

**REPLY BY THE CHIEF MINISTER OF THE POLICY COUNCIL,
MINISTER OF THE TREASURY AND RESOURCES DEPARTMENT,
MINISTER OF THE SOCIAL SECURITY DEPARTMENT, AND
MINISTER OF THE COMMERCE AND EMPLOYMENT DEPARTMENT TO
QUESTIONS ASKED PURSUANT TO RULE 6 OF THE RULES OF PROCEDURE
BY DEPUTY CHRISTOPHER GREEN**

Preamble

A)

At the February 2012 meeting of the States of Deliberation, the last States made a number of resolutions after consideration of a policy letter dated 7th December 2011 from the Policy Council (see Billet IV of 2012) in relation to "MATERNITY AND PATERNITY PROVISIONS AND THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)".

The States resolved as follows:

- " 1. *To agree the introduction of 2 weeks compulsory statutory maternity leave.*
2. *To agree the introduction of 12 weeks basic statutory maternity leave.*
3. *To agree the introduction of an enhanced period of 26 weeks statutory maternity leave for employees who have been continuously employed by their current employer, including an associate employer, for at least fifteen consecutive months prior to their due date.*
4. *To agree the introduction of statutory time off to attend ante-natal appointments.*
5. *To agree that an employee who elects to work for his or her employer for up to 10 days whilst on maternity leave, except during the period of compulsory maternity leave, should remain entitled to maternity leave and benefits.*
6. *To agree that women intending to take statutory maternity leave should give their employer at least 3 months written notice of their birth due date and when they would like their maternity leave to start, this notice period to be subject to the following conditions:*
 - a) *where possible, women should also say when they expect to return to work;*
 - b) *both the maternity leave start date and the return to work date could be changed as long as this was discussed and agreed between the woman and her employer and provided one month's notice of the return to work date was given. These dates could also be changed where either the mother or baby was ill or the baby was delivered prematurely and employers would be expected to be flexible in these circumstances;*
 - c) *an employer would be allowed to require an employee on pregnancy related sick leave to start their maternity leave 6 weeks prior to their due date (in line*

with current Social Security Department policy on sickness benefit and maternity allowance);

- d) it would be the employer's responsibility to confirm the maternity leave and agreed return to work date. This should be done within two weeks of receiving the initial request and within two weeks after being notified of the birth or when a change to the return to work date was requested.*
- 7. To agree the introduction of a 2 week period of statutory maternity support leave for the partner of an expectant woman provided the person taking the leave has worked for his or her current employer for at least fifteen consecutive months.*
- 8. To agree the introduction of similar statutory leave provisions for parents who adopt children as would be available for parents of a new born, that is:*
- a) statutory leave be available as provided to parents of newborn children, dependant on whether qualifying periods had been met;*
- and*
- b) a period of two weeks mandatory leave in order to encourage bonding between the parent and the adopted child, immediately after adoption.*
- 9. To direct that such legislation as may be necessary to give effect to the foregoing shall be prepared.*
- 10. To direct the Social Security Department to report back to the States, at the same time it reports on the funding of other benefits, with proposals for funding and requesting the preparation of the necessary legislation to provide for:*
- a) Changes to the maternity grant to make it available to all new mothers.*
- b) Changes to maternity allowance to split it into a maternal health allowance and a new born care allowance with the rate of both being £180 per week (2011 rate) and the conditions as set out in paragraphs 7.10 to 7.25.*
- c) A new adoption grant at same rate as a maternity grant in the case of adoption for a child under 18.*
- d) a new benefit of parental allowance of £180 per week (2011 rate) which can be claimed by either parent immediately following the adoption of a child under 18 years of age.*
- 11. To direct the Treasury and Resources Department to report back to the States, at the same time as the Social Security Department reports back on proposition 10 above, with proposals to fund any consequential expenditure incurred by the States as an employer or in the grant from General Revenue."*

B)

In Billet XXI of 2014, the Social Security Department reported as follows on the Maternity and paternity provisions and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):

"86. The States considered the Policy Council's report on Maternity and Paternity Provisions and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in February 2012 (Billet d'État No IV of 2012). States Members resolved, among other things, to direct the Social Security Department to report back to the States, at the same time it reports on funding other benefits, with proposals for funding and requesting the preparation of the necessary legislation to provide for:-

- changes to the maternity grant to make it available to all new mothers;
- changes to maternity allowance to split it into a maternal health allowance, available only to mothers, and a new born care allowance, available to either parent;
- a new adoption grant at the same rate as maternity grant;
- a new benefit of parental allowance available to adoptive mothers or fathers.

87. The enhanced package of parental benefits will cost in the order of an additional £1.9m per annum (2012 levels) and require an increase in social insurance contributions of up to 0.2%. Funding is being considered in the wider context of the PTBR and the Department expects to bring forward specific proposals regarding how the new package of benefits will be funded during 2015.

88. In view of the relatively long lead-in period for the implementation of new benefits due to the need to amend primary and secondary legislation and make system (IT) changes, the Department has recently commenced work on this project in advance of a States decision regarding funding. Due to the high level of complexity of individual workstreams, the earliest practical date for implementation of the new benefits is estimated to be January 2017."

C)

In Billet IV for 2015, the Treasury and Resources and Social Security Departments have set out the following on these issues in their long-anticipated report following the review of personal taxes, benefits and pensions:

"Parental benefits

5.2.33. In accordance with the UN Convention on the Elimination of All Forms of Discrimination Against Women, in 2012, the States approved recommendations to enhance the provision of maternity and paternity benefits in Guernsey (Billet d'État IV, February 2012). At the same time, the States directed the Personal Tax, Pensions and Benefits Review to find a source of funding for this benefit. This benefit is expected to be provided from the GIF, for which provisional estimates are that this would cost approximately £1.9m per year.

5.2.34. Under the recommendations presented for pensions, assuming the guideline level of pension uprating is reduced to RPIX only in the medium term (within ten years), and economic conditions improve beyond very recent experience, this benefit could be provided from the GIF without the need to increase contributions. If economic growth is not forthcoming, additional funds could be required to support this benefit.

5.2.35. The Joint Board notes that the Parental Benefits project has not yet reached the implementation stage and final proposals are not expected to be brought to the States until 2017. By this time it may be possible to get a clearer idea of Guernsey's economic and fiscal position."

At proposition 16, the Joint Boards propose the following:

"To direct the Social Security Department to review the funding of parental benefits with reference to recommendations 9 to 14, where agreed, as part of the Personal Tax, Pensions and Benefits Review, before any proposals for change to such benefits resulting from its review entitled 'Changes to Parental Care Provisions' are laid before the States of Deliberation. "

Question 1

What progress has been made so far on the implementation of the February 2012 States' resolutions, particularly (but not limited to) those resolutions which relate to the new statutory maternity and paternity leave provisions?

Answer

Work has progressed jointly between the Policy Council, the Commerce and Employment Department and the Law Officers Chambers, at staff level, on the implementation of the legislative changes required for the introduction of statutory maternity leave, adoption leave, maternity support leave and adoption support leave. It is envisaged that a States Report will be considered during the Summer of 2015 addressing this issue.

With regard to the new parental benefits, the States have already been informed, as quoted in your preamble, that the earliest practical date for implementation is estimated to be January 2017. This delay arises from the lead-in time for amendments to primary and secondary legislation, necessary changes in the Social Security Department's computer system, plus the need to address funding as part of the shortly to be debated Personal, Tax, Pensions and Benefits Review.

Question 2

Why has there been delay in implementing all of these above resolutions, in particular (but not limited to) the resolutions that relate to the new statutory leave provisions?

Answer

It was the initial intention that both the changes to benefits and the implementation of statutory leave would commence at the same time, so that information and training could be provided for all the changes as a package.

When it became clear that the benefit changes could not be made until at least 2017, it was decided to propose to the States that the introduction of statutory leave connected with maternity should be progressed as a separate matter. This work is well in hand.

Question 3

When can we expect the full implementation of all of the 2012 States' resolutions on maternity and paternity?

Answer

Please see the response to Question 1.

Question 4

What level of priority will be given to the drafting of the necessary legislation to implement all of the above States' resolutions by the Policy Council?

Answer

Drafting in respect of statutory leave connected with maternity is well advanced, so that the legislation will follow shortly after the States Report referred to in the response to Question 1.

The timetable for the other legislative changes has been described earlier in these replies.

Question 5

Bearing in mind the evolution of maternity and paternity rights in other jurisdictions since the States resolved as above in February 2012, would there be merit in considering reasonable modification of the periods of leave in order to increase maternity leave entitlements?

Answer

The States agreed in 2012 that providing the claimant had met the necessary eligibility criteria for entitlement to maternal health allowance and/or newborn care allowance (or parental allowance in respect of the adoption of a child under 18), the maximum period of benefit entitlement and the maximum period of statutory maternity leave should be of the same length. This means that for those women who do not receive maternity pay from their employer they will have some income from benefits enabling them more easily to afford to take leave.

Further increasing the statutory leave period would require the cost and affordability of increases to the relevant benefits to be reconsidered, at a time when the funding has not yet been secured for the increases agreed in 2012.

Question 6

Does the Chief Minister / Minister agree that it is deeply regrettable and wholly unacceptable that clear States' resolutions from February 2012 have not been actioned with more speed and greater priority?

Answer

Yes, the delays are certainly deeply regrettable, but perhaps not wholly unacceptable, given that these are but a couple of the many far reaching social policy issues being looked at simultaneously, all of which are important in their own right. To progress all of these issues in a coordinated and timely manner with limited resources is inevitably challenging, especially during a period in which the States has also resolved to limit expenditure, which inevitably has had an effect on staff availability to progress such a heavy agenda. Thus it could be anticipated that delays would occur, and have done so in many areas, not just social policy.

The answers to the previous questions explain these specific delays and the work to date. So while the delays are regrettable, with States' approval it is intended that the right to statutory leave connected with maternity should be in force by early 2016, with the benefit changes to follow in 2017.

Date of Receipt of the Question: 22nd February 2015

Date of Reply: 12th March 2015