority of motorists who do not have any form of motor insurance cover; the likelihood is that the financial burden for covering this will eventually fall on others to meet. Where motorists are covered it was felt that reclaiming medical costs through commercial insurers could in practice take considerable time to achieve, with no guarantee that claims would in any event prove successful. This could especially prove to be the case where different insurers were involved or where disputes or disagreement between the parties had occurred.

The fear is that insurers may take the opportunity to greatly increase their policy charges. The overarching responsibility must be to ensure that the victims of road traffic accidents are given quick and effective medical assistance which is based solely on need; this ought to be centrally funded in order to provide a form of "safety net" for everyone in the community. Our

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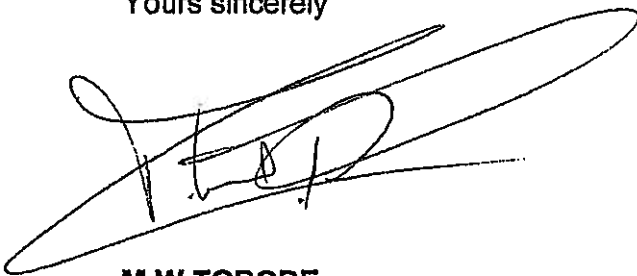
worry is that introducing a scheme of the type you have outlined may prove bureaucratic and unwieldy, creating unnecessary layers of administrative work associated with calculating medical charges; instigating Court proceedings; carrying out investigations etc. These types of work can often prove extremely time consuming where personal injuries result from the negligence of other road users who subsequently fail to cooperate in admitting liability. The Home Department's understanding is that the St John Ambulance and Rescue Service already make charges for attending the scene of road traffic accidents and is concerned about how financial arrangements might be affected in the future, not least because the Service is funded partly by private subscription and partly through a grant from the States. Introducing any new funding arrangement to cover the costs of accident care and treatment is likely to provide unnecessary complications.

Members also expressed concern that approving a new form of charging for medical services might eventually result in similar measures being adopted in other areas, such as charging for the treatment of injuries sustained by employees at work and the subsequent recovery of cost from insurers. The Home Department would be extremely reluctant to see any situation develop in which outside payment was necessary in order to sustain what is considered a vital and fundamental support service, even should this type of arrangement ultimately be adopted in other jurisdictions.

The Home Department is of the firm view that further research would be necessary before this matter could be considered by the States. Full consultations would need to be carried out with insurers, not least to establish precisely what the new administrative arrangements, charges and forms of cover were likely to be.

I should be grateful if you would arrange to append a copy of this letter to your States Report, should you decide to proceed with your proposals.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M W Torode', with a large, sweeping flourish extending from the end of the signature.

M W TORODE
Minister
Home Department

Our ref: RWB/ai

16 May 2006

PRIVATE AND CONFIDENTIAL

Mr P J Roffey
Health & Social Services Minister
Health & Social Services Dept
Le Vauquiedor
St Martins
GY6 8TW

Dear Mr Roffey

Charges for Victims of Motor Vehicle Accidents

Thank you for giving Primary Care the opportunity to express our views on the possibility of the Health and Social Services Department charging for victims of motor vehicle accidents in Guernsey.

We discussed this issue today at a Primary Care Committee Meeting and for easy reference I will list the major points that were highlighted by us today:-

1. Quite a lot of motor vehicle accident related injuries to patients are minor in nature and attendance at A&E is often encouraged by friends, relatives or the emergency rescue services and ambulance staff. These patients would be hit with a large bill from the HSSD, which indeed may be reclaimed from their motor vehicle insurance or indeed that of any other party involved in the accident. The process of claiming back this money themselves may deter patient attendances or, indeed, it may be deemed easier if the patient claims the injury was sustained some other way to avoid hassle and paperwork.
2. Present A&E attenders fee for visitors amounts to about £80. You are proposing a differential charge of over six times that amount, which could be regarded as morally wrong and prejudicial.
3. We envisage you having difficulties collecting this money and policing the collection and payment of these monies.
4. When is a motor vehicle accident not a motor vehicle accident? There will be grey areas, which may reflect on your anticipated potential income of £176,000.

.../contd.

The Queen's Road Medical Centre, St Peter Port, Guernsey, GY1 1RH
Telephone: 01481 724184 / 725121 Facsimile: 01481 716431
e-mail: admin @ eqrmp.com web-site: www.eqrmp.com

Le Longfrie Surgery, St Pierre du Bois, Guernsey, GY7 9RZ
Telephone: 01481 264185 Facsimile: 01481 264182

Michael Mowbray BA MB BCH BAO MRCGP DCH DOBst
Eric Smith MB BS DRCOG
Chris Monkhouse BA BSc MB BS FRCGP DRCOG
Michael Brereton MB BCH BAO MRCP MRCGP DRCOG
Stephen Wray MB ChB MRCGP DCH
Tony Chonkun BSc MB BS FRCGP DCH DRCOG
Associates:
Ruth Swainston MB ChB DCH DRCOG MRCGP

Bill Barker MB BS DA MSc Sports Med
Maureen McGavigan MB ChB MRCGP DRCOG DTM&H
Maryse Ash MB ChB
Susan Wilson MB ChB MRCGP
Janice Porritt MB ChB MRCGP
Jack Widdall MB ChB

E Hannah Laidlaw MB BS LRCP MRCS

John Gibbs MB BS DA DRCOG MCOH
Douglas Wilson MB ChB MRCGP DRCOG
Antonia Machin MB BS MRCGP DRCOG FP cert

Queens Road

THE MEDICAL PRACTICE

Mr P J Roffey

-2-

15 May 2006

5. Comment was passed about different insurance companies providing alternative cover and different levels of excess payable by the patient. This may create a differential in the amount of money that the patient pays for essentially the same service.
6. We anticipate knowing whose insurance company to claim the money from being fraught with complications.
7. There will undoubtedly be confusion in the patient's mind as to why they were charged £500 for an attendance to the A&E department and on top of that would be required to pay the doctor's fee which may vary according to the time of day. The NHS rate for A&E includes medical costs, which of course are paid by the patient in Guernsey and Alderney, and so to follow precisely the NHS rate could be seen as an overcharge.
8. We would support the charging of these patient for those admitted to hospital as there are very clearly defined time periods, care plans and expenses associated with hospital admissions. This also takes the charging confusion away from the acute A&E Department.

I hope these comments are of interest and should you wish elaboration or further discussion please don't hesitate to contact me.

We appreciate your comments regarding the acceptability to include an Appendix to the States Report. We have no objections and are delighted to be of some assistance.

Yours sincerely



Dr Bill Barker
MB, BS, DA, Msc, Sports Med

Not to be disclosed to third parties without the consent of the writer except as required by Law

**British Medical Association
Guernsey and Alderney Division**

c/o Rohais Health Centre, St Peter Port, Guernsey GY1 1FF
Telephone: 01481 723322 Fax: 01481 725200



05 May 2006

Our ref: CM/sjw

Mr Peter Roffey
Health & Social Services Minister
Health & Social Services Department
Administration Office
Corporate Headquarters
Le Vauquiedor
St Martins
GY4 6UU

Dear Mr Roffey

Re: Charges for Victims of Motorised Vehicle Accidents

Thank you for your letter regarding the proposal to introduce charges for victims of motorised vehicle accidents. Whilst in principle it would seem a good idea to charge the insurance companies for the medical costs involved in motor vehicle accidents, there are several points which need to be taken into consideration.

- 1 The charging of a standard flat rate by the HSSD makes no allowance for the cost of medical care which needs to be borne by the patient and his/her insurance company. Whilst in the NHS, a flat rate charge would cover the medical care in its entirety, patients attending the A&E department will need to recover the cost of their medical care from their insurance company, and if the HSSD had claimed all this allowance, the patient would inevitably be left out of pocket. We would therefore suggest that the flat rate charge without admission made by the HSSD should be reduced by £100.00 giving some leeway for medical expenses to be claimed.
- 2 Patients attending the A&E department as a result of this kind of accident often require the services of St John Ambulance. Whilst many patients may be covered by their contribution to the St John Ambulance, some are not and they would normally expect to recover this from their insurance company. Once again, if the flat rate from the HSSD has used up all this allowance, patients will once more be out of pocket. This needs to be taken into consideration.

Cont'd....

- 3 The charges to insurance companies for minor injuries would appear to be disproportionate. In the scenario where the patient has a minor injury but is taken to the A&E department by St John Ambulance and then charged the full flat rate, charges of up to £700.00 could be levied for a minor injury. This would seem to be inappropriate and cause significant adverse publicity. To avoid this being the case, we would suggest that only significant injuries are charged and these can be identified by their being admitted to hospital. We would suggest that a flat rate charge for treatment without admission may otherwise be inappropriate.
- 4 We would dispute the fact that insurance premiums would not be increased as a result of this. Many people have local insurance and the premiums to date have been reduced compared to the mainland for a number of reasons. As soon as it becomes common policy to charge all motorised vehicle accident victims, insurance premiums are certain to increase.

We are fully aware of the requirement for the HSSD to make savings, but would suggest that with the alterations suggested, the public will be receiving a better deal.

I would be most grateful if this letter could be included as an appendix to the States report.

Yours sincerely,



Dr Chris Monkhouse
President
BMA Guernsey Branch



THE MEDICAL SPECIALIST GROUP

Minister, Health and Social Services Department
Duchess of Kent
Le Vauquiedor
St Andrews

8 May 2006
MGN/GDY/jlp

Dear Peter

Re: Charges for Victims of Motorised Vehicle Accidents.

Thank you for your letter of 21 April 2006 and the attached proposal.

The MSG Management Board discussed this proposal of recovering monies through insurance policies on 3 May 2006, which we support. The Board's only concern was that patients entitled to free treatment under the Secondary Healthcare Insurance scheme should not be disadvantaged, we are keen to maintain free secondary healthcare.

Yours sincerely

G D Yarwood
Chairman, Medical Specialist Group



Dr. Nav Khaira
 MSc. (Hons.) MClinDent(U.Lond.) BDS(U.Lond.) MRD RCS(Eng.) MFDS RCPS (Glasg.)
 MSurgDent RCS (Eng.) LDS RCS (Eng.)
 Registered Specialist in Periodontics & Surgical Dentistry (General Dental Council, U.K.)
 Clinical Teacher at Guy's, King's & St. Thomas' School of Medicine & Dentistry, London, U.K.
 Specialist, Board of Health, Guernsey

Dr. Helen Fraser
 BDS (U.Lond.) MSc.(U.Lond.)
 Special interest in Periodontics
 Clinical Teacher, Guy's, King's & St. Thomas' School of Medicine & Dentistry, London, U.K.

Dr. Jane Fraser
 BDS (U.Lond.)

Dr. Christine Curran
 BDS (Q.U.B.)

27th April 2006
 Our Ref: NK/MD3

Deputy Peter Roffey
 Corporate Headquarters
 Duchess of Kent House
 Le Vauquiedor
 St Andrews
 GY6 8TW

Dear Deputy Roffey

Re: Charges for motorised vehicle accident victims

Thank you for the letter and document dated 21st of April 2006. Having now read the document throughout the system for the proposals in the said document seems to be fair.

From the information provided I can see that this system would be appropriate to implement as long as this is solely related to payments being made by the insurance companies if the victims are insured. I understand that if, for what ever reason their insurance company refuses to pay for charges set by HSSD, that these funds will not be recovered from the individual unless that person is not insured. If the above is the case then we whole heartedly support the proposals set in a document implementing charges for motorised vehicle accidents.

With regards to dentistry I imagine if a dentist is called out to a victim of MVA's that they can also submit account to the relevant insurance company as such individuals may be attended in A & E. I am not sure whether you can clarify this, but it is a point that needs to be made on behalf of the Guernsey Dental Association.

Kind regards

Dr Nav Khaira

(NB By a majority, the Policy Council supports the proposals.)

(NB The Treasury and Resources Department supports the proposals.)

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 24th May, 2006 of the Health and Social Services Department, they are of the opinion:-

1. To amend the States Resolution (Billet d'Etat XXI, November, 1983) Section 2, item 3, (b) from-

“persons who receive treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy.”

to

“persons who receive treatment following a motor vehicle accident where the fees could be recovered under the terms of a motor insurance policy or where the person is not insured, through the courts.”
2. To amend the States Resolution (Billet d'Etat XI, May, 1986) page 529, Section 4, (c) from

“charges may be made for such examinations to persons who receive treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy.”

to

“charges may be made for such examinations to persons who receive treatment following a motor vehicle accident where the fees could be recovered under the terms of a motor insurance policy or where the person is not insured, through the courts.”
3. To authorise the Health and Social Services Department to make a charge for the use of the Accident and Emergency and Outpatient Department facilities to:-
 - a. Persons who receive treatment following a motor vehicle accident where the fees can be recovered under the terms of a motor vehicle insurance policy or where the person is not insured, through the courts.
4. To authorise the Health and Social Services Department to determine, and annually review, a scale of charges for treatment of people following a motor

vehicle accident, in consultation with the insurance companies, these charges being no higher than those in the NHS scale of charges.

5. That the resolutions apply to all motorised vehicle users, as determined by the Health and Social Services Department and are not purely related to Road Traffic Accidents.

(NB The Policy Council has no comment on the proposals.)

(NB While the Treasury and Resources Department supports the proposals and notes that the Report concentrates on the legislative issues, it is recommended that the Health and Social Services Department undertakes an evaluation of its fee proposals against the criteria established in 2007 by the Treasury and Resources Department in relation to the introduction and revision of fees and charge.)

The States are asked to decide:-

XVI.- Whether, after consideration of the Report dated 25th November, 2009, of the Health and Social Services Department, they are of the opinion:-

1. To approve the Health and Social Services Department's proposals to redesign, in the manner proposed in that Report, the scheme previously approved by the States for recovering treatment fees in relation to motor vehicle accidents.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

COMMERCE AND EMPLOYMENT DEPARTMENT

CHANGES TO FINANCIAL SERVICES REGULATORY LEGISLATION

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

18th December 2009

Dear Sir

1. Executive Summary

1.1 This report recommends a series of amendments to the regulatory laws administered by the Guernsey Financial Services Commission. These amendments are:

- (a) revising the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, by which the Commissioners would be able to delegate more decisions to the Commission's executive, enabling the Commissioners to focus their regulatory decision making on the more significant decisions;
- (b) repealing the requirement for the Commission to publish names of banking and fiduciary licensees annually in *La Gazette Officielle*, as up to date lists are routinely published on the Commission's website;
- (c) widening rule making powers so that the Bailiwick can respond in a timely and appropriate way to international regulatory developments and, in some areas, to issue rules and removing the need for the Commission to impose conditions on licensees. The Commission will consult on any rules proposed to be made under these wider powers;
- (d) amending the two insurance supervisory laws, in order to comply with international standards on the disclosure of confidential information and to simplify some provisions;
- (e) introducing an enabling provision in the Insurance Business (Bailiwick of Guernsey) Law, 2002 which will allow the Commission to make rules on what information should be publicly disclosed by insurance companies – this explicit provision will assist Guernsey to meet

international and EU standards on transparency. The Commission will consult with the insurance sector before proposing any rules.

- (f) clarifying that the minimum capital requirement provisions of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 apply not only to insurance intermediaries but also to insurance managers.

2. Proposals

- 2.1 The Commission has written to the Commerce and Employment Department in the following terms:

- 2.1.1 ***“Amendment of the Financial Services Commission Law relating to delegation by the Commissioners***

- 2.1.2 *Section 19 of the 1987 Financial Services Commission Law provides that the Commissioners may only delegate certain regulatory functions (for example, the duty to consider representations and the power to cancel, revoke, suspend or withdraw a licence or authorisation) to a committee of not less than three Commissioners. The ability to delegate to senior members of the executive (the Director General, the Directors of the regulatory Divisions, and their Deputies) is therefore limited. In addition, there are certain differences in the decision making procedures set out in the various regulatory Laws. Some of those include an additional statutory stage requiring formal notification to an applicant or licensee that the Commission proposes to take specified action, followed by representations from the person concerned and then a final decision – and, as mentioned above, under section 19, the hearing of such representations may not be delegated other than to a committee of not less than three Commissioners.*

- 2.1.3 *No change is proposed to the principle that the most important decisions and the hearing of representations on matters such as the issue of discretionary financial penalties, public statements and prohibitions against individuals from being employed in particular or all posts in the regulated sectors, or that revocations of licences, authorisations or registrations must be taken by the Commissioners. However, in order to allow the Commissioners to focus on significant decisions, and also to streamline the Commission’s decision and representation processes, it should be possible for representations to be received and considered by senior members of the executive in relation to all other, less significant decisions.*

- 2.1.4 *It is therefore proposed to amend section 19(1)(c)(i) which prevents the Commission from delegating to the executive the consideration of representations concerning any decision which it proposes to take, so that only representations concerning the most significant decisions, such as prohibitions against individuals or the cancellation, revocation, suspension or withdrawal of*

licences or authorisations (that is, the decisions set out in section 19(1)(c)(ii)) have to be referred to a committee of three Commissioners.

- 2.1.5 *It is important to note that whilst the Commissioners have decided in principle that there are matters for decision which might be delegated to the Commission's executive, they have not yet determined what decisions might be delegated, and if so what conditions should be attached as to their exercise. Further it must be noted that any delegation may be withdrawn or subject to further conditions imposed by the Commissioners.*
- 2.1.6 *What is proposed accords with best regulatory practices, and of course the exercise in particular cases of the powers will be subject to scrutiny and review by the Commissioners.*
- 2.1.7 ***Repeal of statutory requirement to publish names of licensees in La Gazette Officielle annually in the Banking Supervision and Regulation of Fiduciaries etc. Laws and of the requirement to publish notifications relating to licensee lists in La Gazette Officielle in the two Insurance Laws***
- 2.1.8 *Section 13(1) of the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and section 13(1) of the Regulation of Fiduciaries, Administration Businesses, and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 require the Commission, in January each year, to publish in La Gazette Officielle a list of all persons holding banking and fiduciary licences respectively.*
- 2.1.9 *As a complete list of all current licence holders is published on the Commission's website, it is proposed to repeal the requirement in the Banking Supervision and Regulation of Fiduciaries etc. Laws to publish names of licensees once a year in La Gazette Officielle. The Commission's website is updated routinely when there is an addition to or removal from the lists of licence holders, whilst the list published in La Gazette Officielle is only correct at the date of publication: i.e. an annual 'snapshot'. For the same reason, it is also proposed that the requirements in the Insurance Business Law and the Insurance Managers and Insurance Intermediaries Law to publish a notice in La Gazette Officielle on an annual basis stating that a list of licensees is maintained by the Commission and is available for inspection or purchase and to publish details of any additions, deletions or changes to the list during the year should be removed. The Commission propose to publish notices in La Gazette Officielle directing persons to its website.*
- 2.1.10 ***Amendments in respect of rule-making powers in the main regulatory laws***
- 2.1.11 *The only available mechanism in the Regulation of Fiduciaries etc. Law under which the Commission can require fiduciaries to undertake actions in respect of their general conduct of business is the imposition of a set of standard licence conditions under section 9 of the law. The standard conditions are:*

- “(i) *there shall be no significant change in the nature of the business conducted by a licensee without prior consultation with the Commission, and that*
- (ii) *no licensee shall establish a branch or subsidiary outside the Bailiwick, or invest in any company which, after such investment, would be a subsidiary, associate or joint venture, without the prior written consent of the Commission.”*

2.1.12 *The fact that it is necessary to use conditions – a breach of which is a criminal offence - and which cannot be amended and updated expeditiously – as a standard tool for all licensees points towards the importance of including in the Regulation of Fiduciaries etc. Law a power that would enable the Commission to make rules on any matter pertinent to the conduct of a firm’s licensable activities under the Law, or to the Commission’s regulation of a firm: for example, corporate governance, internal controls and conduct of business, and for these to be enforceable (i.e. sanctions could be applied for breaches). These areas will become increasingly important and the subject of developing international attention, because they get to the heart of how regulated firms are run in practice, and how well they treat customers and clients.*

2.1.13 *The current rule-making powers in each of the main regulatory laws are:*

- *the Banking Supervision Law – rules can be made relating to accounts and reports*
- *the Regulation of Fiduciaries etc. Law – rules can be made relating to accounts and reports*
- *the Insurance Business Law – this Law does not have any rule-making powers*
- *the Insurance Managers and Insurance Intermediaries Law – rules can be made on conduct of business*
- *the Protection of Investors (Bailiwick of Guernsey) Law – contains several rule-making powers, including the power to make conduct of business rules*

2.1.14 *Accordingly, it is proposed that a similar rule-making power to that proposed for the Regulation of Fiduciaries etc. Law is included in the Banking Supervision Law, the two Insurance Laws and the Protection of Investors Law. The use of rules to provide for corporate governance, internal controls and general conduct of business is a more flexible option than making changes to legislation or using licence conditions, and the detail of what would be required lends itself better to rules than legislation or licence conditions. Rules will not be made without first consulting with industry.*

2.1.15 *Amendments to the two Insurance Laws in order to demonstrate equivalence with CEIOPS Professional Secrecy Standards*

2.1.16 *In order to continue to allow access to the EU insurance market (including Guernsey's biggest market, the UK) on an equal basis to EU Member States, the Commission is presently in discussions with the EU authorities on the new Solvency II Directive which will come into force in the third quarter of 2012. Solvency II shapes the future insurance supervisory regime in the EU. The Committee of European Insurance and Occupational Pension Supervisors (CEIOPS), which advises the European Commission on supervisory issues, has published a methodology for the assessment of equivalence of professional secrecy standards, which is expected to be applied under the Solvency II framework.*

2.1.17 *As part of the preparations to enter into discussions concerning equivalence under Solvency II the Commission is proposing the following amendments to the Insurance Business Law and the Insurance Managers and Insurance Intermediaries Law in order to satisfy the standards relating to professional secrecy. The decision-making process by CEIOPS and the European Commission for equivalence will commence in March of 2010.*

2.1.18 *The Financial Services Commission Law and the two Insurance Laws provide a statutory framework under which the Commission must keep information relating to individual licensed insurers, insurance intermediaries and policyholders confidential. A breach of the confidentiality provisions by the Commission is subject to criminal penalties. Nevertheless, the provisions in the Financial Services Commission Law and the two Insurance Laws relating to confidential information are less restrictive than those in the methodology used by CEIOPS. The Commission therefore proposes several changes to the two Insurance Laws to satisfy the CEIOPS professional secrecy requirements in respect of information received by the Commission for the purposes of insurance sector supervision. The proposed changes can be made by Ordinance.*

- (a) *The two Insurance Laws contain a number of gateways under which confidential information may be disclosed without Commission officers committing an offence, for example the disclosure of information for the purposes of enabling or assisting a foreign supervisor to exercise its functions or the disclosure of information for the investigation, prevention or detection of crime. These sections also permit the disclosure of confidential information for any circumstance described in subsection 21(2) of the Financial Services Commission Law, for example to comply with the directions of the Royal Court. It is proposed that the sections in the two Insurance Laws should be amended so that disclosure is limited to specified subsections of 21(2) in order to exclude the gateways permitting disclosure of confidential information in connection with the discharge of any international obligation; to enable the Public*

Trustee or its equivalent outside Guernsey to carry out their functions; and to enable any Bailiwick gambling supervisor to perform its functions. These subsections have never been used and the Commission does not see how they would, in practice, be used in respect of the insurance sector.

- (b) *The Financial Services Commission Law states that when disclosing information the Commission shall impose such conditions regarding the use, disclosure and safekeeping of that information as it thinks fit. The CEIOPS methodology specifies that confidential information received by an insurance supervisor should be disclosed by that supervisor no further than necessary to achieve the purposes for which it was disclosed or obtained. It is proposed to strengthen the requirement relating to the imposition of conditions when disclosing information in relation to insurance supervision by including a further, and stronger, provision in the two Insurance Laws stating that, when disclosing confidential information, the Commission must impose conditions to prevent the use or disclosure of that information other than for the purpose for which it is provided or agreed otherwise by the Commission.*
- (c) *It is also proposed that a new section should be added to the two Insurance Laws to expressly provide that where the Royal Court has issued a direction to the Commission to disclose information, the Court should take into account any obligations or undertakings of confidentiality to which the Commission is subject. In practice, it would in any event, but a statutory provision to that effect is required. In addition, the Court should also provide the Commission with the opportunity to seek the consent of a foreign supervisor before disclosing confidential information received from that foreign supervisor and, if consent is not forthcoming, the Court should take into account the foreign supervisor's reasons for being unwilling to disclose that information.*
- (d) *Section 81 of the Insurance Business Law and section 58 of the Insurance Managers and Insurance Intermediaries Law provide that where confidential information has been received from a foreign supervisor it can only be disclosed with the consent of both the person to whom it relates and the foreign supervisor that supplied it unless it is already in the public domain, in summary form, in performance of the Commission's functions or for criminal investigation. The CEIOPS methodology contains a number of requirements in relation to the use and disclosure of confidential information that has been received from another insurance supervisor. For example any onward disclosure is only permitted where there has been prior agreement by the supervisory authority which provided the information and that the disclosure is made in accordance with any conditions specified by that authority. In order to demonstrate compliance with these requirements it is proposed to replace the provisions of section 81 of the Insurance Business Law and*

section 58 of the Insurance Managers and Insurance Intermediaries Law with the following provisions:

- *confidential information received from a foreign supervisor will only be used for the purposes for which it was provided or obtained and can only be disclosed with the permission of that supervisor.*
- *in requesting permission from a foreign supervisor the Commission should provide that supervisor with the names and precise responsibilities of the persons to whom it proposes to send the information.*
- *the disclosure of confidential information received from a foreign supervisor is subject to any conditions specified by the foreign supervisor and these conditions may relate to the purpose of the disclosure and to the use of the information.*

2.1.19 *This will not prevent the Commission from disclosing information relating to the suspicion of money laundering or terrorist financing as the Proceeds of Crime, Drug Trafficking, Disclosure of Information and Terrorism and Crime Laws provide that disclosure of information relating to such suspicions to the Financial Intelligence Service is not subject to any obligation of secrecy.*

2.1.20 *The two Insurance Laws also provide that in order to obtain information and documents from a licensee, former licensee, associated party, director, controller, partner, manager, employee, general representative, authorised insurance representative or significant shareholder the Commission must serve notice in writing that it intends to serve notice in writing to require the provision of information or documents. The Commission considers that this process is unduly cumbersome and therefore it proposes that the procedure is simplified in line with the other regulatory laws so that the Commission must serve notice in writing that it requires the provision of information or documents. The provision in the law to appeal against this requirement will remain.*

2.1.21 *The Commission intends to continue discussions with the EU authorities on Solvency II equivalence. However no decision has been taken on whether to formally seek recognition of equivalence at this stage. If and when it appears to be appropriate from a regulatory perspective to seek equivalence, the Commission will consult with the Department and industry on the implications.*

2.1.22 ***Amendment to the Insurance Business Law to introduce public disclosure requirements***

2.1.23 *In order to comply with the requirements of the standards set by the International Association of Insurance Supervisors and to facilitate ongoing discussions exploring equivalence with the Solvency II framework, which also includes public disclosure requirements, it is proposed that an Ordinance should be made amending the Insurance Business Law to include a requirement*

whereby an insurer must publicly disclose such information at such times as defined in rules on public disclosure made by the Commission.

2.1.24 *This approach will enable the Commission to respond on a timely basis to international developments in public disclosure standards. The Commission will consult with the insurance sector regarding the details to be included in the rules. They are likely to include requirements that an insurer, other than a captive that does not insure unrelated party risks, must publicly disclose or make available on an annual basis quantitative and qualitative information on the insurer's financial position and performance with details on the basis, methods and assumptions on which the information is prepared; its risk exposures and how they are managed; and on the insurer's management and corporate governance.*

2.1.25 ***Amendments to the Insurance Managers and Insurance Intermediaries Law to ensure that the minimum capital requirement applies to insurance managers***

2.1.26 *In order to clarify that the minimum capital requirement applying to insurance intermediaries should also apply to insurance managers, the Commission proposes that the Insurance Managers and Insurance Intermediaries Law should be amended by Ordinance, to provide that the requirements currently in section 4(2)(i)(ii) of the Law, which state that an applicant for a licence will maintain shareholders' funds of an amount equal to or exceeding the minimum capital requirement, but which applies only to insurance intermediaries, be moved to become section 4(2)(h)(iii) which applies to both insurance managers and insurance intermediaries.*

2.1.27 ***Resources***

2.1.28 *The above proposals will not to lead to any further resources being required at the Commission.*

2.1.29 ***Consultation***

2.1.30 *The Commission has consulted with the finance sector on its substantive proposals. Sixteen responses were received. Copies of all responses were provided by the Commission to the Commerce and Employment Department.*

2.1.31 *The Commission has also consulted with the Alderney Policy and Finance Committee and the Sark General Purposes and Advisory Committee. Both Committees are content with the proposals."*

3. Recommendations

3.1 The Department believes that the amendments proposed by the Commission are necessary for maintaining Guernsey's pre-eminent position as a financial

services jurisdiction. They are sensible and timely, given the increasing scrutiny given to the Bailiwick's financial services sector activities, and are a reasonable and proportionate response to emerging issues. As far future discussions regarding equivalence under Solvency II the Commission will keep the Department fully informed of the progress of discussions and will consult with the Department before any decision to apply for equivalence is made.

3.2 The Department has also noted that the Commission will consult widely prior to recommending the introducing new laws and regulations enabling Solvency II equivalence to be sought.

3.3 The Commerce and Employment Department recommends the States:

- a) To approve the proposals to amend the financial services regulatory legislation as set out in this Report.
- b) To direct the preparation of the legislation necessary to give effect to those proposals.

Yours faithfully

C S McNulty Bauer
Minister

(NB The Policy Council supports the proposals.)

(NB The Treasury and Resources Department has no comment on the proposals.)

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 18th December, 2009, of the Commerce and Employment Department, they are of the opinion:-

- 1. To approve the proposals to amend the financial services regulatory legislation as set out in that Report.
- 2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

INHERITANCE LAW REVIEW COMMITTEE

TESTAMENTARY FREEDOM ACCOMPANIED BY FAMILY PROVISION AND CONSEQUENTIAL ISSUES

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

5th November 2009

Dear Sir

Executive Summary

1. This Report follows up the Report dated 18th February 2009 on Testamentary Freedom submitted by the Committee, which was considered by the States, in accordance with Rule 12 (4) of the Rules of Procedure of the States of Deliberation, on 29th April 2009. Attached to this Report are extracts from the Committee's 18th February Report.
2. At the 29th April meeting the States overwhelmingly endorsed the proposal in principle that the current system of forced heirship be replaced by testamentary freedom accompanied by family provision.
3. There were no significant issues raised during that debate on which the Committee needs to report back to the States.
4. In this Report the Committee accordingly asks the States to confirm its 'in principle' decision and direct that legislation be prepared to introduce testamentary freedom accompanied by family provision.
5. This Report also includes recommendations, to be included in the new legislation, relating to a number of consequences which flow from the introduction of testamentary freedom, which were identified in the Committee's 18th February Report, and to which the Committee has given detailed consideration. These included (para numbers refer to the 18th February Report):-
 - (a) consideration of a "grandfathering" clause, effectively retaining forced heirship in situations where a will was made prior to the coming into force of the legislation introducing freedom of testamentary disposition (para 36);

- (b) consideration of the effect on existing marriage contracts and other contractual arrangements which might have been made in contemplation of the existence of the forced heirship regime (para 37);
 - (c) consideration of the issue of jointly purchased or jointly owned personal property, not just in respect of husbands and wives but also in respect of cohabiting unmarried couples (paras 38-40) ;
 - (d) the restatement, with revision where appropriate, of the rules of intestate succession to real and personal property and their presentation in a simplified form and in English (para 48 (a)); and
 - (e) the rationalisation of the rules of inheritance relating to “propres” and “acquêts” (para 48 (b)).
6. This Report also considers two matters which the Committee has identified since the States debate of 29th April 2009 as needing to be addressed. These are:-
- (a) testamentary trusts of real property, and
 - (b) commorientes (“dying together”).
7. In formulating its proposals, the Committee was grateful to have had the benefit of the views of a number of members of the Guernsey Bar with particular expertise and experience in the several areas of law under consideration.

REPORT

PART A: Testamentary Freedom accompanied by Family Provision

8. On 29th April 2009, after considering a Report dated 18th February from the Inheritance Law Review Committee (Billet d’État XI of 2009), the States resolved
- “To approve the replacement of the current system of forced heirship in Guernsey by full testamentary freedom accompanied by family provision and otherwise as set out in that Report.”*
9. The Report was debated in accordance with Rule 12 (4) of the Rules of Procedure of the States of Deliberation. That Rule enables proposals to be considered by the States without amendment, on the understanding that if the propositions are accepted, the Committee will return with detailed proposals.
10. On this occasion the Committee’s proposal was overwhelmingly endorsed by the States and no significant issues were raised during the debate on which the Committee needs to report back to the States.

11. In this Report the Committee does not therefore propose to add to its 18th February Report in respect of testamentary freedom or family provision but simply to propose that
 - (a) the current system of forced heirship in Guernsey be replaced by full testamentary freedom which will enable an individual to leave, by will, the whole of his or her immovable (real) and moveable (personal) property to such person or persons, and in such proportions, as he/she chooses; and
 - (b) such testamentary freedom be accompanied by family provision similar to that which applies in England and Wales (under the Inheritance (Provision for Family and Dependents) Act, 1975) (referred to in para 47 of the 18th February Report).

PART B: Rules of intestacy

12. The most obvious consequence of the introduction of freedom of testamentary disposition is the ability of any person of full capacity to direct by will the distribution of his or her real and personal property after his or her death. However, there will always be cases where a person dies without leaving a valid will, and the effect in such cases of the abolition of the principle of forced heirship is that the rules of intestacy will govern the distribution of his or her whole estate, and not just those portions of it which are freely disposable by will under the present rules. They assume, therefore, a greater significance, and it is important that the rules of intestacy are clearly set out and as fair as possible in the majority of cases. The Committee is of the view that a re-statement of the rules of intestacy, the principle of which has already been approved by the States (see para 5(d)), should be as simple and as clear as possible.
13. The present rules of intestacy are complex and the distribution of the estate of an intestate deceased will differ as between real property and personal property, often in an apparently arbitrary way. A further complication is the different application of the rules governing inheritance to real property depending on whether it is classed as a “propre” or an “acquêt” (see paras 32-37).
14. In formulating its proposals for the re-statement of the rules of intestacy, the Committee has attempted to achieve consistency between the rules relating to inheritance to real property and those relating to personal property (in accordance with the declared intention of the Committee in its 18th February Report), whilst retaining the distinction for certain purposes (see para 24); and the Committee also proposes the removal of the distinction between “propres” and “acquêts”, the reasons for which are no longer, in the view of the Committee, applicable (as to which proposal, see paras 32 to 37).
15. The Committee considered whether the rules of intestacy relating to inheritance to real property and the rules of intestacy relating to inheritance to personal property should continue to be separate. In England and Wales, for example, the value of any real property is added to the value of the personal assets, and the

rules of intestacy apply to the estate taken as a whole. In Guernsey, historically, real property and personal property have been dealt with separately, mainly to retain a distinction between the treatment of the family home, which was expected to remain in the family for future generations, and the other assets. As a consequence, separate procedures have evolved for the administration of estates of personal property, in respect of which the Ecclesiastical Court has jurisdiction to issue grants of probate and letters of administration to personal representatives, and for the devolution of the real property of deceased persons, which passes directly to the legal heirs and does not fall within the jurisdiction of the Ecclesiastical Court. The Committee has concluded that it is desirable to retain the separate treatment of real property and personal property. However, wherever possible, except in the areas in which it is considered necessary for distinctions to exist, the rules of intestacy in relation to real property and those in relation to personal property should be consistent with each other.

16. The Committee considered the provisions of the English and Welsh scheme of intestacy but does not propose to follow that scheme for a number of reasons, not least its complexity. In particular, the Committee considers that the award of a fixed sum by way of statutory legacy to a surviving spouse, as in England and Wales, is inappropriate and can work unfairly in many cases. The Committee considers that a much fairer method of offering protection to a surviving spouse is to give him or her an interest in the real property, particularly the matrimonial home (in order to prevent him or her being forcibly removed from his or her home), and a proportion of the value of the net personal estate.
17. However, the Committee does propose that, notwithstanding that it does not consider it appropriate to follow the English and Welsh rules of intestacy generally, the legislation should adopt the English and Welsh requirement that, in order to benefit in the intestate estate of his or her deceased spouse or civil partner, a person must have survived the deceased by a period of at least 28 days. This provision would circumvent any uncertainty arising from the deaths of spouses or civil partners, for example in an accident, occurring more or less simultaneously (and see paras 46 to 49).
18. In considering the rights of a spouse on intestacy, the Committee considered whether or not such rights, whatever they might be, should extend to a cohabitee, i.e. a person living as husband or wife with (but not married to) the deceased at the date of the deceased's death. The English and Welsh system does not extend to cohabitees¹. The Committee identified various difficulties which might result from an extension to cohabitees of the rights of a spouse, such as the problem of proving that a cohabitee was so entitled, and corresponding difficulties for the cohabitee in subsequently proving good title to a prospective purchaser. The Committee also noted that such a provision might

¹ A Law Commission Consultation Paper on Intestacy and Family Provision Claims on Death, published on 29th October, 2009, makes provisional proposals that cohabitees be granted certain rights on intestacy, but the proposals are merely at the consultation stage and may not become Law.

not only confer benefits on a cohabitee but would also, correspondingly, necessarily remove them from a spouse from whom the deceased was separated but in respect of whom financial matters might not yet have been resolved. This could lead to injustices. The Committee has concluded that, in view of the potential difficulties and the fact that, under the new system of freedom of testamentary disposition, persons living in such circumstances will no longer be prevented from making a will in favour of their cohabitee, and also in view of the fact that cohabitees of 2 years will, under the proposed family provision legislation (see paragraph 11(b)), be entitled to apply to the Court for financial provision, the standard intestacy provisions benefitting spouses should not be extended to cohabitees.

19. However, the Committee does consider it appropriate that the scheme should confer rights on intestacy to a civil partner (or equivalent) registered in a competent jurisdiction. Although at present it is not possible to register a civil partnership in Guernsey, English and Welsh legislation in relation to inheritance and family provision does put civil partners in the same position as spouses. For example, a civil partner now has the same rights on intestacy as would a spouse, and the same rights in respect of making application for financial provision under the Inheritance (Provision for Family and Dependants) Act 1975. Clearly, it is likely that civil partners registered in another jurisdiction will come to live in Guernsey, and may die here, and the Committee believes that the status of their relationship should be recognised. Section 215 of the Civil Partnerships Act 2004 provides that two people who have registered an “overseas relationship” are to be treated as having formed a civil partnership (for the purposes of English and Welsh legislation) if, under the law of the country where the relationship is registered, they had the capacity to enter into the relationship and met all the necessary requirements. “Overseas relationship” is defined as a relationship which meets the general conditions (i.e. the parties are not already in another such relationship, and the relationship is of indeterminate duration) and has been entered into in certain specified countries between two people of the same sex. It is therefore proposed that civil partnerships registered under the 2004 Act, and “overseas relationships” registered in accordance with section 215 of that Act, should be recognised for the purposes of Guernsey rules of intestacy (and for the purposes of the proposed family provision legislation).
20. The following paragraphs set out the schemes proposed by the Committee for, respectively, intestate succession to real property (followed by a proposal to abolish the distinction between “propres” and “acquêts” for the purposes of such succession), and intestate succession to personal property.

Intestate succession to real property

21. It should be noted that the following proposed rules will be relevant only when a person dies intestate leaving real property situate in Guernsey in his or her sole name. Should a spouse or partner, or any other person, be a joint owner of real property, the property will pass on his or her death according to the vesting clause in the conveyance or in the other document vesting title.

22. In the following proposals, a reference to “descendants” means children or remoter descendants. The Committee proposes that, in all cases, where a child or remoter descendant has predeceased the intestate, the descendants of such child or remoter descendant should inherit between them the share which their deceased parent (or remoter ancestor) would have taken had he or she survived. This is known as “representation per stirpes”. NB Remoter descendants will only benefit where no closer descendants in that line have survived the deceased.
23. It is proposed that, where a person dies intestate leaving a spouse but no descendants, the spouse should inherit the whole of the real property vested in the sole name of the deceased.
24. Where a person dies intestate leaving a spouse and descendants, it is proposed that the spouse should inherit one half of the matrimonial home absolutely and that the descendants should share the other half between them, but that the spouse should have a life enjoyment, or until remarriage, over the half which is inherited by the descendants. The purpose of the life enjoyment is to protect the right of the spouse to continue to occupy what has been his or her home. (Without such a right, the other heirs could bring proceedings known as “licitation” whereby one joint owner can force the sale of the property.) However, the right of enjoyment should only arise if the spouse had been occupying the property with the deceased as the matrimonial home and not if the spouses were not living together at the date of death – with savings for separation due to illness or other unavoidable reasons.
25. Where the deceased was the sole owner of real property other than the matrimonial home, it is proposed that the surviving spouse should inherit one half of that real property and the descendants would share the other half. However, in the case of such property, the spouse would not have a life enjoyment over the half inherited by the descendants.
26. Where there are descendants but no surviving spouse, such descendants would share the whole of the real property absolutely, with representation per stirpes (see para 22).
27. Where there is no surviving spouse nor any descendants, the property would pass to other classes of relatives. In considering this scheme, the Committee had regard to the provisions of the Real Property (Succession) (Sark) 1999, which sets out in its Schedule a scheme for intestate succession to real property for Sark. The Committee considers that the main provisions of the Sark scheme can usefully be adapted for use in Guernsey. The relevant proposals are set out as follows. Where there is at least one member of a class set out in the following paragraphs, the members within that class will share the whole estate and members of any subsequent class will be excluded from the succession.
28. The first class of beneficiaries to come to the succession, if there is no spouse and no descendants, will be the brothers and sisters of the deceased or (if any of

them have predeceased) their descendants. It is proposed that Guernsey should adopt in all cases the rule that siblings of the “half blood” will rank equally with siblings of the “whole blood”. (A sibling of the whole blood has the same two birth or adoptive parents as the deceased; a half blood sibling shares only one birth parent or adoptive parent with the deceased.)

29. The next class, benefitting only if there are no siblings or descendants of siblings, would be the ascendants (parents, grandparents, etc) of the deceased.
30. Finally, if there are no ascendants, the heirs would be the remoter collaterals (i.e. cousins) up to (and including) the sixth degree of relationship computed by the canonical mode (this means that, in order to calculate the degree of relationship, you count up to the common ancestor of the deceased person and the prospective beneficiary and the number of degrees to be counted are in the longer line). Thus, the closest relative up to that degree of relationship will benefit and, if there is more than one in parity of degree, they will share.
31. Where there are no heirs in these categories, the property will, as at present, escheat to (vest in) the Crown.

“Propres” and “Acquêts”

32. The Committee proposes that the distinction between “propres” and “acquêts” should be abolished for the purposes of intestate inheritance to real property.
33. “Propre” means property inherited by the deceased by operation of law i.e. on intestacy, or property which has been acquired by retrait lignager. It also includes property given to the eventual heir before the owner’s death (“partage en avance de succession”). A propre can be “paternal” or “maternal”, depending on its source.
34. “Acquêt”, and the related “conquêt”, means property acquired during the lifetime of the deceased by purchase, saisie, gift, under a will, or by any means other than intestacy or retrait lignager, the difference between the two being that “acquêt” is property acquired before marriage, and “conquêt” means property acquired after marriage.
35. The significance of the distinction becomes apparent, under the existing rules, only where there are no direct descendants and there is therefore a collateral (brothers, sisters, cousins) or an ascendant (parents) succession. The rules are complicated and, as stated in the Committee’s 18th February Report, may be perceived as arbitrary and inappropriate. Whether the property is a propre, on the one hand, or an acquêt or conquêt, on the other (i.e. its origin) affects its disposition on death. In some cases the property will pass to the line (maternal or paternal) from whence it came; in others it will not. The distinction also gives rise to differences in the distribution of property where an heir has predeceased the deceased but leaving descendants of his or her own. In some

cases, such descendants will take what would have been their ancestor's share (representation) and in others they will not.

36. The distinction is based on historical factors, in particular the tendency for the family home and/or land to be retained within the family for generations. It was considered that the inherited "propre" should be given special consideration and should not be transferred away from the side of the family from whence it came. However, it is becoming increasingly rare for the family home to be retained down the generations, so the rationale for the distinction is disappearing. Furthermore, the Committee considers that any benefits of the distinction are far outweighed by the complexities, and anomalies which result.
37. The Committee proposes, in accordance with the approach taken in the Sark legislation (see para 27), to remove the distinction between "propres", "acquêts" and "conquêts", and to treat all real property, whatever its origin, in the same way. Likewise, to allow heirs of predeceased heirs to take by representation the share of their parent (or more distant ancestor) in all cases. (The Sark legislation retains the distinction for certain purposes which are not relevant in Guernsey).

Intestate succession to personal property

38. As set out in para 16, and for the reasons therein given, the Committee considers that it would be undesirable to adopt the English and Welsh device of giving a fixed sum to a surviving spouse and considers that a spouse's entitlement in the deceased's personal estate should be expressed as a proportion thereof.
39. The present rules of forced heirship entitle a spouse to one half of the personal property held in the deceased's sole name (if there are no descendants) or to one third (if there are descendants). The abolition of forced heirship will result in the removal of the automatic entitlement ("droit du conjoint" or "légitime") and will mean that, in the event of a spouse dying intestate, the surviving spouse would receive nothing unless provision is made by legislative means.
40. The Committee proposes the following scheme –
 - (a) where there is a surviving spouse, but no descendants, the surviving spouse would take the whole personal estate;
 - (b) where there are one or more descendants, but no surviving spouse, the descendants would benefit in a similar way as they do in the scheme for real property i.e. any descendants in parity of degree would share equally, with representation per stirpes if any had predeceased leaving descendants;
 - (c) where there is a surviving spouse and one or more descendants, the spouse would take one half of the personal estate and the descendants would share the other half equally in parity of degree with representation per stirpes as in (b);

- (d) if there is no surviving spouse and there are no descendants, the other classes of beneficiaries, as set out in paras 28 to 30, would come to the succession in turn. Where there are members of one class of beneficiaries in the list, they, or their heirs by way of representation per stirpes, would benefit to the exclusion of any members of any classes of beneficiaries lower down the list; and
- (e) where there are no beneficiaries in the foregoing categories, the personal estate will, as at present, be “bona vacantia” (ownerless property) and vest in the Crown.

PART C: Consequential Issues

Propres and Acquêts

- 41. See paras 32 to 37.

“Grandfathering” Clauses and Marriage and Other Existing Contractual Arrangements

- 42. Having given further consideration to the effect of testamentary freedom on existing wills, and on marriage and other existing contractual arrangements (paras 5 (a) and (b)), the Committee is satisfied that no legislative provision is required other than the preservation of the effect of wills already drawn up prior to the operative date of the legislation introducing testamentary freedom, and the preservation of the effect of existing marriage and other contractual arrangements. The Committee therefore simply proposes that the legislation should contain provisions –
 - (a) preserving the effect of forced heirship in relation to wills executed before the effective date of the legislation introducing freedom of testamentary disposition (to protect those testators who have made a will in the context of forced heirship but who are unable or unwilling to make a new will), and
 - (b) preserving the effect of any marriage or other contracts made before the effective date, for the same reasons.

Joint Accounts

- 43. The Committee has, in accordance with paras 38 to 40 of its 18th February Report, reviewed the issue of joint accounts and jointly held assets and the possibility of extending the effect of the Husband and Wife (Joint Accounts) (Guernsey) Law, 1966 to unmarried persons. As the Committee stated, in para 40 of that Report, there had been no serious legal or practical difficulties with regard to such matters but it was considered appropriate to review them. The Committee has reached the conclusion that no further action need be taken. The

1966 Law was passed in order to circumvent a rule of customary law which forbade a spouse to benefit his or her spouse during marriage, the effect of which was that, where (for example) a husband paid monies from his business into an account in the joint names of himself and his wife, it was not legally certain that the wife would become the absolute owner of the funds on his death. No such rule of customary law exists in relation to other joint account holders, and the disposition of the jointly held assets is routinely considered when a joint account is opened, and appropriate arrangements made; and it then becomes a matter of banking or contractual law. The Committee considers that it is unnecessary to attempt to modify the law in this area, and that to do so might lead to unforeseen and undesirable consequences; and has therefore concluded that no amendments are required.

PART D: Further Matters Arising

Testamentary Trusts

44. The Committee's mandate, set out in para 6 of the 18th February Report, includes (in (v)) "to review the use of trusts, whether testamentary or inter vivos, for the purpose of estate protection and planning, and, in particular, whether the discrimination against Guernsey rules of forced heirship in Section 11A of the Trusts (Guernsey) Law, 1989, as amended, should be retained". The introduction of testamentary freedom, and abolition of the rules of forced heirship, means that the Committee's mandate in respect of section 11A (subsequently repealed, but the principle of which is now embodied in the Trusts (Guernsey) Law, 2007) is otiose.
45. However, there is one further matter related to trusts which, the Committee considers, should be addressed. The effect of a judgment of the Royal Court in 1962, In re Davis, is to prohibit a testator from creating a testamentary trust of his or her real property if he or she has descendants. This rule prevents a testator from avoiding the effects of forced heirship by placing his or her real property in trust. The Committee considers that, if testamentary freedom is to be achieved, the rule in In re Davis should also be abolished so that it is possible for a testator, if he or she so wishes, to direct that his or her real property be placed in trust whether or not he or she has descendants.

Commorientes

46. The Committee's attention has been drawn to a further inheritance-related issue, namely "commorientes", literally meaning "dying together". This refers to the difficulty which can arise in relation to inheritance when two or more related persons die in circumstances where it is impossible to ascertain who died first and, consequently, to ascertain the proper devolution of the estates of those persons, whether by will or on intestacy. The usual device of the will draftsman is to make specific provision that no person can benefit under the will unless he or she survives the testator by a specified period. However, where a person is

intestate, or there is no such provision in the will, this cannot apply and the problem remains.

47. In England and Wales, under the Law of Property Act, 1925, as amended, where two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, then, subject to any order of the court, the deaths must, for all purposes affecting the title to property, be presumed to have occurred in order of seniority, and accordingly the younger is deemed to have survived the elder, even if it appears that the deaths were simultaneous.
48. The statutory presumption can, however, be excluded by an express contrary provision in a will. A further exception to the statutory presumption is that, where a husband and wife (or civil partners) die together, in circumstances where by virtue of the statutory presumption one of them (i.e. the younger) is deemed to have survived the other, who is intestate, the intestate's estate must nevertheless be distributed on the footing that the other did not survive. Where both died intestate, the estate of each is distributed on the footing that the other did not survive. Since 1996, this also applies where the intestate's spouse or civil partner survived the intestate but died before the end of the period of 28 days beginning with the day on which the intestate died (see para 17).
49. It is proposed that legislative provision in similar terms be enacted in Guernsey.

PART E: Recommendations

50. The Inheritance Law Review Committee recommends the States:
 1. (1) That the current system of forced heirship in Guernsey be replaced by testamentary freedom which will enable an individual to leave, by will, the whole of his or her immoveable (real) and moveable (personal) property to such person or persons, and in such proportions, as he or she chooses: and
 - (2) that such testamentary freedom be accompanied by family provision similar to that which applies in England and Wales (under the Inheritance (Provision for Family and Dependents) Act, 1975)

as set out in part A of this Report;

- 2. To introduce new rules on intestacy, including the abolition of the distinction between “propres” and “acquêts”, as set out in Part B of this Report;
- 3. That the legislation should contain provisions –
 - (1) preserving the effect of forced heirship in relation to wills executed before the effective date of the legislation introducing

freedom of testamentary disposition (to protect those testators who have made a will in the context of forced heirship but who are unable or unwilling to make a new will); and

- (2) preserving the effect of any marriage or other contracts made before the effective date, for the same reasons;
- 4. To abolish the effect of the ruling in the case of In re Davis;
- 5. That legislative provision be made clarifying the order of inheritance where two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, along the lines of the Law of Property Act, 1925;
- and
- 6. To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

Yours faithfully

M M Lowe
Chairman

Extracts from the Report date 18th February, 2009 of the Inheritance Law Review Committee (Billet d'État XI of 2009)

Present rules

Personal property

16. The present position in relation to testamentary disposition of personal property by a person domiciled in Guernsey is as follows.
17. Even if such a person domiciled in Guernsey wishes to leave all his/her personal property outside the family he/she is subject to the following restrictions. If he/she dies:
 - (1) leaving both a spouse and children, the spouse is entitled to take one third of the personal property and the children are entitled to take one-third between them, the remaining one-third only being freely disposable by will according to the wishes of the testator;
 - (2) leaving either a spouse or children (but not both classes) then such spouse, or the children (between them), are entitled to take one-half of the personal property, the remaining one half being freely disposable;
 - (3) leaving neither a spouse nor descendants, he/she can dispose of his/her entire personal property by will as he/she wishes.
18. The automatic entitlements of the spouse and children from a deceased's personal property are known respectively as their "droit du conjoint" and "légitime", but for the purposes of this Report, the expression "légitime" will cover both.
19. A spouse's "légitime" may be varied by a marriage settlement made before or after marriage. A spouse can renounce to his/her right to entitlement in the whole or part of the personal property before or during the marriage, in which case the part of his or her entitlement renounced will become part of the disposable portion of the personal property of the deceased.
20. Under the Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006 all references to "children" include both legitimate and illegitimate children.

Real property

21. The rules governing testamentary disposition in relation to real property situate in Guernsey are contained in the Law of Inheritance, 1954, as amended by the

Law of Inheritance (Guernsey) Law, 1979.

22. The 1954 Law abolished the eldest son's préciput and provided that if a person leaves (one or more) descendants then he/she has to leave his/her real property situate in Guernsey to one or more of the persons falling into certain categories, which categories, as expanded by the Law of Inheritance (Guernsey) Law, 1979, include his or her spouse, children (including illegitimate and stepchildren) and descendants of those children. It also provided that, whatever the terms of any will, a surviving spouse is entitled to a life interest until remarriage in one-half of the deceased's real property (replacing the former rights of "douaire" and "franc veuvage"). These provisions still apply today. Thus, although a person owning real property who has descendants can choose to leave it to one only, or some only, of the persons included in the categories set out above, he/she cannot leave it, or any part of it, to any person outside those categories.

Deliberations of Committee

34. The following paragraphs deal with the consequences noted by the Committee as likely to arise as a result of the liberalisation of the successoral regime and the introduction of freedom of testamentary disposition.
35. The most obvious consequence of the introduction of freedom of testators to dispose of their property, both real and personal, to any person or persons, without any stipulations as to the classes of person/s whom the testator may name in his/her will, is that persons who might, in the past, have legitimately expected to be given financial support (such as a spouse and children of the deceased) may not be supported at all, or not to the extent to which they might have expected. The testator might be justified in his/her actions in refraining from providing for his/her relatives (for example, he/she might have given them adequate support during his/her lifetime) or his/her actions might be the result of a whim. In either case, he/she would be entitled to frame his/her will in whatever terms he/she wished, and any person with a genuine and justifiable grievance would have to resort to an application for family provision (see paragraph 47) if he/she wished to pursue a claim for a share of the estate.
36. If the principle of testamentary freedom is introduced into Guernsey law, consideration will have to be given as to how to deal with wills which have already been drawn up, by persons still living at the date of commencement of the new provisions, and in terms which reflect the intentions of the testator in the light of the law at that time i.e. when forced heirship was applicable. The Committee would propose, to avoid (as far as possible) the necessity for the redrafting of wills, that the legislation should contain a "grandfathering" clause, effectively retaining forced heirship in situations where a will was made prior to

the coming into force of the legislation introducing freedom of testamentary disposition. Although it would be open to a person who had made a will before the abolition of forced heirship to make a new will taking into consideration the effect of the new freedom of testamentary disposition, he or she would not need to do so if the effect of the existing will was still to his or her satisfaction; and if a person was for some reason unable to make a new will, for example due to incapacity, the effect of the existing will would remain as the testator had originally intended it.

37. Consideration will also have to be given to the effect on existing marriage contracts and other contractual arrangements which might have been made in contemplation of the existence of the forced heirship regime. Although “grandfathering” could ameliorate the effects of this change on such contractual arrangements, it might also be desirable in such cases for advice to be taken, and new contracts drawn up (where possible) taking into account the new provisions. The Committee would have to consider this aspect more fully if the principle of freedom of testamentary disposition is accepted.

Joint Accounts

38. One further aspect of inheritance to real property and personal property needs to be mentioned for the purposes of this Report.
39. By the Husband and Wife (Joint Accounts) (Guernsey) Law, 1966, any monies standing to the credit of an account in the joint names of a husband and wife are presumed to belong beneficially to the survivor, unless the contrary be proved. Besides money in joint bank accounts, the practice has been for executors to treat matrimonial assets acquired out of joint monies as belonging presumptively to the survivor, and in any case in which doubt might exist, husbands and wives making wills may make an appropriate declaration to the effect that all or specified assets – such as “all articles and effects of domestic or personal use or ornament” - are owned jointly on terms that the survivor takes absolutely. The position is by no means so straightforward for inheritance purposes in respect of a joint bank account or joint assets where the parties are unmarried, but as a matter of banking law, and pursuant to the contract made between joint customers and the bank, the bank will treat the money as belonging to the survivor. Other types of personal property, in any case in which doubt might arise, may be dealt with by appropriate declaration. Real property which is jointly owned will always devolve by reference to the basis upon which it was originally acquired.
40. Whilst the Committee cannot point to any serious legal or practical difficulties that have arisen with regard to jointly owned property, it is of the view that the time is right, whether or not the principle of full testamentary freedom is introduced, to review the issue of jointly purchased or jointly owned personal property, not just in respect of husbands and wives but also in respect of cohabiting unmarried persons.

Conclusion

41. Having considered the arguments for and against the introduction of testamentary freedom, the Committee has decided to recommend the States to agree to its introduction in principle. It is of the view that the introduction of testamentary freedom is appropriate in today's society, and also that it is more practicable and desirable, and considerably less complex in its ramifications, than an attempt to reform the law in this area in a piecemeal fashion.
42. The forced heirship régime was designed to meet the requirements of a very different time. The Committee considers that it needs to be reformed to meet changing social circumstances, where individuals are more likely to marry more than once or to cohabit. The Committee also considers that it is reasonable to allow individuals to deal as freely with their property after death as they would be able to do during their lifetimes. The Committee has formed the view that although there will be short-term implications which may involve persons rearranging their affairs in order to take account of the new régime, this should not prevent the change being made if it is for the long term benefit of the population as a whole.
43. The Committee has noted that testamentary freedom was considered by the States more than half a century ago and, although considered a step too far at that time, the view of a number of eminent citizens was that it was "*the ultimate end towards which public opinion has been tending for many years*".
44. Although forced heirship is part of Guernsey's cultural tradition, it appears to the Committee that it is increasingly the case that individuals intuitively expect to be able to leave their property to whoever they chose.
45. That is not to suggest that testators, in the vast majority of cases, will do other than leave their property to those closest to them (although this may well include individuals who are not provided for under the forced heirship regime). In the words of the 1950 majority report "*All the evidence available as to how the average Guernseyman arranges his affairs shows that he is most concerned to make the best possible provision for his widow and children. In the rare cases where he (or she) wishes to exclude some member of the near family, there is usually ample justification for such action.*"
46. Nevertheless the Committee believes it essential that testamentary freedom be accompanied by family provision which would enable the Royal Court to protect the interests of dependants who had not been provided for, or who had been inadequately provided for, by will or, in the absence of a will, where the rules of intestacy operate unfairly.
47. It is proposed that legislation similar to the Inheritance (Provision for Family and Dependents) Act, 1975, which applies in England and Wales, be enacted.

Briefly, this legislation enables a person falling into one of the categories set out in that Act (a spouse or a former spouse who has not remarried, a civil partner, a person who had lived with the deceased for two years as his/her spouse or civil partner, a child of the deceased, or any other person who was being maintained wholly or partly by the deceased prior to his/her death) to apply to the Court for an order for a lump sum payment, periodical payments, transfer of property or variation of a marriage settlement. An award will be made if the Court considers that reasonable financial provision has not been made for the applicant by will or on intestacy *and* the Court considers it appropriate to make an order in the circumstances of the case. Different considerations such as the age of the applicant, the length of the marriage, the manner in which a child is being educated, would all have to be taken into account. The Court will also take into account, when deciding whether reasonable provision was made and, if not, whether to exercise its discretion to make an order, such matters as the financial resources of the applicant and of any existing beneficiary of the estate, the size of the estate and any other matters including the conduct of any person before or after the death and, if relevant, the deceased's reasons for not making provision. The English courts discourage the making of applications without good reason by awarding costs against unsuccessful claimants.

Other matters

48. Should the Committee's proposals be accepted by the States, the Committee would propose, in addition to its detailed proposals for the introduction of testamentary freedom and family provision, to bring further proposals for the following matters within its mandate, namely –
 - (a) the restatement, with revision where appropriate, of the rules of intestate succession to real and personal property in order to amend the rules where necessary in the interests of consistency and fairness (for example, to update the entitlement of a surviving spouse and abolish the distinctions which presently apply between entitlement to personal property and entitlement to real property on intestacy) and otherwise to clarify the rules and present them in a simplified form and in English; and
 - (b) the rationalisation of the rules of inheritance which provide that different rules apply where the property which is the subject of an intestate inheritance is a *propre* (real property inherited by a person) and where it is an *acquêt* (real property purchased by a person), a distinction which is nowadays arbitrary and inappropriate.

(NB The Policy Council has no comment on the proposals.)

(NB The Treasury and Resources Department has no comment on the proposals.)

The States are asked to decide:-

XVIII.- Whether, after consideration of the Report dated 5th November, 2009, of the Inheritance Law Review Committee, they are of the opinion:-

1. (1) That the current system of forced heirship in Guernsey be replaced by testamentary freedom which will enable an individual to leave, by will, the whole of his or her immoveable (real) and moveable (personal) property to such person or persons, and in such proportions, as he or she chooses: and
- (2) that such testamentary freedom be accompanied by family provision similar to that which applies in England and Wales (under the Inheritance (Provision for Family and Dependents) Act, 1975)

as set out in part A of that Report.

2. To introduce new rules on intestacy, including the abolition of the distinction between “propres” and “acquêts”, as set out in Part B of that Report.
3. That the legislation should contain provisions –
 - (1) preserving the effect of forced heirship in relation to wills executed before the effective date of the legislation introducing freedom of testamentary disposition (to protect those testators who have made a will in the context of forced heirship but who are unable or unwilling to make a new will); and
 - (2) preserving the effect of any marriage or other contracts made before the effective date, for the same reasons.
4. To abolish the effect of the ruling in the case of In Re Davis.
5. That legislative provision be made clarifying the order of inheritance where two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, along the lines of the Law of Property Act, 1925.
6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

PUBLIC SECTOR REMUNERATION COMMITTEE

PUBLIC SERVANTS' PENSION SCHEME – ANNUAL PENSIONS REVIEW, SEX DISCRIMINATION AND QUALIFYING RECOGNISED OVERSEAS PENSION SCHEME STATUS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

27th November 2009

Dear Sir

Executive Summary

1. The Public Sector Remuneration Committee (the Committee) is seeking ratification from the States of amendments to the Rules of the Public Servants' Pension Scheme (the Scheme) to address: the annual pension review in the unprecedented circumstances of an annual decrease in the Index of Retail Prices; compliance with the Sex Discrimination Ordinance 2005; and reinstatement of the Rule necessary for Qualifying Recognised Overseas Pension Scheme status. None of these amendments has any impact on the Superannuation Fund.

Annual Pensions Review

2. In accordance with Rule 1 (2) of the 1972 Rules (as amended) it is necessary to consider on an annual basis the adequacy or otherwise of:
 - (a) the pensions and other benefits being paid; and
 - (b) the preserved pensions and other benefits to which persons who have left employment of the States have become entitled but which are not yet in payment

taking into account as an important factor any change in the purchasing power of the pound sterling since the last review as reflected by the Index of Retail Prices.

3. There are approximately 2,600 pensions in payment and 400 preserved benefits and the relevant Index of Retail Prices is that at 30 June 2009 which had **decreased** by 1.3% since the previous review. The adjustment, if any, in benefits would be effective from 1 January 2010.

4. The terms and benefits of the Public Servants' Pension Scheme, in accordance with objectives endorsed by both the States (as employer) and elected representatives of Members of the Scheme, are in line with those applicable to comparable employees in the UK public sector. As such the Scheme effectively provides for index linking. (There is provision in exceptional circumstances for the Committee to recommend an increase of less than RPI but such circumstances have never previously been met nor currently apply.)
5. The Island is currently in economic circumstances unprecedented since the introduction of the contributory Public Servants' Pension Scheme in 1972. The Guernsey Index of Retail Prices which was first calculated in 1965 had never previously been negative over a twelve month period until March 2009. (The UK Index had not had a negative annual figure since 1960.)
6. The Committee has consulted with elected representatives of members of the Scheme within the forum of the Pensions Consultative Committee (PCC) – the body established by the States for consideration of the terms and benefits of the Scheme – and reached agreement on an appropriate method of interpreting and applying the principle of “index linking” in these unprecedented circumstances.
7. The proposal for which States endorsement is sought is that the “index linking” prescribed by the Rules be applied over a two year period as follows:
 - * that there be no adjustment in benefits or preserved benefits in January 2010 (i.e. no reduction); but
 - * in January 2011 the review be based on the increase (if any) on the Index of Retail Prices over the two years ending on June 2010.
8. In reaching agreement to make this recommendation all members of the PCC have noted that the Treasury and Resources Department has already announced that it has adopted this approach in respect of benefits payable to retired States Members.

NB: Deputy Jane Stephens as a retired States employee has declared an interest and abstained from discussions.

Sex Discrimination

9. The Committee has had brought to its attention, albeit not by any aggrieved member, a Rule which has existed since the Scheme was opened to part-time employees in 1988 but which amounts to a breach of the Sex Discrimination Ordinance, 2005. This section of the Report explains the issue and the proposed means by which it is to be addressed.
10. Whilst the Scheme is open to all employees with a regular contractual commitment there is a difference in treatment (through contracts of employment) in that membership is:

- * compulsory for permanent full-time employees; but
 - * optional for part-time employees and full-time employees on limited term contracts.
11. For part-time employees (but not full-time employees for whom membership is optional) there is a three month period from the commencement of employment to exercise the option to join the Scheme and membership cannot commence until the end of this three month waiting period.
 12. There are approximately 1,600 part-time employees who are eligible for membership of the Scheme. (65% choose not to join.)
 13. As a disproportionate number of part-time employees (85%) are female the exclusion from membership of the Scheme for the first three months of employment amounts to indirect discrimination and thus a breach of the Sex Discrimination Ordinance.
 14. This issue has been discussed within the forum of the PCC and there is agreement that the simplest and most appropriate means of removing this discrimination is to abolish the three month waiting period. Thus part-time employees in line with full-time employees on limited term contracts would have the option to join the Scheme from the commencement of their employment.

Qualifying Recognised Overseas Pension Scheme Status

15. In October 2006 (Billet d'État XVII) the States approved the amendments to the Rules which were necessary for the Scheme to have Qualifying Recognised Overseas Pension Scheme (QROPS) status. This status is necessary for the Scheme to accept transfer values from UK registered pension schemes and pay transfer values to such schemes.
16. Unfortunately, in implementing the amendments to the Rules following the major review of the Scheme concluded and endorsed by the States in October 2007 the Rule necessary for QROPS status was inadvertently deleted.
17. The amendments to the Rules appended to this Report include one necessary to rectify this omission.

Summary and Recommendations

18. In summary, the Committee (with the full support of elected member representatives) is recommending minor amendments to the Rules to address; the review of benefits in payment and preserved benefits in the unprecedented circumstance of the Guernsey Index of Retail Prices being negative over a

twelve month period; a breach of the Sex Discrimination Ordinance; and the reinstatement of the Rule necessary for the Scheme to have QROPS status. The amendments have no impact on the Superannuation Fund.

19. To achieve the above the Committee recommends the States to approve the States of Guernsey (Public Servants) (Pensions and Other Benefits) (Amendment) Rules, 2010, which are attached as an appendix to this Report.

Yours faithfully

A Langlois
Chairman

**The States of Guernsey (Public Servants)
(Pensions and other Benefits)
(Amendment) Rules, 2010**

THE STATES, in pursuance of their Resolution of [∞] January 2010, have approved the following Rules:-

Amendments to 1972 Rules.

1. The States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972, as amended (in these Rules referred to as “the 1972 Rules”) are further amended as follows:-

New Rule 1(5)

Rule 1 of the 1972 Rules shall be amended by inserting the following as new Rule 1(5);

- (a) That in relation to the period of 12 months commencing 1st January 2010 (pursuant to Rule 1(2) of these Rules) the Committee shall calculate the change in the purchasing power of the pound sterling as reflected in the Index of Retail Prices for the preceding 12 months ending on 30th June 2009 but shall make no adjustment either by way of increase or decrease in pensions in payment or preserved pensions and other benefits; and
- (b) That in relation to any adjustment to be made for the period of 12 months commencing 1st January 2011 (pursuant to Rule 1(2) of these Rules) the recommendation from the Committee shall take into account as an important factor any change in the purchasing power of the pound sterling as reflected in the Index of Retail Prices for the preceding 12 months ending on 30th June 2010; and provided that if the Committee resolves that retirement pensions in payment and preserved pensions and other benefits shall be increased with effect from 1st January 2011 pursuant to these Rules:
 - (i) for those pensions in payment and preserved pensions and other benefits to which persons have become entitled at and including 31st December 2008 by no more and no less than the relevant combined inflation factor applied to the preceding 24 month period ending on 30th June 2010; and
 - (ii) for those pensions in payment and preserved pensions and other benefits to which persons have become entitled during the period from and including 1st January 2009 until and including 31st December 2009 by no more and no less than the relevant combined inflation factor attributable to the 12 month period ending on 30th June 2009 and the 12 month period ending on the 30th June 2010 and calculated by reference to the

proportion of the relevant percentage increase (or decrease) for each year in accordance with Rule 1(3); and

- (iii) for those pensions brought into payment or preserved pensions and other benefits to which persons have become entitled during the period from and including 1st January 2010 until and including 31st December 2010 shall be increased with effect from 1st January 2011 pursuant to these Rules by no more and no less than the relevant inflation factor applied to the 12 month period ending on 30th June 2010 and calculated by reference to the proportion of the relevant percentage increase (or decrease) for that year in accordance with Rule 1(3),

paragraph 1(2) shall be deemed to have been complied with as respects the calendar year commencing 1st January 2011.

Amendment to Rule 5

Rule 5(1) (b)

Rule 5 (1) (b) shall be amended by deleting from that Rule the words “when he has been in such qualifying part-time employment for a period of three consecutive months”

Rule 5(2) (c)

Rule 5(2) (c) shall be deleted and replaced with the words: “Not Used”

Rule 5(2) (e)

Rule 5(2) (e) shall be amended by deleting the words “does not elect to be a Member of the scheme within the period of three months from the date that he enters that employment and” and replace them with the words “and before entry into the Scheme...”

New Rule 34

Insert the following as New Rule 34:

- 34. In relation to any member of the Scheme who has transferred benefit rights in a United Kingdom registered pension scheme to the Scheme at any time on or after 6th April 2006, and notwithstanding any other provision of these Rules, (and in particular but without limiting the generality, Rules, 16, 23-28, 32 and 33),
 - (a) at least 70% of a member’s United Kingdom tax-relieved scheme funds will be designated by the Board for the purpose of providing the member with an income for life, and

- (b) the pension benefits payable to the member under the Scheme (and any lump sum associated with those benefits) shall be payable no earlier than they would have been if pension rule 1 in Section 165 of the Finance Act 2004 applied.

Commencement

- 2. The addition of new Rule 34 shall be treated as having come into force on 1st January, 2008 and the other amendments to the Rules shall be treated as having come into force on 1st February 2010.

Construction, citation and collective title

- 3.
 - (1) These Rules and the 1972 Rules shall be construed as one.
 - (2) These Rules may be cited as the States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 2010.
- 4. These Rules, and the States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972 to 2007, may be cited together as the States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972 to 2010.

(NB The Policy Council has no comment on the proposals.)

(NB The Treasury and Resources Department supports the proposals.)

The States are asked to decide:-

XIX.- Whether, after consideration of the Report dated 27th November, 2009, of the Public Sector Remuneration Committee, they are of the opinion:-

To approve the States of Guernsey (Public Servants) (Pensions and Other Benefits) (Amendment) Rules, 2010, which are attached as an appendix to that Report.

ORDINANCES LAID BEFORE THE STATES

THE PUBLIC HOLIDAYS ORDINANCE, 2009

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Public Holidays Ordinance, 2009, made by the Legislation Select Committee on the 16th December, 2009, is laid before the States.

THE CHILDREN (CONSEQUENTIAL AMENDMENTS, ETC.) (GUERNSEY AND ALDERNEY) ORDINANCE, 2009

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Children (Consequential Amendments, etc.) (Guernsey and Alderney) Ordinance, 2009, made by the Legislation Select Committee on the 16th December, 2009, is laid before the States.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE STATES HOUSING (RENT AND REBATE SCHEME) (GUERNSEY) (AMENDMENT) REGULATIONS, 2009

In pursuance of section 5(3) of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004, the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2009, made by the Housing Department on 19th November, 2009, are laid before the States

EXPLANATORY NOTE

These Regulations amend the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005 by making changes to the States Rental Formula and to the charges applied to non-dependent persons residing in the household of a statutory tenant, and to the allowances given to dependent children residing in the household of a statutory tenant.

THE WATER CHARGES (AMENDMENT) (No. 2) REGULATIONS, 2009

In pursuance of Article 17 (5) of the Law entitled “Loi ayant rapport à la Fourniture d’Eau par les États de cette Île aux Habitants de la dite Île” registered on 7th May, 1927, as amended, and “The Fees, Charges and Penalties (Guernsey) Law, 2007” registered on 19th May, 2008, The Water Charges (Amendment) (No. 2) Regulations, 2009, made by the Public Services Department on 1st December, 2009, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the charges which will be made for the supply of water for 2010. These Regulations come into force on 1st January 2010.

*APPENDIX***STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

RECORD OF MEMBERS' ATTENDANCE AT MEETINGS OF
THE STATES OF DELIBERATION, THE POLICY COUNCIL,
DEPARTMENTS AND COMMITTEES AND SUB-COMMITTEES THEREOF

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

23rd November 2009

Dear Sir

On the 28th January 2004 the States resolved, inter alia:

“That Departments and Committees shall maintain a record of their States Members’ attendance at, and absence from, meetings, including sub-committee meetings and the reasons for absence given shall also be recorded.

That the records of States Members’ attendance at, absence from and reasons for absence from meetings, shall be made available to the House Committee to monitor and to take such action as it sees fit within its powers and the records shall also be available for inspection by the public.”*

*[*name changed on 1st August 2008 to States Assembly and Constitution Committee]*

This report deviates from the States resolution in that the States Assembly and Constitution Committee has deemed it appropriate to accede to a request that statistics relating to attendance in the States of Deliberation are also included.

I would be grateful if you would arrange for this report, in respect of statistics provided by Her Majesty’s Greffier, Departments and Committees for the six months ended 31st October 2009, to be published as an appendix to a Billet d’État.

Yours faithfully

Ivan Rihoy
Chairman

PART I - REPORT BY DEPARTMENT/COMMITTEE

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

POLICY COUNCIL

| | | | | | | | |
|---------------------------|----|----|---|--|-----|---|-------------------------------|
| L. S. Trott | 17 | 12 | | | 3 * | 2 | *UK Party conferences & China |
| B. M. Flouquet | 17 | 15 | | | 1 | 1 | |
| A. H. Adam | 17 | 16 | | | 1 | | |
| M. H. Dorey | 17 | 16 | | | | 1 | |
| D. B. Jones | 17 | 13 | 1 | | | 3 | |
| G. H. Mahy | 17 | 15 | | | | 2 | |
| C. S. McNulty Bauer | 17 | 13 | 2 | | 1 | 1 | |
| M. G. O'Hara | 17 | 12 | 1 | | 2 | 2 | |
| C. N. K. Parkinson | 17 | 16 | | | 1 | | |
| P. R. Sirett | 17 | 13 | 1 | | | 3 | |
| C. A. Steere | 17 | 12 | 2 | | 1 | 2 | |
| Alternate Members: | | | | | | | |
| A. H. Brouard | 1 | 1 | | | | | |
| D. de G. De Lisle | 1 | 1 | | | | | |
| M. G. G. Garrett | 3 | 3 | | | | | |
| G. Guille | 3 | 3 | | | | | |
| M. S. Lainé | 2 | 2 | | | | | |
| A. H. Langlois | 1 | 1 | | | | | |
| S. J. Ogier | 1 | | 1 | | | | |
| F. W. Quin | 1 | 1 | | | | | |
| J. M. Tasker | 1 | 1 | | | | | |

COMMERCE AND EMPLOYMENT DEPARTMENT

| | | | | | | | |
|---------------------|----|----|---|---|--|---|--|
| C. S. McNulty Bauer | 22 | 21 | | | | 1 | |
| R. W. Sillars | 22 | 16 | 3 | | | 3 | |
| P. L. Gillson | 22 | 21 | | | | 1 | |
| M. S. Lainé | 22 | 19 | 1 | | | 2 | |
| M. J. Storey | 22 | 11 | 1 | 9 | | 1 | |

CULTURE AND LEISURE DEPARTMENT

| | | | | | | | |
|-------------------|---|---|----|--|---|--|--|
| M. G. O'Hara | 4 | 4 | | | | | |
| M. G. G. Garrett | 4 | 3 | 1* | | * | | |
| G. P. Dudley-Owen | 4 | 4 | | | | | |
| J. A. B. Gollop | 4 | 2 | 2* | | * | | |
| F. W. Quin | 4 | 4 | | | | | |

EDUCATION DEPARTMENT

| | | | | | | | |
|-------------------|----|----|---|--|---|---|--|
| C. A. Steere | 14 | 14 | | | | | |
| A. H. Langlois | 10 | 8 | 1 | | 1 | | |
| M. W. Collins | 14 | 14 | | | | | |
| D. de G. De Lisle | 14 | 12 | 1 | | | 1 | |
| M. J. Fallaize | 14 | 12 | 1 | | 1 | | |
| A. Spruce | 4 | 4 | | | | | |

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

| ENVIRONMENT DEPARTMENT | | | | | | | |
|------------------------|----|----|---|--|---|---|--|
| P. R. Sirett | 10 | 9 | | | | 1 | |
| J. M. Tasker | 10 | 7 | 1 | | 1 | 1 | |
| J. Honeybill | 10 | 9 | 1 | | | | |
| J. M. Le Sauvage | 10 | 10 | | | | | |
| B. J. E. Paint | 10 | 9 | 1 | | | | |

| HEALTH AND SOCIAL SERVICES DEPARTMENT | | | | | | | |
|---------------------------------------|----|----|---|--|---|---|--|
| A. H. Adam | 15 | 15 | | | | | |
| B. L. Brehaut | 15 | 14 | | | | 1 | |
| A. R. Le Lièvre | 15 | 14 | | | | 1 | |
| M. M. Lowe | 15 | 14 | | | | 1 | |
| R. G. Willmott | 15 | 11 | 2 | | 1 | 1 | |

| HOME DEPARTMENT | | | | | | | |
|------------------|----|----|---|--|---|---|--|
| G. H. Mahy | 15 | 15 | | | | | |
| F. W. Quin | 15 | 14 | 1 | | | | |
| S. J. Maindonald | 15 | 15 | | | | | |
| J. M. Tasker | 15 | 11 | | | 3 | 1 | |
| M. S. Lainé | 15 | 15 | | | | | |

| HOUSING DEPARTMENT | | | | | | | |
|--------------------|----|----|---|---|---|---|--|
| D. B. Jones | 15 | 13 | | 2 | | | |
| G. Guille | 15 | 15 | | | | | |
| T. J. Stephens | 15 | 13 | 2 | | | | |
| G. P. Dudley-Owen | 15 | 11 | 2 | | 1 | 1 | |
| S. J. McManus | 15 | 14 | | | 1 | | |

| PUBLIC SERVICES DEPARTMENT | | | | | | | |
|----------------------------|----|----|---|---|--|---|--|
| B. M. Flouquet | 18 | 17 | | | | 1 | |
| S. J. Ogier | 18 | 14 | | | | 4 | |
| T. M. Le Pelley | 18 | 17 | | | | 1 | |
| A. Spruce | 18 | 17 | | | | 1 | |
| W. Walden | 18 | 11 | 2 | 1 | | 4 | |

| SOCIAL SECURITY DEPARTMENT | | | | | | | |
|----------------------------|----|----|---|--|---|---|-----------|
| M. H. Dorey | 15 | 14 | | | 1 | | |
| A. H. Brouard | 15 | 11 | 4 | | | | |
| M. W. Collins | 15 | 14 | 1 | | | | |
| A. R. Le Lièvre | 15 | 14 | 1 | | | | |
| S. J. Ogier | 15 | 7 | 3 | | 1 | 1 | 3 unknown |

| TREASURY AND RESOURCES DEPARTMENT | | | | | | | |
|-----------------------------------|----|----|--|--|--|---|--|
| C. N. K. Parkinson | 20 | 18 | | | | 2 | |
| A. H. Langlois | 20 | 18 | | | | 2 | |
| S. L. Langlois | 20 | 20 | | | | | |
| R. Domaille | 20 | 18 | | | | 2 | |
| J. Honeybill | 20 | 19 | | | | 1 | |

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

LEGISLATION SELECT COMMITTEE

| | | | | | | | |
|------------------|---|---|--|---|---|---|--|
| J. A. B. Gollop | 5 | 5 | | | | | |
| R. R. Matthews | 5 | 4 | | 1 | | | |
| L. R. Gallienne | 5 | 1 | | 1 | 2 | 1 | |
| S. J. Maindonald | 5 | 2 | | | 2 | 1 | |
| T. J. Stephens | 5 | 5 | | | | | |

PUBLIC ACCOUNTS COMMITTEE

| | | | | | | | |
|------------------|----|----|---|---|--|---|--|
| L. R. Gallienne | 16 | 16 | | | | | |
| M. G. G. Garrett | 16 | 14 | 1 | | | 1 | |
| B. J. E. Paint | 16 | 15 | 1 | | | | |
| T. J. Stephens | 16 | 14 | 2 | | | | |
| M. J. Storey | 16 | 8 | 2 | 5 | | 1 | |

PUBLIC SECTOR REMUNERATION COMMITTEE

| | | | | | | | |
|-----------------|---|---|---|--|--|---|--|
| A. H. Brouard | 5 | 5 | | | | | |
| A. Spruce | 5 | 5 | | | | | |
| M. W. Collins | 5 | 4 | 1 | | | | |
| R. Domaille | 5 | 3 | | | | 2 | |
| A. R. Le Lièvre | 5 | 4 | 1 | | | | |
| A. H. Langlois | 3 | 3 | | | | | |
| R. W. Sillars | 3 | 3 | | | | | |
| S. J. Ogier | 3 | 3 | | | | | |
| B. J. E. Paint | 3 | 3 | | | | | |
| T. J. Stephens | 3 | 3 | | | | | |

SCRUTINY COMMITTEE

| | | | | | | | |
|------------------|---|---|---|---|--|---|--|
| B. L. Brehaut | 5 | 5 | | | | | |
| M. J. Fallaize | 8 | 8 | | | | | |
| M. G. G. Garrett | 8 | 5 | | 2 | | 1 | |
| J. A. B. Gollop | 8 | 7 | 1 | | | | |
| M. P. J. Hadley | 8 | 7 | | | | 1 | |
| J. Kuttelwascher | 8 | 8 | | | | | |
| R. R. Matthews | 8 | 7 | 1 | | | | |
| S. J. McManus | 8 | 8 | | | | | |
| M. J. Storey | 8 | 5 | | 3 | | | |

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

| | | | | | | | |
|-----------------|---|---|---|---|---|---|--|
| I. F. Rihoy | 9 | 8 | | 1 | | | |
| M. M. Lowe | 9 | 8 | | | | 1 | |
| M. J. Fallaize | 9 | 8 | 1 | | | | |
| S. L. Langlois | 9 | 8 | | | 1 | | |
| T. M. Le Pelley | 9 | 7 | 1 | | 1 | | |

INHERITANCE LAW REVIEW COMMITTEE

| | | | | | | | |
|---------------|---|---|--|--|---|--|--|
| M. M. Lowe | 4 | 4 | | | | | |
| P. R. Sirett | 4 | 3 | | | 1 | | |
| R. W. Sillars | 4 | 4 | | | | | |

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

| PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE | | | | | | | |
|---|---|---|---|--|---|--|--|
| T. M. Le Pelley | 1 | 1 | | | | | |
| J. A. B. Gollop | 1 | | 1 | | | | |
| B. M. Flouquet | 1 | | | | 1 | | |
| M. M. Lowe | 1 | 1 | | | | | |
| S. L. Langlois | 1 | 1 | | | | | |

PART II - REPORT BY SUB-COMMITTEES

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

POLICY COUNCIL – Population Policy Group

| | | | | | | | |
|---------------------|---|---|--|--|---|--|-----------|
| B. M. Flouquet | 6 | 6 | | | | | |
| C. S. McNulty Bauer | 6 | 6 | | | | | |
| D. B. Jones | 6 | 5 | | | | | 1 unknown |
| G. H. Mahy | 6 | 4 | | | 1 | | 1 unknown |
| M. H. Dorey | 6 | 6 | | | | | |

POLICY COUNCIL – Social Policy Group

| | | | | | | | |
|--------------------|---|---|---|--|--|---|-----------|
| A. H. Adam | 5 | 4 | | | | | 1 unknown |
| M. H. Dorey | 5 | 4 | 1 | | | | |
| G. H. Mahy | 5 | 3 | 1 | | | | 1 unknown |
| C. A. Steere | 5 | 3 | 1 | | | | 1 unknown |
| C. N. K. Parkinson | 5 | 4 | | | | 1 | |
| A. R. Le Lièvre | 5 | 4 | 1 | | | | |
| G. Guille | 2 | 2 | | | | | |
| R. W. Sillars | 5 | 4 | | | | | 1 unknown |
| J. M. Tasker | 5 | 5 | | | | | |
| G. P. Dudley-Owen | 3 | 3 | | | | | |

POLICY COUNCIL – Strategic Land Planning Group

| | | | | | | | |
|---------------------|---|---|--|--|---|--|--|
| B. M. Flouquet | 4 | 4 | | | | | |
| P. R. Sirett | 4 | 4 | | | | | |
| C. S. McNulty Bauer | 3 | 3 | | | | | |
| M. G. O'Hara | 4 | | | | 4 | | |
| M. H. Dorey | 4 | 4 | | | | | |
| G. Guille | 1 | 1 | | | | | |
| T. M. Le Pelley | 1 | 1 | | | | | |
| P. L. Gillson | 1 | 1 | | | | | |

POLICY COUNCIL – Fiscal and Economic Policy Steering Group

| | | | | | | | |
|---------------------|---|---|---|--|---|---|--|
| L. S. Trott | 9 | 7 | | | 1 | 1 | |
| B. M. Flouquet | 9 | 7 | 1 | | 1 | | |
| A. H. Adam | 9 | 9 | | | | | |
| C. S. McNulty Bauer | 9 | 8 | | | 1 | | |
| C. N. K. Parkinson | 9 | 9 | | | | | |

POLICY COUNCIL – Energy Policy Group

| | | | | | | | |
|--------------------|---|---|--|--|---|---|--|
| C. N. K. Parkinson | 3 | 2 | | | | 1 | |
| M. S. Lainé | 3 | 3 | | | | | |
| J. M. Le Sauvage | 3 | 3 | | | | | |
| G. Guille | 3 | 2 | | | 1 | | |
| S. J. Ogier | 3 | 3 | | | | | |
| S. L. Langlois | 1 | 1 | | | | | |

POLICY COUNCIL – Environmental Policy Group

| | | | | | | | |
|----------------|---|---|--|--|---|--|--|
| P. R. Sirett | 1 | 1 | | | | | |
| B. M. Flouquet | 1 | 1 | | | | | |
| M. G. O'Hara | 1 | | | | 1 | | |
| C. A. Steere | 1 | | | | 1 | | |
| P. L. Gillson | 1 | 1 | | | | | |

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

POLICY COUNCIL – External Relations Group

| | | | | | | | |
|---------------------|---|---|--|---|---|---|--|
| L. S. Trott | 7 | 6 | | | 1 | | |
| B. M. Flouquet | 7 | 5 | | | | 2 | |
| C. S. McNulty Bauer | 7 | 6 | | | | 1 | |
| D. B. Jones | 7 | 5 | | | 2 | | |
| P. R. Sirett | 7 | 5 | | 1 | | 1 | |

POLICY COUNCIL – States Strategic Plan Team

| | | | | | | | |
|---------------------|----|----|--|---|---|---|-----------|
| C. N. K. Parkinson | 12 | 12 | | | | | |
| C. S. McNulty Bauer | 12 | 10 | | | 1 | 1 | |
| M. H. Dorey | 12 | 10 | | | 1 | | 1 unknown |
| S. J. McManus | 12 | 8 | | 1 | 3 | | |
| S. L. Langlois | 12 | 12 | | | | | |
| M. J. Storey | 12 | 4 | | 8 | | | |
| R. G. Willmott | 12 | 7 | | 1 | 2 | 1 | 1 unknown |

POLICY COUNCIL – Douzaine Liaison Team

| | | | | | | | |
|-----------------|---|---|--|--|--|--|--|
| A. H. Adam | 1 | 1 | | | | | |
| M. P. J. Hadley | 1 | 1 | | | | | |
| R. Domaille | 1 | 1 | | | | | |

POLICY COUNCIL – Parochial Legislation Working Party

| | | | | | | | |
|----------------|---|---|---|--|--|---|--|
| A. H. Adam | 2 | | 1 | | | 1 | |
| S. L. Langlois | 2 | 2 | | | | | |
| R. Domaille | 2 | 2 | | | | | |

**COMMERCE AND EMPLOYMENT DEPARTMENT and
TREASURY AND RESOURCES DEPARTMENT– Construction Sector Group**

| | | | | | | | |
|---------------------|---|---|--|--|---|--|--|
| C. S. McNulty Bauer | 2 | 2 | | | | | |
| P. L. Gillson | 2 | 1 | | | 1 | | |
| J. Honeybill | 2 | 2 | | | | | |
| S. L. Langlois | 2 | 1 | | | 1 | | |
| M. S. Lainé | 1 | 1 | | | | | |

COMMERCE AND EMPLOYMENT DEPARTMENT – Dairy Management Board

| | | | | | | | |
|---------------------|---|---|--|--|--|--|--|
| C. S. McNulty Bauer | 2 | 2 | | | | | |
| R. W. Sillars | 3 | 3 | | | | | |
| M. J. Storey | 1 | 1 | | | | | |

COMMERCE AND EMPLOYMENT DEPARTMENT – Business Guernsey Group

| | | | | | | | |
|---------------|---|---|--|---|---|---|--|
| R. W. Sillars | 6 | 6 | | | | | |
| M. S. Lainé | 6 | 5 | | 1 | | | |
| M. J. Storey | 6 | 0 | | 3 | 2 | 1 | |
| P. L. Gillson | 6 | 5 | | | | 1 | |

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

**COMMERCE AND EMPLOYMENT DEPARTMENT and
PUBLIC SERVICES DEPARTMENT – External Transport Group**

| | | | | | | | |
|---------------------|---|---|--|--|---|--|--|
| C. S. McNulty Bauer | 1 | 1 | | | | | |
| M. S. Lainé | 1 | 1 | | | | | |
| B. M. Flouquet | 1 | | | | 1 | | |
| S. J. Ogier | 1 | 1 | | | | | |
| T. M. Le Pelley | 1 | 1 | | | | | |

COMMERCE AND EMPLOYMENT DEPARTMENT – Finance Sector Group

| | | | | | | | |
|---------------------|---|---|--|---|---|---|--|
| C. S. McNulty Bauer | 5 | 4 | | | | 1 | |
| P. L. Gillson | 5 | 4 | | 1 | | | |
| L. S. Trott | 5 | 1 | | | 4 | | |
| C. N. K. Parkinson | 5 | 4 | | | | 1 | |
| M. S. Lainé | 1 | 1 | | | | | |
| R. W. Sillars | 1 | 1 | | | | | |

**COMMERCE AND EMPLOYMENT DEPARTMENT – Intellectual Property Office
Steering Group**

| | | | | | | | |
|--------------|---|---|--|--|--|--|--|
| M. J. Storey | 2 | 2 | | | | | |
|--------------|---|---|--|--|--|--|--|

**COMMERCE AND EMPLOYMENT DEPARTMENT – Guernsey Fulfilment and
Mail Order Group**

| | | | | | | | |
|-------------|---|---|--|--|--|--|--|
| M. S. Lainé | 1 | 1 | | | | | |
|-------------|---|---|--|--|--|--|--|

CULTURE AND LEISURE DEPARTMENT – Liberation Celebrations Committee

| | | | | | | | |
|-------------------|----|----|--|---|--|---|--|
| M. G. O'Hara | 13 | 13 | | | | | |
| G. P. Dudley-Owen | 6 | 4 | | 2 | | | |
| M. G. G. Garrett | 9 | 8 | | | | 1 | |

CULTURE AND LEISURE DEPARTMENT – KGV Management Committee

| | | | | | | | |
|------------------|---|---|--|--|--|---|--|
| M. G. G. Garrett | 5 | 3 | | | | 2 | |
|------------------|---|---|--|--|--|---|--|

CULTURE AND LEISURE DEPARTMENT – Channel Islands Lottery Advisory Panel

| | | | | | | | |
|------------|---|---|--|--|--|--|--|
| F. W. Quin | 1 | 1 | | | | | |
|------------|---|---|--|--|--|--|--|

CULTURE AND LEISURE DEPARTMENT – Guernsey Sports Commission

| | | | | | | | |
|------------|---|---|--|--|--|--|--|
| F. W. Quin | 4 | 4 | | | | | |
|------------|---|---|--|--|--|--|--|

CULTURE AND LEISURE DEPARTMENT – Friends of St. James Association

| | | | | | | | |
|------------------|---|---|--|--|--|--|--|
| M. G. G. Garrett | 3 | 3 | | | | | |
|------------------|---|---|--|--|--|--|--|

CULTURE AND LEISURE DEPARTMENT – Events Group

| | | | | | | | |
|------------------|---|---|--|--|---|--|--|
| M. G. O'Hara | 2 | 1 | | | 1 | | |
| M. G. G. Garrett | 1 | 1 | | | | | |

**CULTURE AND LEISURE DEPARTMENT – Events Group – Chairmen of Specialist Interest
Groups Sub-Meeting**

| | | | | | | | |
|------------------|---|---|--|--|--|--|--|
| M. G. G. Garrett | 1 | 1 | | | | | |
|------------------|---|---|--|--|--|--|--|

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

EDUCATION DEPARTMENT – Appointments Panel

| | | | | | | | |
|-------------------|---|---|--|--|--|--|--|
| C. A. Steere | 5 | 5 | | | | | |
| D. de G. De Lisle | 1 | 1 | | | | | |
| M. W. Collins | 4 | 4 | | | | | |
| A. H. Langlois | 2 | 2 | | | | | |
| M. J. Fallaize | 3 | 3 | | | | | |

EDUCATION DEPARTMENT – Baubigny Schools Project Board

| | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
| <i>No meetings</i> | | | | | | | |
|--------------------|--|--|--|--|--|--|--|

EDUCATION DEPARTMENT – Guille-Allès Library

| | | | | | | | |
|----------------|---|---|--|--|---|--|--|
| M. J. Fallaize | 3 | 2 | | | 1 | | |
|----------------|---|---|--|--|---|--|--|

EDUCATION DEPARTMENT – Blanchelande Girls' College Board

| | | | | | | | |
|----------------|---|--|--|---|---|--|--|
| C. A. Steere | 1 | | | | 1 | | |
| M. J. Fallaize | 1 | | | 1 | | | |

EDUCATION DEPARTMENT – e-Learning

| | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
| <i>No meetings</i> | | | | | | | |
|--------------------|--|--|--|--|--|--|--|

EDUCATION DEPARTMENT – College of Further Education Development Committee

| | | | | | | | |
|---------------|---|---|--|--|---|--|--|
| C. A. Steere | 1 | 1 | | | | | |
| M. W. Collins | 1 | | | | 1 | | |

EDUCATION DEPARTMENT – Apprenticeship Sub-Committee

| | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
| <i>No meetings</i> | | | | | | | |
|--------------------|--|--|--|--|--|--|--|

EDUCATION DEPARTMENT – Higher Education Working Party

| | | | | | | | |
|-------------------|---|---|--|--|--|--|--|
| C. A. Steere | 1 | 1 | | | | | |
| A. H. Langlois | 1 | 1 | | | | | |
| D. de G. De Lisle | 1 | 1 | | | | | |

EDUCATION DEPARTMENT – Grammar School Committee

| | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
| <i>No meetings</i> | | | | | | | |
|--------------------|--|--|--|--|--|--|--|

EDUCATION DEPARTMENT – Joint Advisory Committee

| | | | | | | | |
|----------------|---|---|--|--|--|--|--|
| C. A. Steere | 2 | 2 | | | | | |
| M. J. Fallaize | 2 | 2 | | | | | |

EDUCATION DEPARTMENT – Lifelong Learning Sub-Committee

| | | | | | | | |
|----------------|---|---|--|--|---|--|--|
| A. H. Langlois | 2 | 1 | | | 1 | | |
| M. S. Lainé | 2 | 1 | | | 1 | | |
| P. L. Gillson | 2 | 2 | | | | | |
| M. J. Fallaize | 1 | 1 | | | | | |

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|---|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |
| EDUCATION DEPARTMENT – Guernsey Training Agency | | | | | | | |
| M. W. Collins | 2 | | 1 | | | 1 | |
| EDUCATION DEPARTMENT – Youth Service | | | | | | | |
| A. H. Langlois | 2 | 2 | | | | | |
| EDUCATION DEPARTMENT – Standing Advisory Council for Religious Education | | | | | | | |
| <i>No meetings</i> | | | | | | | |
| EDUCATION DEPARTMENT – Amherst and Vauvert Primary Schools’ Committee | | | | | | | |
| M. W. Collins | 2 | 1 | | | 1 | | |
| EDUCATION DEPARTMENT – Forest Primary School Committee | | | | | | | |
| D. de G. De Lisle | 1 | 1 | | | | | |
| EDUCATION DEPARTMENT – La Mare de Carteret Primary School Committee | | | | | | | |
| D. de G. De Lisle | 1 | 1 | | | | | |
| EDUCATION DEPARTMENT – La Houquette Primary School Committee | | | | | | | |
| De. De G. De Lisle | 2 | 2 | | | | | |
| EDUCATION DEPARTMENT – St Andrew’s Primary School Committee | | | | | | | |
| C. A. Steere | 1 | 1 | | | | | |
| EDUCATION DEPARTMENT – Castel Primary School Committee | | | | | | | |
| C. A. Steere | 1 | 1 | | | | | |
| EDUCATION DEPARTMENT – St Martins Primary School Committee | | | | | | | |
| C. A. Steere | 1 | | | | 1 | | |
| EDUCATION DEPARTMENT – St Mary and St Michael Roman Catholic Primary School Committee | | | | | | | |
| C. A. Steere | 2 | 2 | | | | | |
| M. W. Collins | 2 | 2 | | | | | |
| EDUCATION DEPARTMENT – Notre Dame du Rosaire Roman Catholic Primary School Committee | | | | | | | |
| <i>No meetings</i> | | | | | | | |
| EDUCATION DEPARTMENT – Hautes Capelles Primary School Committee | | | | | | | |
| M. J. Fallaize | 1 | 1 | | | | | |
| EDUCATION DEPARTMENT – Vale Infant and Junior and St Sampson’s Infant Schools’ Committee | | | | | | | |
| M. J. Fallaize | 2 | | | 1 | 1 | | |
| EDUCATION DEPARTMENT – St. Peter Port School Committee | | | | | | | |
| A. H. Langlois | 2 | | | | 2 | | |

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

EDUCATION DEPARTMENT – St Sampson’s High School Committee

A. H. Langlois

1

1

EDUCATION DEPARTMENT – Les Beaucamps High School Committee

C. A. Steere

1

1

EDUCATION DEPARTMENT - St Anne’s School Committee

A. H. Langlois

1

1

EDUCATION DEPARTMENT – La Mare de Carteret High School Committee

D. de G. De Lisle

2

1

1

EDUCATION DEPARTMENT – ICT Project Board

M. W. Collins

7

5

1

1

R. Domaille

7

6

1

EDUCATION DEPARTMENT – Les Beaucamps Project Board

C. A. Steere

2

2

M. W. Collins

2

2

J. Honeybill

2

2

S. L. Langlois

2

2

HOME DEPARTMENT – Gambling Sub-Committee
No meetings
HOME DEPARTMENT – Law Enforcement Working Group

G. R. Mahy

5

5

HOME DEPARTMENT – Accommodation Sub-Committee
No meetings
PUBLIC SERVICES DEPARTMENT – Pilotage Board

W. Walden

1

1

A. Spruce

1

1

PUBLIC SERVICES DEPARTMENT – Waste Disposal Authority

B. M. Flouquet

3

2

1

S. J. Ogier

3

3

T. M. Le Pelley

3

3

A. Spruce

3

3

W. Walden

3

1

2

PUBLIC SERVICES DEPARTMENT – Guernsey Recycling Advisory Forum

S. J. Ogier

6

4

2

PUBLIC SERVICES DEPARTMENT – Alderney Airport Working Party
No meetings

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

PUBLIC SERVICES DEPARTMENT – Waste Industry Forum
No meetings
TREASURY AND RESOURCES DEPARTMENT – Property Services Sub-Committee

| | | | | | | | |
|----------------|----|----|--|--|--|---|--|
| J. Honeybill | 11 | 11 | | | | | |
| R. Domaille | 11 | 7 | | | | 4 | |
| S. L. Langlois | 11 | 11 | | | | | |

TREASURY AND RESOURCES DEPARTMENT – Investments Sub-Committee

| | | | | | | | |
|--------------------|---|---|--|--|--|---|--|
| C. N. K. Parkinson | 8 | 8 | | | | | |
| J. Honeybill | 8 | 6 | | | | 2 | |
| S. L. Langlois | 8 | 8 | | | | | |

TREASURY AND RESOURCES DEPARTMENT – ICT Sub-Committee

| | | | | | | | |
|----------------|---|---|--|--|--|---|--|
| R. Domaille | 3 | 2 | | | | 1 | |
| A. H. Langlois | 3 | 3 | | | | | |

TREASURY AND RESOURCES DEPARTMENT – Accountancy Sub-Committee

| | | | | | | | |
|--------------------|---|---|--|--|--|--|--|
| C. N. K. Parkinson | 2 | 2 | | | | | |
| A. H. Langlois | 2 | 2 | | | | | |
| S. L. Langlois | 2 | 2 | | | | | |

TREASURY AND RESOURCES DEPARTMENT – Land Registry Steering Group

| | | | | | | | |
|----------------|---|---|--|--|--|--|--|
| J. Honeybill | 5 | 5 | | | | | |
| S. L. Langlois | 5 | 5 | | | | | |

TREASURY AND RESOURCES DEPARTMENT – Digimap Management Board

| | | | | | | | |
|----------------|---|---|--|--|--|--|--|
| S. L. Langlois | 2 | 2 | | | | | |
|----------------|---|---|--|--|--|--|--|

PUBLIC ACCOUNTS COMMITTEE – Audit Sub-Committee

| | | | | | | | |
|-----------------|---|---|--|---|--|---|--|
| L. R. Gallienne | 2 | 2 | | | | | |
| M. J. Storey | 2 | | | 1 | | 1 | |
| T. J. Stephens | 2 | 2 | | | | | |

PUBLIC ACCOUNTS COMMITTEE – New Jetty Group
No meetings
PUBLIC ACCOUNTS COMMITTEE – Auditor General Working Party

| | | | | | | | |
|-----------------|---|---|--|--|--|--|--|
| L. E. Gallienne | 3 | 3 | | | | | |
|-----------------|---|---|--|--|--|--|--|

PUBLIC ACCOUNTS COMMITTEE – Corporate Governance Group

| | | | | | | | |
|-----------------|---|---|--|--|--|--|--|
| T. J. Stephens | 1 | 1 | | | | | |
| L. R. Gallienne | 1 | 1 | | | | | |

PUBLIC ACCOUNTS COMMITTEE – Investment Group
No meetings

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |

PUBLIC ACCOUNTS COMMITTEE – Contract Review Working Party

| | | | | | | | |
|------------------|---|---|--|--|--|--|--|
| T. J. Stephens | 1 | 1 | | | | | |
| M. G. G. Garrett | 1 | 1 | | | | | |
| L. R. Gallienne | 1 | 1 | | | | | |

PUBLIC SECTOR REMUNERATION COMMITTEE – Public Service Employees Joint Council

| | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
| <i>No meetings</i> | | | | | | | |
|--------------------|--|--|--|--|--|--|--|

PUBLIC SECTOR REMUNERATION COMMITTEE – Teachers and Lecturers Joint Council

| | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
| <i>No meetings</i> | | | | | | | |
|--------------------|--|--|--|--|--|--|--|

PUBLIC SECTOR REMUNERATION COMMITTEE – Civil Service Joint Council

| | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
| <i>No meetings</i> | | | | | | | |
|--------------------|--|--|--|--|--|--|--|

PUBLIC SECTOR REMUNERATION COMMITTEE – Pensions Consultative Committee

| | | | | | | | |
|----------------|---|---|--|--|--|--|--|
| A. H. Langlois | 1 | 1 | | | | | |
| R. W. Sillars | 1 | 1 | | | | | |
| S. J. Ogier | 1 | 1 | | | | | |
| B. J. E. Paint | 1 | 1 | | | | | |
| T. J. Stephens | 1 | 1 | | | | | |

PART III - REPORT BY MEMBER/ELECTORAL DISTRICT

Summary of Attendances at Meetings of the Policy Council, Departments and Committees, and of Sub-Committees thereof

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|----------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|-----------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |
| ST PETER PORT SOUTH | | | | | | | |
| B. L. Brehaut | 20 | 19 | | | | 1 | |
| C. S. McNulty Bauer | 86 | 76 | 2 | | 3 | 5 | |
| J. M. Tasker | 31 | 24 | 1 | | 4 | 2 | |
| R. Domaille | 48 | 38 | | | | 10 | |
| A. H. Langlois | 51 | 44 | 1 | | 4 | 2 | |
| J. Kuttelwascher | 8 | 8 | | | | | |
| ST PETER PORT NORTH | | | | | | | |
| J. A. B. Gollop | 18 | 14 | 4 | | | | |
| R. R. Matthews | 13 | 11 | 1 | 1 | | | |
| C. A. Steere | 55 | 45 | 3 | | 4 | 2 | 1 unknown |
| M. J. Storey | 69 | 31 | 3 | 29 | 2 | 4 | |
| J. Honeybill | 58 | 54 | 1 | | | 3 | |
| L. R. Gallienne | 28 | 24 | | 1 | 2 | 1 | |
| M. W. Collins | 54 | 46 | 4 | | 3 | 1 | |
| ST. SAMPSON | | | | | | | |
| P. L. Gillson | 39 | 35 | | 1 | 1 | 2 | |
| S. J. Maindonald | 20 | 17 | | | 2 | 1 | |
| S. J. Ogier | 51 | 36 | 4 | | 3 | 5 | 3 unknown |
| I. F. Rihoy | 9 | 8 | | 1 | | | |
| L. S. Trott | 33 | 25 | | | 5 | 3 | |
| T. J. Stephens | 44 | 40 | 4 | | | | |
| VALE | | | | | | | |
| M. J. Fallaize | 44 | 37 | 2 | 2 | 3 | | |
| G. H. Mahy | 48 | 42 | 1 | | 1 | 2 | 2 unknown |
| A. Spruce | 31 | 30 | | | | 1 | |
| M. M. Lowe | 29 | 27 | | | | 2 | |
| G. Guille | 24 | 23 | | | 1 | | |
| D. B. Jones | 45 | 36 | 1 | 2 | 2 | 3 | 1 unknown |
| A. R. Le Lièvre | 40 | 36 | 3 | | | 1 | |
| CASTEL | | | | | | | |
| M. H. Dorey | 59 | 54 | 1 | | 2 | 1 | 1 unknown |
| A. H. Adam | 49 | 45 | 1 | | 1 | 1 | 1 unknown |
| T. M. Le Pelley | 33 | 30 | 1 | | 1 | 1 | |
| S. J. McManus | 35 | 30 | | 1 | 4 | | |
| B. J. E. Paint | 30 | 28 | 2 | | | | |
| B. M. Flouquet | 67 | 57 | 1 | | 4 | 5 | |
| M. G. G. Garrett | 51 | 42 | 2 | 2 | | 5 | |

| NAME OF MEMBER | TOTAL NUMBER OF MEETINGS | MEMBER PRESENT | | MEMBER ABSENT | | | |
|--------------------------|-----------------------------------|------------------|--------------------|---------------|--------------------|-----------------------------------|------------|
| | | Whole Meeting | Part of Meeting | Indisposed | States business | Personal/ business/ holiday | Other |
| WEST | | | | | | | |
| A. H. Brouard | 21 | 17 | 4 | | | | |
| D. de G. De Lisle | 23 | 20 | 1 | | 1 | 1 | |
| M. S. Lainé | 54 | 49 | 1 | 1 | 1 | 2 | |
| S. L. Langlois | 77 | 75 | | | 2 | | |
| P. R. Sirett | 43 | 35 | 1 | 1 | 1 | 5 | |
| G. P. Dudley-Owen | 28 | 22 | 2 | 2 | 1 | 1 | |
| SOUTH-EAST | | | | | | | |
| C. N. K. Parkinson | 81 | 75 | | | 1 | 5 | |
| F. W. Quin | 25 | 24 | 1 | | | | |
| M. G. O’Hara | 41 | 30 | 1 | | 8 | 2 | |
| R. W. Sillars | 45 | 38 | 3 | | | 3 | 1 unknown |
| J. M. Le Sauvage | 13 | 13 | | | | | |
| M. P. J. Hadley | 8 | 7 | | | | 1 | |
| ALDERNEY REPRESENTATIVES | | | | | | | |
| R. G. Willmott | 27 | 18 | 2 | 1 | 3 | 2 | 1 unknown |
| W. Walden | 22 | 12 | 2 | 1 | | 7 | |
| | | | | | | | |
| TOTAL | | | | | | | |
| Number of meetings | 1,828 | 1,547 | 61 | 46 | 70 | 93 | 11 unknown |
| | | 85% | 3% | 2% | 4% | 5% | 1% |
| | | | | | | | |
| AVERAGE PER MEMBER | | | | | | | |
| | 39 | 33 | 1 | 1 | 2 | 2 | <1 |

PART IV – REPORT OF ATTENDANCE IN THE STATES OF DELIBERATION

| NAME OF MEMBER | TOTAL NUMBER OF DAYS (or part) | DAYS ATTENDED (or part) |
|----------------------------|--------------------------------|-------------------------|
| ST PETER PORT SOUTH | | |
| B. L. Brehaut | 19 | 19 |
| C. S. McNulty Bauer | 19 | 19 |
| J. M. Tasker | 19 | 15 |
| R. Domaille | 19 | 19 |
| A. H. Langlois | 19 | 19 |
| J. Kuttelwascher | 19 | 18 |
| ST PETER PORT NORTH | | |
| J. A. B. Gollop | 19 | 19 |
| R. R. Matthews | 19 | 19 |
| C. A. Steere | 19 | 19 |
| M. J. Storey | 19 | 17 |
| J. Honeybill | 19 | 16 |
| L. R. Gallienne | 19 | 16 |
| M. W. Collins | 19 | 19 |
| ST SAMPSON | | |
| P. L. Gillson | 19 | 18 |
| S. J. Maindonald | 19 | 19 |
| S. J. Ogier | 19 | 18 |
| I. F. Rihoy | 19 | 15 |
| L. S. Trott | 19 | 18 |
| T. J. Stephens | 19 | 19 |
| VALE | | |
| M. J. Fallaize | 19 | 19 |
| G. H. Mahy | 19 | 19 |
| A. Spruce | 19 | 19 |
| M. M. Lowe | 19 | 19 |
| G. Guille | 19 | 15 |
| D. B. Jones | 19 | 19 |
| A. R. Le Lièvre | 19 | 19 |
| CASTEL | | |
| M. H. Dorey | 19 | 19 |
| A. H. Adam | 19 | 19 |
| T. M. Le Pelley | 19 | 19 |
| S. J. McManus | 19 | 15 |
| B. J. E. Paint | 19 | 19 |
| B. M. Flouquet | 19 | 19 |
| M. G. G. Garrett | 19 | 19 |

| NAME OF MEMBER | TOTAL NUMBER OF DAYS (or part) | DAYS ATTENDED (or part) |
|---------------------------------|--------------------------------|-------------------------|
| WEST | | |
| A. H. Brouard | 19 | 19 |
| D. de G. De Lisle | 19 | 19 |
| M. S. Lainé | 19 | 19 |
| S. L. Langlois | 19 | 19 |
| P. R. Sirett | 19 | 18 |
| G. P. Dudley-Owen | 19 | 19 |
| SOUTH-EAST | | |
| C. N. K. Parkinson | 19 | 19 |
| F. W. Quin | 19 | 19 |
| M. G. O'Hara | 19 | 18 |
| R. W. Sillars | 19 | 19 |
| J. M. Le Sauvage | 19 | 16 |
| M. P. J. Hadley | 19 | 19 |
| ALDERNEY REPRESENTATIVES | | |
| R. G. Willmott | 19 | 18 |
| W. Walden | 16 | 15 |
| E. Bennett | 3 | 3 |

Note:

The only inference which can be drawn from the statistics in this part of the report is that a Member was present for the roll call or was subsequently *relévé(e)*.

Some Members recorded as absent will have been absent for acceptable reasons, e.g. illness or representing the States in some other forum such as the Commonwealth Parliamentary Association.