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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Fifth periodic reports submitted by States parties under  
articles 16 and 17 of the Covenant**

**Addendum**

**UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND:**

**CROWN DEPENDENCIES**

[7 August 2007]

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**CHAPTER I. REPORT FROM THE BAILIWICK OF GUERNSEY  
AND ITS DEPENDENCIES**

**1. Statistics (includes the sections “land and people” and  
“economic, social and cultural characteristics”)<sup>1</sup>**

Population	<ul style="list-style-type: none"> <li>• 76,315 (Isle of Man - in 2001).</li> <li>• 88,200 (Bailiwick of Jersey - in 2005).</li> <li>• 63,267 (Bailiwick of Guernsey - in 2001).</li> </ul>
Number of men per 100 women	<ul style="list-style-type: none"> <li>• 96 (Isle of Man - in 2001).</li> <li>• 95 (Bailiwick of Jersey - in 2001).</li> <li>• 98 (Bailiwick of Guernsey - in 2001).</li> </ul>
Ethnic groups	<ul style="list-style-type: none"> <li>• 51% Jersey, 35% UK, 6% Portuguese/Madeiran, 3% Irish (Bailiwick of Jersey - in 2001).</li> <li>• 60.8% Guernsey, 0.6% Jersey, 25.9% UK, 0.6% Irish, 1.8% Portuguese, 1.5% Other EU, 0.6% Other Europe, 2.3% Other - (Bailiwick of Guernsey - in 2001).</li> </ul>
Percentage of population under 15	<ul style="list-style-type: none"> <li>• 17.8% (Isle of Man - in 2001).</li> <li>• 15.7% (Bailiwick of Guernsey - in 2001).</li> <li>• 18% (Bailiwick of Jersey - in 2001).</li> </ul>
Percentage of population over 65	<ul style="list-style-type: none"> <li>• 16.7% (Isle of Man - in 2001).</li> <li>• 15.5% (Bailiwick of Guernsey - in 2001).</li> <li>• 16.6% (Bailiwick of Jersey - in 2001).</li> </ul>
Percentage of population in urban areas	<ul style="list-style-type: none"> <li>• 72.6% (Isle of Man - in 2001).</li> <li>• 50% approx. (Bailiwick of Jersey - in 2005).</li> <li>• 27.6% (Bailiwick of Guernsey - in 2001).</li> </ul>
Religion	<ul style="list-style-type: none"> <li>• Christian (majority), Islamic, Judaic (Bailiwick of Guernsey).</li> </ul>
GDP	<ul style="list-style-type: none"> <li>• £1.3 billion (Isle of Man - in 2003-04).</li> <li>• £2.7 billion (Bailiwick of Jersey - in 2005).</li> <li>• £1.5 billion (Bailiwick of Guernsey - in 2006).</li> </ul> <p><i>(Note: different methodologies are used to calculate GDP between the three Islands, and therefore the figures may not be directly comparable.)</i></p>
GDP per head	<ul style="list-style-type: none"> <li>• £17,309 (Isle of Man - in 2003-04).</li> <li>• £30,900 (Bailiwick of Jersey - in 2005).</li> <li>• £24,538 (Bailiwick of Guernsey - in 2004).</li> </ul>

<sup>1</sup> Economic Affairs Division - Isle of Man Treasury, *Digest of Economic and Social Statistics 2006*. States of Jersey Statistics Unit, *Jersey in Figures 2005*, *Report of 2001 Jersey Census*, *States of Jersey 2005 Financial Accounts*. 2001 Guernsey Census - *Report on the census of population and households*.

Inflation	<ul style="list-style-type: none"> <li>• 4.2% (Isle of Man - in 2005).</li> <li>• 3.1% (Bailiwick of Jersey - in 2005).</li> <li>• 4.4% (Bailiwick of Guernsey - in Dec 2006).</li> </ul>
Government deficit/surplus	<ul style="list-style-type: none"> <li>• £14 million (Isle of Man - in 2004-05).</li> <li>• £39.2 million (Bailiwick of Jersey - in 2005).</li> <li>• £18.9 million (Bailiwick of Guernsey - in 2005).</li> </ul>
Government debt	<ul style="list-style-type: none"> <li>• £117,261 million (Bailiwick of Jersey - in 2005).</li> </ul>
Employment rate	<ul style="list-style-type: none"> <li>• 98% (Isle of Man - in 2001).</li> <li>• 82% (Bailiwick of Jersey - in 2001).</li> <li>• 99% (Bailiwick of Guernsey - in 2006).</li> </ul>
Adult literacy	<ul style="list-style-type: none"> <li>• Guernsey 100%</li> </ul>
Languages	<ul style="list-style-type: none"> <li>• English, Manx Gaelic (Isle of Man).</li> <li>• English, French (Bailiwick of Jersey).</li> <li>• English and Norman-French (Bailiwick of Guernsey).</li> </ul>
Life expectancy	<ul style="list-style-type: none"> <li>• 76.3 - M; 80.7 - F (Isle of Man - in 2001).</li> <li>• 77 - M; 82 - F (Bailiwick of Jersey - in 2004).</li> <li>• 77.5 - M; 82.0 - F (Bailiwick of Guernsey - in 2001).</li> </ul>
Infant mortality - number of deaths of children aged under 1 year per 1,000 live births	<ul style="list-style-type: none"> <li>• 3.6 (Isle of Man - in 2000-04).</li> <li>• 2.1 (Bailiwick of Jersey - in 2004).</li> <li>• 4.5 (Bailiwick of Guernsey - in 1999-03).</li> </ul>
Fertility rate <sup>2</sup>	<ul style="list-style-type: none"> <li>• 56.7 (Isle of Man - in 2000-04).</li> <li>• 51.3 (Bailiwick of Jersey - in 2004).</li> <li>• 46.6 (Bailiwick of Guernsey - in 2001).</li> </ul>

## 2. General political structure

### System of government

1. The system of government in the Bailiwick has evolved over a long period from origins of great antiquity. Nevertheless, the system is based upon the democratic principle and the authority of each Legislative Assembly in Guernsey, Alderney and Sark is undisputed in each respective Island. The system of government reflects the conservative and law-abiding characteristics of the Bailiwick community.

### The Crown and the Bailiwick

2. The British Crown retains ultimate responsibility for the good government of the Bailiwick acting through the Privy Council on the recommendation of Ministers of the United Kingdom Government in their capacity as Privy Councillors. However, the Crown is fully mindful of the

<sup>2</sup> Calculated in live births per 1,000 females aged 15-44.

Bailiwick people's right of self-determination, and is unlikely to attempt to exercise any theoretical power to legislate at last resort without the consent of the Bailiwick authorities. The United Kingdom's Secretary of State for Constitutional Affairs is the member of the Privy Council primarily concerned with the affairs of the Bailiwick and is the channel of communication between the Bailiwick, the Crown and the United Kingdom Government. He is responsible for forwarding Bailiwick Laws to the Privy Council (after consultation with any other Government Ministers who may be concerned) for Royal Assent.

### **The Bailiwick and Parliament**

3. The Bailiwick is not represented in the United Kingdom's Parliament and Acts of Parliament do not apply automatically to it. However, on the rare occasions when it may be agreed necessary for United Kingdom legislation to be applied in the Bailiwick, consultations are held between the United Kingdom Government and the Bailiwick Authorities concerning not only the content and purpose of the legislation, but also the appropriate method for applying the legislation in the Bailiwick.

### **Constitutional relationship with the United Kingdom**

4. The constitutional and economic relationship between the United Kingdom and the Bailiwick was examined by a Royal Commission appointed in 1969. It accepted the convention that the United Kingdom's Parliament does not legislate on domestic matters for the Bailiwick without the consent of the Bailiwick Authorities, but nevertheless concluded that the United Kingdom must have powers in the last resort to intervene in any Bailiwick matter, including power to legislate, so long as it remains responsible for the external relations of the Bailiwick and for its good government.

5. "Good government" was defined by Lord Bach, in the British House of Lords on the 3rd May 2000 as meaning that "in the circumstances of a grave breakdown or failure in the administration of justice or civil order, the residual prerogative power of the Crown could be used to intervene in the internal affairs of the Channel Islands and the Isle of Man". However, these comments repeat the perceived wisdom of the 1969 Royal Commission. As mentioned above, the constitutional relationship is now considered to have moved on, and any residual power to legislate at last resort without consent of the Bailiwick authorities is now perceived as being little more than theoretical.

### **Constitutional relationship with the European Union**

6. The position of the Bailiwick was further examined when the United Kingdom Government applied in 1971 to join the European Economic Community. The negotiated settlement granted the Channel Islands, of which the Bailiwick is an integral part, a special relationship with the European Community by virtue of Protocol 3 to the Treaty of Accession. The effect of this Protocol is that the Islands of the Bailiwick are within the Common Customs Area and the Common External Tariff of the European Community, and are also subject to (and enjoy the benefit of) the provisions of articles 28 to 31 of the EC Treaty which prohibit quantitative restrictions on imports and exports. Pursuant to Regulation 706/73 they are also

bound by certain rules for the protection of competition in trade in agricultural products, but only to the extent that the islands are engaged in importing and exporting such products. However, the remaining clauses of the EC Treaties do not apply to the Channel Islands and therefore for all purposes other than Customs measures and quantitative restrictions on imports and exports they are effectively “third countries”. The coming into effect of the Treaty on European Union on 1 November 1993 and the Treaty of Amsterdam on 2 October, 1997 have not altered the constitutional position as enshrined by Protocol 3 to the Treaty of Accession.

7. Protocol 3 secured and formalised the Bailiwick’s constitutional relationship with the United Kingdom within the European Economic Community. This cannot be changed unless the Protocol is changed, and to change the Protocol requires the unanimous agreement of all Member States of the European Community as well as the consent of the people of the Channel Islands.

### **Powers of each Legislative Assembly**

8. The government of the Bailiwick is administered by three separate jurisdictions. Guernsey, Herm and Jethou are administered by the States of Guernsey (to be distinguished from the States of Deliberation, which is their legislature), Alderney by the States of Alderney, and Sark and Brecqhou by the Chief Pleas of Sark. However, the States of Guernsey exercise financial and administrative responsibility for certain public services in Alderney, and apply in that Island Guernsey taxes, duties and impôts (which accrue to Guernsey general revenues), as well as legislation in respect of those services for which Guernsey has assumed responsibility. Guernsey has responsibility for the airfield, immigration, police, social services, health, education, child-care and adoption in Alderney.

9. The Legislative Assemblies are responsible for initiating domestic legislation, and the States of Deliberation (the Guernsey assembly) has power to enact criminal legislation throughout the Bailiwick and also, for Alderney, legislation relating to the reserved services mentioned above. Subject to that, the respective governments are responsible for determining levels of expenditure and taxation, establishing fiscal and economic policy and generally exercising good government. Each Legislative Assembly enjoys complete independence from the United Kingdom Parliament, both to legislate and to levy taxes, subject only to the British Crown’s ultimate responsibility for the good government of the Bailiwick (as to which see the comments above).

### **Composition of each Legislative Assembly**

#### **Guernsey**

10. The States of Guernsey are constituted under the Reform (Guernsey) Law, 1948, as amended and consist of two bodies namely, the States of Deliberation and the States of Election. The only function of the States of Election is to act as an Electoral College for Jurists, the office of which is unknown in the United Kingdom but which is akin to a permanently sitting juror.

11. The States of Deliberation are Guernsey's legislative assembly deriving their authority and powers from the common law and from the Reform (Guernsey) Law, 1948, as amended. They comprise the Bailiff as ex-officio Presiding Officer, forty five People's Deputies, and two Representatives of the States of Alderney, and the two Law Officers (Attorney-General and Solicitor-General) who have a voice but no vote.

12. The People's Deputies are elected by universal adult suffrage. The States of Deliberation (hereinafter referred to as "the States") sit for a term of four years after which there is a general election. The States exercise executive or administrative functions through ten Departments every one of which is answerable to the States and in the States for its acts. The Departments are established by the States by Resolution with specific mandates or are constituted by legislation with statutory powers and duties. The ten departments are:

- Treasury and Resources;
- Commerce and Employment;
- Culture and Leisure;
- Education;
- Environment;
- Health and Social Services;
- Home;
- Housing;
- Public Services;
- Social Security.

13. In addition to the ten departments there are a number of committees which deal with non-executive functions such as scrutiny, review of draft legislation and the functioning of the legislature.

14. The States over a period of time have constructed a permanent civil service under the immediate control and direction of Departments of the States. In Guernsey, therefore, the civil service derives its authority from the States and not from the Crown as in the United Kingdom.

15. The States meet monthly to consider proposals placed before them from the Departments and Committees. These proposals will range from economic and fiscal policy to initiating and approving proposed legislation, as well as various items of expenditure. However, in the decisions taken by the States, no States can bind a future States, and as there is nothing in Guernsey equivalent to Cabinet Government, no Department or Committee of the States can force the States to adopt any particular measure however important it may be. Party politics do not exist in Guernsey, consequently the legislative process demands a majority consensus from independent members of the States if a proposed measure is to be approved.

16. The Policy Council comprises an elected Chief Minister and the ministers of the ten Departments and is mandated to examine all proposals and reports which are to be placed before the States for deliberation. The elected States Departments and Committees are supported by a professional civil service of some 1,700 staff. Each States Department and Committee has a Chief Officer. The Chief Executive of the States is Head of the Guernsey Civil Service and Chief Officer of the Policy Council. The Departments also directly employ approximately 2,700 non-civil service staff which includes manual workers (1,050), nurses (830), teachers (600) and police officers (175).

### **Alderney**

17. The States of Alderney are the legislative assembly for Alderney and derive their authority and powers from the Government of Alderney Law, 2004. The States comprise the President of Alderney who is the civic head and representative of the Island, is elected by universal suffrage and holds office for four years; and ten Members who are also elected by universal adult suffrage for a period of four years. Except for those services legislated for and administered by Guernsey, the remaining functions of government in Alderney are administered by Committees of the States. The system of government in Alderney is closely modelled upon that of Guernsey, and is supported by a small civil service. The States of Deliberation, however, may legislate for Alderney in any matter with the consent of the States of Alderney and, in criminal matters and in respect of the reserved services referred to above, without the consent of the States of Alderney. In recognition of Guernsey's responsibilities for these reserved services Alderney is represented by two members in the States of Deliberation.

### **Sark**

18. The Chief Pleas of Sark are the legislative assembly for Sark and derive their authority and powers from the Reform (Sark) Law, 1951. The constitution of Chief Pleas is currently under review but presently comprises:

- (a) The Seigneur of Sark;
- (b) The Seneschal;
- (c) The forty tenants of Sark who, together with the Seigneur and a few owners of freehold property, are the sole owners of all land on Sark; and
- (d) Twelve Deputies elected by universal adult suffrage for a period of three years.

19. The Seigneur of Sark is the civic head and representative of the Island. The office is hereditary. The Seneschal, however, is the ex-officio President of the Chief Pleas, and is appointed by the Seigneur with the approval of the Lieutenant-Governor of the Bailiwick.

20. The Chief Pleas of Sark generally meet four times a year and, by means of a committee system, administer the functions of government in a manner very similar to the States of Guernsey and the States of Alderney. As with Alderney, the States of Deliberation may legislate for Sark in criminal matters without the agreement of Chief Pleas, but only on any other matter with the prior agreement of Chief Pleas.



### 3. General legal framework within which human rights are protected

21. The Bailiwick of Guernsey is fully committed to promoting human rights. This includes giving effect to the rights contained in the international instruments that have by consent been extended to it. To date, the following agreements are binding upon the Bailiwick:

- International Covenant on Economic, Social and Cultural Rights (20<sup>th</sup> Aug 1976);
- International Covenant on Civil and Political Rights (20<sup>th</sup> Aug 1976), International Convention on the Elimination of All Forms of Racial Discrimination (6<sup>th</sup> April 1969);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (8<sup>th</sup> December 1969);
- European Convention on Human Rights (23<sup>rd</sup> October 1953);
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1<sup>st</sup> February 1989); and
- Selected Conventions of the International Labour Organisation.

22. However, in the same way as in the United Kingdom, international conventions cannot be *directly* enforced within the Bailiwick of Guernsey unless specifically incorporated into domestic law. As yet, this has not taken place in respect of the Covenant on Economic, Social and Cultural Rights but if the United Kingdom decided to incorporate it then the Bailiwick authorities would consider this course.

23. One convention which has been so incorporated is the European Convention on Human Rights. As a result of the enactment of the Human Rights (Bailiwick of Guernsey) Law, 2000, individuals can now directly rely upon the substantive rights and freedoms contained therein before the courts and tribunals of the Bailiwick.

24. The Law came into force on 1<sup>st</sup> September 2006 and works in four main ways:

(a) It obliges all public authorities (which includes the executive and the courts) to act in a way compatible with the rights enshrined in the Convention;

(b) It permits proceedings to be brought against a public authority which fails to so act before a domestic court or tribunal, which are given power to grant such remedy or relief as is considered just and appropriate;

(c) It requires that all legislation must be read and given effect in a way which is compatible with the Convention rights. If it is impossible to do so, certain courts in the Bailiwick may formally declare the legislation incompatible with the Convention, although this declaration would not affect the validity, continuing operation or enforcement of the legislation; and,

- (d) It requires domestic courts and tribunals to take account of any relevant:
  - (i) Jurisprudence of the European Court of Human Rights;
  - (ii) Decision or opinion of the European Commission of Human Rights; and,
  - (iii) Opinion of the Council of Ministers,

when determining a question which has arisen in connection with a ECHR right.

25. A right of appeal to the European Court upon exhaustion of domestic remedies is retained.

26. In addition, the Bailiwick legislatures have enacted The Racial Hatred (Bailiwick of Guernsey) Law, 2005, which creates specific offences related to acts intended or likely to stir up racial hatred that may be punished with a maximum term of imprisonment of seven years and/or an unlimited fine.

27. Although the Bailiwick was not included in the ratification by the United Kingdom of the International Convention on the Elimination of all forms of Discrimination against Women, The Prevention of Discrimination (Enabling Provisions) (Bailiwick of Guernsey) Law was enacted in 2004 to allow secondary legislation to be passed on this subject and in respect of all other forms of discrimination. As a result, the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 was passed in order both to prohibit such conduct in the workplace and create remedies for its victims. The Employment and Discrimination Tribunal has jurisdiction to hear such complaints and a right of appeal to the Royal Court is available.

28. Furthermore, consultation is currently taking place on the draft Children Law, which will reform Bailiwick law to ensure that it is compliant with the UN Convention on the Rights of the Child in addition to giving further protection to the general rights and freedoms contained in the European Convention.

29. In addition to the specific remedies available under individual enactments, an aggrieved person may make an application to the Royal Court for judicial review of administrative acts of the executive and of Ordinances of the States. This area of law is still relatively new but it is developing rapidly.

#### **4. Information and publicity concerning the Covenant on Economic, Social and Cultural Rights and the reports to the Committee**

30. Copies of all periodic reports submitted to the United Nations Committees relating to Covenants and Conventions and United Nations Committees' subsequent conclusions and recommendations, and other reports published by the United Nations Human Rights Committee, are available, free of charge, on request from the designated government offices.

31. Copies have also been deposited at the Royal Court Library and with the Citizens' Advice Bureau, and public libraries in Guernsey, Alderney and Sark. In addition, the reports are also available on the States of Guernsey website: [www.gov.gg/ccm/navigation/government/human-rights/other-conventions-covenants/](http://www.gov.gg/ccm/navigation/government/human-rights/other-conventions-covenants/).

## **5. Legal status and specific implementation of the International Covenant on Economic, Social and Cultural Rights**

32. International conventions cannot be directly enforced and are not directly applicable within the Bailiwick of Guernsey unless specifically incorporated into domestic law, as is the case in the United Kingdom. However, this has not as yet taken place in respect of the Covenant but if the United Kingdom decided to incorporate it then the Bailiwick authorities would consider this course.

33. Under normal legal principles, an administrative authority or a court is entitled to act in a way consistent with treaty obligations of the Bailiwick in the exercise of discretion or in the interpretation of legislation.

## **6. Response to the concluding observations**

### **Paragraph 24 of the concluding observations (E/C.12/1/Add.79)**

34. The statement in heading 5 above responds to this observation.

### **Paragraph 25 of the concluding observations**

35. The States of Guernsey voted in favour of an anti-poverty strategy and corporate anti-poverty programme (CAPP) at their meeting of November 2003.

36. The anti-poverty strategy and CAPP were developed in response to a March 1998 motion on low-income earners and households, and are the result of extensive research into Guernsey Living Standards carried out between 2000 and 2002 by the Townsend Centre for International Poverty Research based at the University of Bristol.

37. The Survey of Guernsey Living Standards (SGLS) concluded that, although the majority of people in Guernsey had a high standard of living, 16% of householders had a standard of living below the standard acceptable to the majority of Islanders (i.e. they were suffering from relative poverty). An additional 5% of people were at risk of suffering from relative poverty. This deprivation disproportionately affected lone parents, single pensioners and large households with children. 76% of all poor households in Guernsey were either single pensioners or families with dependent children.

38. During the period 2009/10 it is proposed to repeat the SGLS to help identify the overall progress made by Guernsey's Anti-Poverty Strategy and to assess how effective the Corporate Anti-Poverty Programme has been at delivering that strategy.

39. The CAPP incorporates Guernsey's Corporate Housing Programme, which was approved by the States in February 2003, as a means of providing a practical framework for implementing the States Housing Strategy, through co-ordinated action by States departments, non-governmental organisations, voluntary groups and the private sector.

40. The States has, over the past year, embarked on an overall review of the CAPP, in order to identify the best way to take it forward, in light of current requirements to restrain public expenditure, and in consideration of the forthcoming implementation of a new tax strategy in 2008.

**Paragraph 30 of the concluding observations**

41. All police officers currently receive training in law and procedure which incorporates human rights aspects, including, for example, law and procedure relevant to the arrest and detention of suspects. This law and procedure is now set out in the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, which is considered to be fully compliant with the European Convention on Human Rights and on which all police officers receive training. Similarly it is considered essential that prison officers also receive training in human rights issues. Police and prison officers receive training in the United Kingdom which includes human rights education. Judges and lawyers in Guernsey also fully aware of human rights issues following the enactment of the Human Rights (Bailiwick of Guernsey) Law, 2000 which came into force on the 1<sup>st</sup> September 2006 and which incorporates the European Convention on Human Rights into domestic legislation.

**Paragraph 33 of the concluding observations**

42. The Commerce and Employment Department has just completed a public consultation and is in the process of preparing a report on Minimum Wage legislation for consideration by the States of Guernsey in the autumn of 2007, or earlier if possible.

**Paragraph 34 of the concluding observations**

43. There is no legislation specifically providing for a right to strike.

44. Section 8 of The Employment Protection (Guernsey) Law, 1998 (as amended) provides that the dismissal of an employee by an employer shall be regarded as unfair, if the reason for the dismissal was the result of the employee taking part, or proposing to take part in trade union activity.

**Paragraph 35 of the concluding observations**

45. The Guernsey Women's Refuge has a total of 5 beds. The number of beds available meets the needs of the women on the Island.

46. Options Domestic Violence Forum supports interagency training provided by the state and has undertaken a campaign to raise awareness of its services.

47. A strategy on domestic violence and abuse is currently being written to provide a cohesive interagency approach and this is due to be ratified by the States of Deliberation later in 2007. Also due to be introduced in 2007 is screening for domestic abuse for all pregnant women in the antenatal period, led by the midwifery service.

**Paragraph 36 of the concluding observations**

48. The current legislation in place to protect children is the Children and Young Persons (Guernsey) Law, 1967, which is due to be superseded by the Children (Guernsey and Alderney) Law, 2007, due to be implemented in 2008.

49. The principal purposes of the Children (Guernsey and Alderney) Law, 2007, are to protect children from harm and to prescribe the duties, powers and rights of parents and others caring for children. However, it does not specifically mention a prohibition of physical punishment.

**Paragraph 38 of the concluding observations**

50. Although no statistics are kept and there is no relevant legislation governing it, there are believed to be very few homeless people in the Island. For those persons who might otherwise find themselves in a homeless situation, a rent allowance is provided by the Social Security Department, through the Supplementary Benefit Scheme, to assist them to rent accommodation in the private sector. However, there may be a small number of people who are intentionally homeless and who choose not to access the benefit system.

51. The States Housing Strategy is in place to ensure that all persons legally resident in the Island have access to accommodation to meet their reasonable needs.

**Paragraph 39 of the concluding observations**

52. The Office of Environmental Health and Pollution Regulation which is part of the Health and Social Services Department, has the responsibility, under the public health legislation, to determine whether premises are unfit for human habitation. In making an assessment, a wide variety of factors are taken into account.

53. In order to relieve the situation of those who are “fuel poor”, the Social Security Department provides a fuel allowance to certain households between October and April towards the cost of heating their homes.

**Paragraph 41 of the concluding observations**

54. At present student loans are not a feature of the States of Guernsey higher education system. Further details are provided in the current report on articles 13 and 14.

**Paragraph 44 of the concluding observations**

55. The statement in heading 4 above responds to this observation.

**Article 1 - Self-determination**

56. With effect from 1<sup>st</sup> May 2004, the size of Guernsey’s legislature, the States of Deliberation, was reduced from 57 voting members to 47 voting members, of which 45 are directly elected by universal franchise in seven electoral districts each electing either six or seven members. The remaining two members are representatives of the States of Alderney.

In Alderney all 10 members of the legislature are directly elected by universal franchise. In Sark 12 members of the legislature are directly elected by universal franchise. The remaining 40 members hold their seats by virtue of rights associated with the ownership of certain properties. However, the constitution of the Sark legislature, known as Chief Pleas is currently under review and is likely, when the Constitution of Sark Law, 2007 is enacted, to result in all, or in the majority of, the members being directly elected. In all three Islands the system of government and method of election reflects the wish of the respective populations.

57. In addition, the executives of all three islands have been reformed to a greater or lesser extent. Following the changes instituted in 2004, Guernsey's government now consists of 10 Departments overseen by a Policy Council, which comprises the Chief Minister (who chairs the Council) and the Ministers of the Departments. The holders of all of these posts are elected by the States as are the Deputy Ministers of the Departments. Each Department is directed by its Board, which consists of the Minister, Deputy Minister and 3 other Members. In addition, Departments may co-opt up to 2 non-voting members.

58. In Alderney, all members of the States have become members *ex officio* of the Policy and Finance Committee from January 2007. In Sark, the General Purposes and Finance Committee has become the General Purposes and Advisory Committee but retains the same powers.

59. With the exception of Sark, there are no restrictions in the Bailiwick which prevent the free disposal of a person's natural wealth and resources during his lifetime. Certain restrictions apply to dispositions of realty and personality after death, the purpose of which is to protect the rights of any surviving spouse and/or children. Furthermore, after the conclusion of a comprehensive review of the Island's laws of inheritance, which included the subjects of (a) illegitimacy and intestacy, and (b) unascertained heirs to real property, the States of Deliberation have enacted the Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006. In respect of Sark, all rules of law or custom under which, for the purposes of succession to real property, males were preferred to females, were abolished under the Real Property (Succession) (Sark) Law, 1999. Leases over the original tenements and freeholds are permitted and Chief Pleas has voted that legislation be drafted to allow mortgages over these properties (which is not permitted under the original grant of 1565).

## **Article 2 - Realisation of the rights contained in the Covenant**

60. Following the enactment of The Reform (Amendment) (Guernsey) Law, 1996 any person who is aged 17 years or over, not subject to any legal disability and (a) is ordinarily resident in Guernsey throughout the two years immediately preceding his application to be inscribed on the Electoral Roll or (b) has been so resident for a period of five years in aggregate at any time preceding that application, is entitled to be so inscribed. Although a person may only vote if aged 18 or over, no further distinction of any kind whatsoever is made. The relevant legislation for both Alderney (section 33(3)(b) of the Government of Alderney Law, 2004) and Sark (section 13 (2) (a) of the Reform (Sark) Law, 1951, if the person is other than the owner of a proprietary interest in a tenement) provides that a person is entitled to have his name inscribed in the register of electors if *inter alia* he is not an alien, within the meaning of the law for the time being in force in the United Kingdom. The definition of this expression is therefore taken from

the British Nationality Act, 1981 (sections 50(1) and 51(4)), an alien being a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland.

61. The Bailiwick of Guernsey is fully committed to promoting human rights. This includes giving effect to the rights contained in the international instruments that have by consent been extended to it. However, in the same way as in the United Kingdom, international conventions cannot be *directly* enforced within the Bailiwick of Guernsey unless specifically incorporated into domestic law. As yet, this has not taken place in respect of the Covenant on Economic, Social and Cultural Rights but if the United Kingdom decided to incorporate it then the Bailiwick authorities would consider this course.

62. One convention which has been so incorporated is the European Convention on Human Rights. As a result of the enactment of the Human Rights (Bailiwick of Guernsey) Law, 2000, individuals can now directly rely upon the substantive rights and freedoms contained therein before the courts and tribunals of the Bailiwick. In addition, the Bailiwick legislatures have enacted the Racial Hatred (Bailiwick of Guernsey) Law, 2005, which creates specific offences related to acts intended or likely to stir up racial hatred that may be punished with a maximum term of imprisonment of seven years and/or an unlimited fine. Furthermore, the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 was passed in order both to prohibit such conduct in the workplace and create remedies for its victims.

#### **Article 3 - Gender equality**

63. The Bailiwick remains committed to adopting appropriate measures to ensure the equality of men and women in all spheres. Although the Bailiwick was not included in the ratification by the United Kingdom of the International Convention on the Elimination of all forms of Discrimination against Women, the Prevention of Discrimination (Enabling Provisions) (Bailiwick of Guernsey) Law was enacted in 2004 to allow secondary legislation to be passed on this subject. As a result, the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 was passed: It prohibits discrimination, or victimisation of women (or men) on the grounds of gender, or gender re-assignment, in the field of employment. The Law also prohibits discrimination against married persons. The Employment and Discrimination Tribunal has jurisdiction to hear such complaints and a right of appeal to the Royal Court is available.

64. The Ordinance also prohibits gender discrimination in the areas of recruitment, pay, access to opportunities for promotion, transfer or training, or to any other benefits (including, without limitation, benefits consisting of the payment of money), facilities or services, or by refusing or deliberately omitting to afford access to them, or by dismissing people or subjecting them to any other detriment.

65. The current minimum school leaving age in the Bailiwick is 15 although the States have resolved to increase it in Guernsey to 16 years old.

#### **Article 4 - Limitation of enjoyment of Covenant rights**

66. The Bailiwick authorities do not believe that there are any limitations on any right contained in the Covenant which would be inconsistent with the provisions of this Article.

### **Articles 5 - Restriction upon or derogation from Covenant rights**

67. The Bailiwick authorities are not aware of any restriction or derogation under the present legal framework.

### **Article 6 - Right to work**

68. For a person to work in Guernsey, they must have a valid Right to Work document, which will either be a Status Declaration that they are a qualified resident or a document proving that they are lawfully housed. Limited exceptions exist for both employees whose employer is based outside the Island and self-employed workers from outside the Island.

69. In respect of the other Islands, a European Community national who wishes to work in Alderney must apply for a work permit, pursuant to the Employment Permits (Alderney) Law, 1975. As is the case in the United Kingdom, persons from non-European Union countries wishing to work in the Bailiwick must, under the Immigration Act, 1971, obtain a work permit.

70. Guernsey is in the process of devising a Workforce Development Programme which will be driven by a sub-group of the States of Guernsey Policy Council. The Programme will aim to ensure that the Island's workforce is constantly developing to meet the needs of the economy, both today and in the future. The Programme has three primary aims:

- Increasing Participation in the Workforce - it is intended to increase the proportion of the working age population that actually work and this will focus on removing any barriers that might exist to the workplace and reducing exclusion;
- Increasing the Effectiveness of the Workforce - this will ensure that members of the workforce are able to increase their potential to meet the needs of the developing economy through skills development and the provision of training opportunities;
- Maximising the Benefit of Housing\* Licences - this recognises the need to supplement the local workforce through the inward migration of skills and labour with the associated benefit that it brings to the economy.

71. At the end of December 2006, the Guernsey labour market consisted of a total of 31,622 people. This figure includes both employed and self-employed people. Total employment in Guernsey peaked at 32,330 persons in September 2002, and has declined slightly since then, but only marginally.

72. Males form 55% of the total workforce and females, 45%. Female employment has increased at a faster rate than that of males. Male employment has increased by 3% over the last ten years, whilst female employment increased by 8% over the same period.

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\* See text below describing the Housing (Control of Occupation) (Guernsey) Laws.



73. At the end of December 2006, 208 people were registered as unemployed. Of these, 164 or 0.5% of the workforce were claiming unemployment benefit. The number of claimants reached their highest level since the beginning of 1997 at 202 people in January 2006. However, unemployment has been low over the last ten years in comparison to the early 1980s when levels peaked at over 1000 people.

**Percentage of workforce claiming benefit at March each year**

Year	Total workforce at March	Number of registered unemployed	Number claiming benefit	% of workforce claiming benefit
1997	29 941	200	169	0.56
1998	30 430	131	115	0.38
1999	30 657	110	105	0.34
2000	30 969	123	117	0.38
2001	30 368	73	66	0.22
2002	30 688	93	76	0.25
2003	31 375	120	95	0.30
2004	31 436	136	101	0.32
2005	31 354	209	162	0.52
2006	31 156	219	184	0.59

74. On 3 January 2005, Regulations were made under the provisions of a new section added to Guernsey's Social Insurance Law by The Social Insurance (Guernsey) (Amendment) Law, 2004. This enables the Social Security Department to offer a range of benefits to persons in receipt of sickness benefit, invalidity benefit, industrial injury benefit, industrial disablement benefit or unemployment benefit to facilitate their return to employment or other gainful occupation. Such benefits include basic skills training, short-term job-specific training, arranging participation in voluntary work and therapeutic work while in receipt of benefit, arranging work trials and gradual returns to work while in receipt of benefit, paying job start expenses and paying a back-to-work bonus for people managing sustained re-entry to the workforce after significant periods of incapacity or unemployment.

75. The Social Security Department also runs the Community and Environmental Projects Scheme, which aims to provide work and training opportunities for people who are not working due to unemployment or long-term illness. During 2006 there were 132 placements on the Scheme.

76. People cannot work in Guernsey unless they are legally housed as provided for in the Housing (Control of Occupation) (Guernsey) Laws, 1994 and 2001, which are used as a means of population control.

77. In conjunction with the Housing Control Law, the Housing Department administers the Right to Work (Limitation and Proof) (Guernsey) Law, 1990, which requires everyone, including self-employed persons, who starts or changes employment in Guernsey to hold a "Right to Work Document" indicating that they are lawfully housed. Only with this documentation are persons able to seek employment. This helps to maintain jobs for residentially qualified persons who are available for work.

78. There are no specific provisions in place to ensure there is freedom of choice of employment. However, Guernsey has a culture of open access to employment opportunities.

79. Guernsey's College of Further Education (CFE) enrolled over 6,000 part time and full time students in 2005/06 on vocational courses with over 500,000 taught student hours delivered. There were an additional 3,000 enrolments on the Adult Education Programme. The work of the CFE is complex and diverse, catering for students from the ages of 15 to 90, part time and full time, delivering courses at all levels from Entry to Degree Level on five sites, and in the wider community.

80. The College main focus is on employability skills in all its courses and has strong links with individual employers and employer associations. The College also works in partnership with the Guernsey Training Agency, the Prison Service, and the Health and Social Services Department. Work with the Social Security Department provides unemployed residents with the opportunity to access basic literacy and numeracy courses. Courses are free for all under 18 year olds and a sliding scale of fees is charged for all courses for adults.

81. The Island also operates a States registered apprenticeship scheme. Over 400 apprentices are currently indentured to 170 registered employers. The scheme covers 12 occupational areas.

82. Over 900 students are also pursuing Higher Education courses at 170 universities in the United Kingdom. Students study across a variety of subjects. The four most popular courses are Business Studies, Creative Arts, Biology and English.

83. The Education Department is also developing vocational opportunities for those students who are currently studying in key stage 4 (14-16 year olds) at the Island's secondary schools.

84. There is no evidence to indicate that difficulties are being experienced by lawfully resident persons with attaining productive and freely chosen employment in Guernsey. The Island enjoys almost full employment and statistics indicate that the level of unemployment over the last 5 years has been between 0.22% and 0.59% of the working population (approximately 32,000). At the end of December 2006, 208 people were registered as unemployed. Of these, 164 persons, or 0.5% of the workforce, were claiming unemployment benefit. Many of those registering as unemployed have health restrictions which limit work options in a small community.

85. There is little evidence to suggest that inequality of opportunity or treatment in employment or occupation exists. However in 2005, the States of Guernsey introduced The Prevention of Discrimination (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004, and to date, the following two pieces of subordinate legislation have been introduced under the Enabling Provisions:

- The Sex Discrimination (Employment) (Guernsey) Ordinance, 2005; and
- The Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005.

86. Vocational guidance and training, employment and occupation of persons lawfully resident in Guernsey, is freely available to all, irrespective of their race, colour, sex, religion and national origin. There have been no cases, disputes or controversies, which have arisen in relation to these issues.

87. The Housing (Control of Occupation) (Guernsey) Law, 1994 and 2001, was due to expire on 30 June 2004 and was first extended until 30 June 2007. However, this Law has recently been extended for a further two years, i.e. to 30 June 2009, in order to allow time for a full review of the Law in the light of a forthcoming debate on Guernsey's Population and Migration Policy.

88. Employers are required to keep a copy of their employees' Right to Work documents, which confirm their residential status. The Housing Department's Housing Control Inspectorate is legally empowered call at places of work to inspect the records that employers are required to keep.

89. During the reporting period, only a very small number of cases have been brought against those employers that have failed to comply with the Right to Work Law.

#### **Article 7 - Right to fair conditions of employment**

90. The Employment Protection (Guernsey) Law, 1998 was enacted to define the minimum standards required of employers and provide a dedicated system for adjudication of unfair dismissal claims. The protection given to employees has further improved after the Employment Protection (Guernsey) (Amendment) Law, 2005, which reduced the period of continuous employment required before a claim for unfair dismissal could be made and permitted related complaints to be heard by the Employment and Discrimination Tribunal. In addition, the position of shop workers has been ameliorated by the Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001 as they cannot be dismissed or be made subject to any other detriment as a result of deciding to opt out of working on a Sunday. If a complaint is upheld by the Tribunal, it may make an award of damages to the victim.

91. The principal method for fixing wages in Guernsey is by mutual agreement between the parties through the "contract of employment". In some cases, terms and conditions of employment are agreed through "free collective bargaining" through a recognised Trade Union or staff association.

92. The States of Guernsey will be considering the introduction of Minimum Wage legislation during 2007.

93. There is little evidence to suggest that any inequality in remuneration for work of equal value exists, or that conditions relating to equal pay for equal work, or conditions of work for women are inferior to those enjoyed by men. Employees can now make a claim of Sex Discrimination to an independent and legally constituted Employment Tribunal, if they believe they are being discriminated against in relation to their terms and conditions of employment (including pay).

94. The Sex Discrimination legislation enables women (and men) to claim discrimination, if they believe they have been discriminated against in relation to promotion opportunities. Since

the introduction of the legislation on 1st March 2006, the Employment and Discrimination Tribunal has not yet received any complaints of discrimination in relation to opportunities for promotion.

95. Occupational health and safety in the Island is legislated for by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, and earlier enactments which are regarded to be relevant Statutory Provisions.

96. The 1987 Ordinance covers all persons at work, including the self-employed, the only exemption being domestic servants in private households; this is a mirror image of the UK's Health and Safety at Work Act.

97. At present three fully trained inspectors and one trainee inspector are empowered to enforce the Ordinance on behalf of the Commerce and Employment Department. Inspectors can use a range of enforcing powers to achieve compliance; these range from formal letters to improvement or prohibition notices to prosecution of offences. Statistical analysis of reported industrial accidents during the period 1996-2006 is as follows:

**Injuries by nature of trade, business of undertaking - standard industrial classification (SIC 80)**

	1996	2001	2006
0 Agriculture, horticulture, arboriculture and fishing	43	22	15
1 Energy and Water supply industries	22	23	8
2 Extraction of minerals, manufacture of metals, mineral products and chemicals	10	14	13
3 Metal goods and engineering industries	47	16	20
4 Other manufacturing industries	41	19	22
5 Construction	129	99	88
6 Wholesale and retail distribution, hotels and catering repairs (vehicles and Consumer goods)	165	117	102
7 Transport and communication	47	36	39
8 Banking, finance, insurance, business	37	25	12
9 Other services and States Administration	152	107	152
10 Miscellaneous	<u>1</u>	<u>5</u>	<u>0</u>
	<u>694</u>	<u>483</u>	<u>471</u>

ON (FLARE) CIVICA

- A Agriculture, forestry & fishing
- B Energy & water supply industries
- C Extraction of mineral ores
- D Metal goods & engineering vehicle industries
- E Other manufacturing industries
- F Construction
- G Distribution/hotels/catering
- H Transport & communication
- I Banking etc./Business Services
- J Other services
- K Miscellaneous

**Injuries by kind of accident**

	1996	2001	2006
Contact with moving machinery or material being machined	19	19	13
Struck by moving, including flying or falling object	47	17	18
Struck by moving vehicle	7	7	9
Struck against something fixed or stationary	34	20	12
Injured whilst handling, lifting or carrying	357	213	266
Slip, trip or fall on same level	107	98	65
Fall from height	63	47	32
Trapped by something collapsing or overturning	2	7	4
Drowning or asphyxiation	0	0	0
Exposure to, or contact with, harmful substance	14	9	9
Exposure to fire	2	3	1
Exposure to an explosion	0	1	1
Contact with electricity or an electrical discharge	4	1	2
Injured by an animal	0	1	0
Other kind of accident	38	29	37
Unspecified	<u>6</u>	<u>14</u>	<u>2</u>
	<u>700</u>	<u>486</u>	<u>471</u>

**Agent(s) involved**

	1996	2001	2006
Machinery/equipment for lifting and conveying	39	28	27
Portable power or hand tools	47	33	40
Any vehicle or associated equipment/machinery	57	40	30
Other machinery	27	11	13
Process plant, pipe work or bulk storage	9	10	2
Any material, substance or product being handled used or stored	154	115	98
Gas, vapour, dust, fume or oxygen deficient atmosphere	10	5	3
Pathogen or infected material	1	0	0
Live animal	4	1	2
Moveable container or package of any kind	89	48	70
Floor, ground, stairs or any working surface	114	99	84
Building, engineering structure or excavation/ underground working	32	10	6
Ladder or scaffolding	50	31	26
Construction formwork, shuttering and false work	0	2	3
Electricity supply cable, wiring apparatus or equipment	9	3	3
Entertainment or sporting facilities or equipment	3	3	0
Any other agent	49	35	64
Unspecified	<u>6</u>	<u>12</u>	<u>0</u>
	<u>700</u>	<u>486</u>	<u>471</u>

98. This data is supplemented by information obtained from Social Security Department records which shows that in 2006, there were 265 new Industrial Injury Benefit<sup>3</sup> cases, involving an accident at work or prescribed industrial disease that led to incapacity for work, and 12 new cases of Industrial Disablement Benefit<sup>4</sup> which indicates a permanent loss of faculty or industrial disease.

99. There is no legislation in Guernsey regulating or providing a statutory right to rest days or working time, limited working hours, periodic holidays with pay, and remuneration for public holidays. However, it is customary for the majority of employers to provide a benefit package, through the contract of employment, which contains some or all of the categories outlined in this paragraph.

100. There are currently no measures being contemplated by the States of Guernsey to change this situation.

101. The States of Deliberation passed the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 in order to eradicate any unjustified differentiation between the positions of men and women on the labour market. It is unlawful to treat a job applicant or an employee less favourably or enforce a measure having equivalent effect on the grounds of gender, gender reassignment or marriage when considering an offer of employment, terms of employment, opportunities for training, promotion or other benefit and termination of employment or other detriment. An exception of “genuine occupational qualification” has been recognised in respect of gender but this is strictly limited.

102. Other than the Sex Discrimination legislation and the consideration of Minimum Wage legislation, there is no other legislation, or administrative rules, procedures and practices affecting the right to just and favourable treatment. However, in Judicial Review proceedings in the Royal Court of Guernsey (Ordinary Division), in the case of *Bichard v. States of Guernsey*, it was held that the decision of the States of Guernsey, Public Sector Remuneration Committee, not to enhance Mr. Bichard’s Pension entitlement in accordance with Rule 23 (2), of the States of Guernsey (Public Servants) (Pension and Other Benefits) Rules, 1972, as amended, when he was made redundant, was deemed unlawful.

### **Article 8 - Right to form and join trade unions**

103. Through extension, the Bailiwick is party to the International Covenant on Civil and Political Rights, the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98) and the ILO Freedom of Association and Protection of the Right to Organize

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<sup>3</sup> **Industrial Injury Benefit** - Insurance based weekly financial assistance, usually available for up to 26 weeks before being transferred to the higher rate invalidity benefit, to employed and self-employed workers who are incapable of work through industrial injury or prescribed industrial disease.

<sup>4</sup> **Industrial Disablement Benefit** - Insurance based weekly financial assistance to compensate for loss of faculty resulting from an industrial injury or prescribed industrial disease.

Convention, 1948 (No. 87). Although these instruments are not directly enforceable as they have not been specifically incorporated into Bailiwick law, the rights contained therein are protected by the Human Rights (Bailiwick of Guernsey) Law, 2000, which provides for the direct application of Articles 10 and 11 of the European Convention on Human Rights.

104. Moreover, under section 8 of the Employment Protection (Guernsey) Law, 1998, the dismissal of an employee by an employer is regarded as having been unfair (and therefore actionable) if the reason for it was that the employee was, or proposed to become, a member of an independent trade union or had taken part, or proposed to take part, in the union's activities.

105. There are no substantive or formal conditions in Guernsey that must be fulfilled in order to join and form a trade union of one's choice. There are no legal provisions regarding the establishment of trade unions in Guernsey. There are no restrictions in Guernsey which impact on the right to join or form trade unions. There is no legislation in Guernsey relating to the right of trade unions to federate and join international trade union organisations. There are no conditions or limitations placed upon the right of trade unions to function freely in Guernsey.

106. There are a number of trade unions operating in Guernsey under voluntary recognition agreements between the respective employer and the relevant bargaining group. As far as can be determined without further research, all the trade unions concerned are "branches" of recognised independent trade unions, operating under a certificate of independence issued by a UK Certification Officer.

107. Workers in Guernsey do not have a constitutional or legal right to strike. It is generally accepted however, that workers have a right to strike or take part in industrial action short of a strike, in protest to circumstances where they wish to protest against their employer's actions.

108. There are no restrictions in Guernsey placed on the rights of members of the police or administration of the State. Guernsey does not have its own armed forces.

109. Other than the protection provided in The Employment Protection (Guernsey) Law, 1998 from dismissal for being a member, refusing to be a member, or taking part in trade union activity, there have been no changes. The Law was amended in 2001 to remove the "qualifying period" for making a trade union related unfair dismissal complaint.

#### **Article 9 - Right to social security**

110. The provisions of Article 9 are implemented in Guernsey through the following legislation, and a substantial body of sub-ordinate legislation made thereunder:

- The Family Allowances (Guernsey) Law, 1950, as amended;
- The Supplementary Benefit (Guernsey) Law, 1971, as amended;

- The Social Insurance (Guernsey) Law, 1978, as amended;
- The Attendance and Invalid Care Allowances (Guernsey) Law, 1984, as amended;
- The Health Service (Benefit) (Guernsey) Law, 1990, as amended;
- The Long-term Care Insurance (Guernsey) Law, 2002, as amended.

111. The following branches of social security exist in Guernsey:

- Medical care;
- Cash sickness benefits;
- Maternity benefits;
- Old-age benefits;
- Invalidity benefits;
- Survivors' benefits;
- Employment injury benefits;
- Unemployment benefits;
- Family benefits.

112. The social insurance scheme applies to all persons resident in Guernsey, Alderney, Herm and Jethou who are over school leaving age. Social security contributions are payable by individuals and employers. Rates are based on earnings/income between upper and lower earnings/income limits, which, together with a statutory grant from the States of Guernsey, produces sufficient income to meet the cost of the contributory benefits to which the various categories of employed, self-employed and non-employed persons are separately entitled.

113. In addition, the States of Guernsey wholly funds, from the general budget, non-contributory schemes to support the well-being of children, people in need of domiciliary care and their carers and to provide financial and medical assistance to people unable to safeguard their own welfare or having insufficient resources for an adequate quality of life.

114. The benefits available under Guernsey's social security system are summarised in the following table.



**Table 1**  
**Summary of benefits available in Guernsey**

Branch/Benefit	Main features	Nature and level of benefits (2007)	Coverage	Method of financing
<b>Medical Care</b>				
Medical Benefit Grant	Insurance based part payments towards the cost of consultations with doctors and medical practice nurses.	£12 grant towards the cost of seeing a doctor. £6 grant towards the cost of seeing a nurse.	Insured residents	Contributions plus general budget.
Pharmaceutical Benefit	Insurance based cover to fund the cost of prescription drugs, apart from a nominal prescription charge.	The cost of prescription drugs exceeding the nominal prescription charge of £2.60/item.	Insured residents. Persons over the age of 65 do not have to pay the prescription charge.	Contributions plus general budget.
Medical Appliances Benefit	Insurance based cover to fund the cost of medical appliances as prescribed by a doctor.	Full cost of medical appliance.	Insured residents	Contributions plus general budget.
Specialist Medical Benefit	Insurance based cover to fund the cost of specialist medical treatment.	Full cost of specialist medical treatment.	Insured residents	Contributions plus general budget.
Physiotherapy Benefit	Insurance based cover to fund the cost of physiotherapy associated with secondary care.	Full cost of physiotherapy associated with secondary care.	Insured residents	Contributions plus general budget.
Alderney Hospital Benefit	Insurance based cover to fund the cost of acute inpatient treatment at the Mignot Memorial Hospital in Alderney.	Full cost of acute inpatient treatment at the Mignot Memorial Hospital.	Insured residents	Contributions plus general budget.
Travelling Allowance Grant	Insurance based cover to fund the travel expenses of patients needing to travel off island for medical treatment.	Cost of travel from Guernsey and Alderney to the UK, Jersey or France and from Alderney to Guernsey.	Insured residents	Contributions plus general budget.
Travelling Expenses Assistance Scheme (TEAS)	Financial assistance with travel and accommodation costs for patients and non-medical escorts in connection with medical treatment in the UK, when such costs are not met under the insurance based Travel Allowance Grant and would otherwise cause financial hardship.	Full cost of travel and accommodation.	Available to persons who do not have the means to pay for travel and accommodation costs associated with travelling off-island for medical treatment.	Non-contributory means-tested scheme wholly funded by the tax payer.

Branch/Benefit	Main features	Nature and level of benefits (2007)	Coverage	Method of financing
<b>Cash Sickness Benefits</b>				
Sickness Benefit	Insurance based weekly financial assistance, for up to 26 weeks, to employed and self-employed workers who are incapable of work because of bodily or mental illness or disablement caused by sickness or an accident unconnected with employment.	Full benefit - £111.58/week	Insured residents subject to satisfying certain contribution conditions. SB is not available to non-employed persons.	Contributions plus general budget.
Invalidity Benefit	Insurance based weekly financial assistance, at a higher rate than sickness benefit or industrial injury benefit, to employed and self-employed workers who are incapable of work for more than 26 weeks because of bodily or mental illness or disablement.	Full benefit - £135.94/week	Insured residents subject to satisfying certain contribution conditions. IB is not available to non-employed persons.	Contributions plus general budget.
<b>Maternity Benefits</b>				
Maternity Allowance	Insurance based weekly financial assistance, for up to 18 weeks, to employed and self-employed women who stop work for maternity.	Full benefit - £111.58/week	Insured expectant mothers subject to satisfying certain contribution conditions. Non-employed expectant mothers are not entitled to Maternity Allowance.	Contributions plus general budget.
Maternity Grant	Insurance based single payment to assist with maternity expenses.	£280	Insured expectant mothers who are ordinarily resident.	Contributions plus general budget.
<b>Old-Age Benefits</b>				
Old Age Pension	Insurance based weekly financial assistance to men and women over the age of 65.	Full benefit - £151.50/week. Full additional rate for dependants - £76/week.	Insured residents subject to satisfying certain contribution conditions.	Contributions plus general budget.
Long-term Care Benefit	A flat-rate, non-means tested cash benefit to residents of private nursing and residential homes to assist with the cost of their long-term care.	Private residential home - £322/week. Private nursing home - £602/week. Co-payment by resident - £147/week.	Available to persons assessed as being in need of care and being in possession of a Needs Assessment Panel Certificate and a residential or nursing home bed. Claimants must have lived in Guernsey or Alderney for a continuous period of 5 years and have lived in Guernsey or Alderney for at least 12 months immediately prior to claiming.	Wholly funded by contributors w.e.f. 01/01/07. Prior to this time, contributions were supplemented from the general budget.

Branch/Benefit	Main features	Nature and level of benefits (2007)	Coverage	Method of financing
<b>Invalidity Benefits</b>				
Attendance Allowance	A flat-rate cash benefit available to adults and children who, owing to a physical or mental disability, need frequent or prolonged attention or supervision from another person. The allowance is intended to improve the general welfare of the disabled person. The allowance can be used to contribute towards the cost of a carer.	£77.80/week (subject to having an annual income not exceeding £71,350).	Available to persons who have needed the required level of care for at least 3 months, unless terminally ill, subject to satisfying certain residential conditions.	Non-contributory scheme wholly funded from the general budget.
Invalid Care Allowance	A flat-rate cash benefit available to adults who provide at least 35 hours of care per week to disabled persons in receipt of attendance allowance. The allowance is also intended to provide a degree of incentive to care for disabled persons in the community.	£62.80/week (subject to having an annual income not exceeding £71,350).	Available to adults who provide at least 35 hours of care per week to disabled persons in receipt of attendance allowance, subject to earning less than the lower earnings limit from employment.	Non-contributory scheme wholly funded from the general budget.
<b>Survivors' Benefits</b>				
Bereavement Payment	An insurance based single payment to all widows and widowers to provide additional financial assistance immediately following the death of a spouse.	Full payment - £1,375	Insured residents subject to satisfying certain contribution conditions	Contributions plus general budget.
Bereavement Allowance	Insurance based weekly financial assistance for one year to widows and widowers, who are not in receipt of Widowed Parent's Allowance, but who are aged between 45 and 64 inclusive.	Full benefit - £137/week	Insured residents subject to satisfying certain contribution conditions	Contributions plus general budget.
Widowed Parent's Allowance	Insurance based weekly financial assistance to men and women who are widowed and have dependent children.	Full benefit - £159.50/week	Insured residents subject to satisfying certain contribution conditions	Contributions plus general budget.
Death Grant	An insurance based single payment to assist with funeral expenses.	Full grant - £434.00	Insured residents subject to satisfying certain contribution conditions	Contributions plus general budget.

Branch/Benefit	Main features	Nature and level of benefits (2007)	Coverage	Method of financing
<b>Employment Injury Benefits</b>				
Industrial Medical Benefit	Insurance based cover for medical and paramedical expenses resulting from an industrial injury or prescribed industrial disease.	Full cost of medical and paramedical expenses.	Available to persons employed under a contract of service or liable for self-employed contributions at the time of the accident or contraction of the condition or disease. Self-employed people over the age of 65 and self-employed people earning less than the lower earnings limit cannot claim industrial injuries benefits.	Contributions plus general budget.
Industrial Injury Benefit	Insurance based weekly financial assistance, usually available for up to 26 weeks, to employed and self-employed workers who are incapable of work through industrial injury or prescribed industrial disease.	£111.58/week		Contributions plus general budget.
Industrial Disablement Benefit	Insurance based weekly financial assistance to compensate for loss of physical or mental faculty resulting from an industrial injury or prescribed industrial disease.	The amount of benefit payable is fixed by reference to the degree of disablement assessed by a medical board and expressed as a percentage. The maximum level of payment available for 100% disability is £122/week.		Contributions plus general budget.
<b>Unemployment Benefits</b>				
Unemployment Benefit	Insurance based weekly financial assistance, for up to 30 weeks, available to unemployed persons seeking work who normally work for an employer.	Full benefit - £111.58/week	Unemployed persons subject to satisfying certain contribution conditions. UB is not available to self- and non-employed persons.	Contributions plus general budget.
<b>Family Benefits</b>				
Family Allowance	A flat-rate, non-means tested cash benefit to assist with the cost of bringing up a child. The allowance is paid in respect of each child of a family with no limit on the size of the family.	£13.20/week/child	Primary carers (male or female).	Non-contributory scheme wholly funded from the general budget.

115. The Department also operates a comprehensive scheme of social assistance to provide pensioners, jobseekers, lone parent families, the sick and the handicapped with an income sufficient to meet their needs, within parameters approved annually by the States.

116. On 3 January 2005, Regulations were made under the provisions of a new section added to the Social Insurance Law by The Social Insurance (Guernsey) (Amendment) Law, 2004, to enable the Department to offer a range of benefits to persons in receipt of sickness benefit, invalidity benefit, industrial injury benefit, industrial disablement benefit or unemployment benefit to facilitate their return to employment or other gainful occupation. Such benefits include basic skills training, short-term job-specific training, arranging participation in voluntary work and therapeutic work while in receipt of benefit, arranging work trials and gradual returns to work while in receipt of benefit, paying job start expenses and paying a back-to-work bonus for people managing sustained re-entry to the workforce after significant periods of sickness or unemployment.

117. In 2005, expenditure on social security was £137.5m. This equated to an estimated 8.77% of Gross National Product.

118. Guernsey residents may take out private occupational pensions and private health insurance policies. This does not affect residents' entitlement to the State old age pension or health benefits.

119. All groups enjoy the right to social security.

120. The Health Service (Benefit) (Guernsey) Law, 1990 has been further amended to remove the requirement that the claimant has lived in Guernsey for any set period of time immediately prior to claiming any of the benefits under the Law. The States has also enacted legislation with the object of removing any distinction between men and women in the provision of social security benefits. The Social Insurance (Guernsey) Law, 1978 has therefore been amended with effect from 2004 to broaden the ambit of those eligible to receive benefits: a bereavement allowance replaces the widow's pension and is payable for 1 year to those who are 45 or older; the payment of an old age pension has been extended to benefit surviving spouses whose deceased spouse would have qualified for a pension as well as introducing a separate entitlement for a limited category of wives (based on their age and date of marriage) on the basis of the contributions made by their husbands.

121. In the field of industrial accidents, the widow's benefit has been replaced by the survivor's benefit and similarly all references to widows have been replaced with a gender neutral term in legislation preventing disqualification from receiving an old age pension.

122. Grants may now be made to islanders for vocational training, industrial rehabilitation courses or the provision of tools, equipment and transport for the purpose of facilitating the return to employment.

123. The introduction of the Long-term Care Insurance (Guernsey) Law, 2002 saw the institution of a Fund which makes payments to those in need of long-term care in respect of the costs themselves and also for respite care. Those who may suffer harm whilst undertaking normal activities of daily life without substantial assistance or attention from another (whether due to bodily, mental disability, both or neither) may now receive assistance in their situation.

124. The social insurance scheme, which provides the contributory benefits of old age pension, survivor's benefits, and benefits for sickness, unemployment and maternity, was revised with effect from 1 January 2004 to provide all contributors with clearly defined entitlements under the Law, without reference to gender, marital status or family circumstances.

125. Prior to this time, the structure of the social insurance scheme discriminated in favour of the married woman, who could access a partial pension as a derived right on her husband's insurance record. The married man could also claim an increase in benefit in respect of his adult and child dependants.

126. Substantial changes to the social insurance programmes took effect from 1 January 2004. The changes individualised contribution liabilities and benefit entitlements and achieved gender equality. The revised programmes include recognition of home responsibilities by allowing insurance contribution credits to apply for each week that an insured person, not being in paid employment, is looking after a child of under 16 years of age.

127. These changes have served to improve the retirement income of women.

128. Guernsey has a significant migrant population providing labour in key sectors of the economy such as finance, health, education, retail, horticulture, tourism and hospitality. Through international cooperation, the insular authorities have entered into reciprocal agreements with the countries listed below to preserve social insurance entitlements for local residents working in the international community and vice versa:

Austria, Barbados, Bermuda, Canada, Cyprus, France, United Kingdom, Isle of Man & Jersey, Italy, Jamaica, Japan, Malta, New Zealand, Portugal, Spain, Sweden, Switzerland, The Netherlands, United States of America.

Beyond the above cooperation, international assistance is not a relevant issue.

129. Although Sark has no social security or social insurance legislation, welfare payments are provided by the island's authorities. They are funded by levying a capital tax on residents.

#### **Article 10 - Right to protection of the family**

130. At present, consultation is taking place on the draft of a new Children's Law, which will reform the current legislation in force in Guernsey and Alderney. After consideration of the practices adopted by a variety of jurisdictions throughout the world, including Scotland, the Law is intended to introduce those which have proven to be the most effective. Its aims are to protect children from harm and to facilitate their proper and adequate health, welfare and development, and this will be achieved by adopting more modern orders and by a streamlined procedure. A set of guiding principles has also been formulated to regulate the application of the Law so that all aspects of a child's life are examined in order for proposals to be put forward to help them become a responsible and law-abiding member of the community. The Children's Convenor will determine whether compulsory intervention is required in order to provide the child concerned with adequate care, protection, guidance or control. The nature of any such provision would be

decided upon by Child, Youth and Community Tribunal, a lay body formed of members of the community. In place of the guardianship and court welfare services, the Safeguarder Service will be instituted to safeguard the welfare of the child and advise any court, the Tribunal and the Convenor, when required.

131. Further legislation will raise the age of criminal responsibility from 10 to 12 and seek to divert from the criminal justice system all but those children accused of the most serious offences. Reform will also take place of the system by which a child is remanded in secure accommodation and it is hoped that the introduction of special measures for child witnesses in court proceedings will help to put them at their ease in a stressful situation. The States has also acted to give the judiciary further powers in criminal matters with the introduction of the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006, which increased the penalties for offences relating to indecent photos of children.

132. In addition, the States has enacted the Adoption (Amendment) (Guernsey) Law, 2000, which allows, on application by an adopted child, disclosure of their birth records. Upon such disclosure, counselling may be provided if requested and the applicant can elect for their name to be entered onto the newly-established Adoption Contact Register if they wish to contact other family members.

133. In an effort to protect the position of illegitimate children, Guernsey has removed the distinction between legitimate and illegitimate issue for the purposes of inheritance.

134. A family is regarded as a unit of co-related people, usually used in the context of having or having had children. It can take differing forms and configuration, for example nuclear families, extended families, stepfamilies, single parent families and adoptive and foster families.

135. Under the terms of the proposed new law a parent is defined as a father or mother who has parental responsibility in respect of the child. Father is defined as either the genetic father of the child or, where adoption has taken place, any man who is authorised under the adoption order to adopt the child. Mother is defined as the woman who gave birth to the child and/or, where adoption has taken place, any woman who is authorised under the adoption order to adopt the child.

136. The age a person is deemed to attain majority is 18 years for purposes of adult status and voting rights but 16 for age of sexual consent and marriage with parental consent. Since 2001, the age of majority on Alderney has been reduced to 18, in line with that in Guernsey.

137. Men and women of marriageable age have the right to marry and to found a family, according to the Island's laws governing the exercise of this right.

138. Benefits such as family allowance are available, as are a range of health and social care services, such as midwives, health visitors, school nurses trained in the care of families, social workers whose aim is to keep families with difficulties together if at all possible, respite units and residential care, family centres and family support teams. There are also the statutory legal rights of parents and children, as enshrined in Bailiwick legislation. Extended families and other forms of familial organisation are recognised when considering availability or applicability of these measures.

139. All expectant mothers insured under the Guernsey social insurance scheme and ordinarily resident in Guernsey and Alderney are eligible for maternity benefit.

140. Maternity allowance is payable to expectant mothers for a maximum period of 18 weeks whilst not undertaking paid work for themselves or an employer. To qualify for Maternity Allowance, the applicant must satisfy certain contribution conditions. The amount of benefit received depends on the number of contributions in the relevant contribution year. The current full rate of benefit is £111.58/week.

141. Maternity allowance was previously only available during a restricted 18-week period starting no earlier than 11 weeks before the week in which the baby was expected and ending no later than 6 weeks after the baby was born. This effectively curtailed the length of the claim for women staying in employment later than 11 weeks before their baby was expected or for women whose babies were born earlier than expected. In 2000, the Department introduced a flexible period in which to claim starting no earlier than 11 weeks before the week in which the baby is expected and ending with the 17<sup>th</sup> week after the week in which the baby is born.

142. Maternity grant is a single payment to help with the cost of having a baby. The grant is payable to expectant mothers who are insured under the Guernsey social insurance scheme and ordinarily resident in the Bailiwick. The grant is currently £280.

143. Women may not receive both a maternity allowance and a maternity grant in relation to the same pregnancy or confinement.

144. All pregnant women and single mothers, whether they satisfy contribution conditions or not, have the additional protection of means tested social assistance under the Supplementary Benefit Law.

145. Medical benefits during the period of confinement are covered under the normal health insurance scheme. Prenatal and postnatal support is provided by the Health and Social Services Department.

146. At present there is no law in the Island requiring employers to provide paid maternity leave. Employers who choose to do so provide such benefits through a contractual agreement and this must be included in the statement of the main terms and conditions of employment (or contract). Under the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (in force 1 March 2006) employers are required to include a section on maternity provisions, clearly stating what is and isn't provided, as part of their employees' written terms and conditions (this is regardless of whether the employer has chosen to provide any paid maternity benefits or otherwise).

147. The protection of children has also been furthered by the extension of the Worst Forms of Child Labour Convention, 1999 (No. 182) to the Bailiwick in 2001.

148. The Loi ayant rapport a la Protection des Enfants et des Jeunes Personnes (Law Relating to the Protection of Children and Young Persons), 1917, specifies that children under the age of



eleven shall not be employed in street trading, shall not be employed to lift, carry or move anything so heavy as to be likely to cause injury and that a child shall not be employed in any occupation likely to be injurious to life, limb, health or education.

149. The Family Allowance (Guernsey) (Amendment) Law, 1976, provides for economic support for families and children.

150. There is no minimum age for the paid employment of children. However, the Loi ayant rapport a la Protection des Enfants et des Jeunes Personnes, 1917, states that a child under school leaving age may not work before 6 a.m. or later than 9 p.m., and that they may not work in dangerous employment such as quarrying or mining. All children have the same rights of assistance and protection.

151. Fostering and adoption services are available for those children without biological parents. The Health and Social Services Department also provides residential care, where necessary, respite care for children with disabilities and a range of services to support their families in caring for them.

152. The society is democratic and open and people are generally aware that they have rights and freedoms but are not necessarily aware in any detail. They are advised individually by a range of health and social care professionals. Personal, Social and Health Education (PSHE) is also available to all children. The Health and Social Services Department works closely with the Education Department to address any issues that arise.

153. No changes have taken place in national legislation, court decisions or administrative rules, procedures or practices during the reporting period affecting the right enshrined in article 10. However, the current legislation in place to protect children is the Children and Young Persons (Guernsey) Law, 1967, which is due to be superseded by the Children (Guernsey and Alderney) Law, 2007, due to be implemented in 2008.

154. The Bailiwick does not receive any international assistance in the full realisation of the rights under this Article.

**Article 11 - Right to an adequate standard of living (particularly the right to water and food, and housing)**

155. A Survey of Guernsey living standards was conducted in 2001 by the Townsend Centre for International Poverty Research. A primary purpose of this survey was to assess the numbers of households in Guernsey that may be considered to be in relative poverty judged against various relevant benchmarks, both local and from other jurisdictions. The survey concluded that 16% of the population may be regarded to be living in relative poverty. People are defined as living in poverty if they are unable to afford so many of the “necessities of life” that their standard of living was below the minimum considered to be acceptable by the majority of Islanders. What constitutes the necessities of life was determined in a survey where respondents were asked which items and activities they thought were essential which nobody should go without because of a lack of money.

**Poverty in Guernsey in 2001 - Percentage in objectively measured “relative” poverty**

	%
Poor	16
Vulnerable to poverty	5
Risen out of poverty	3
Not poor	76

*Source:* Table 2.9: The Survey of Guernsey Living Standards, Report on Phase 2: Poverty and Standard of Living in Guernsey, D Gordon et al, 2002  
<http://www.gov.gg/ccm/general/online-reports/22-reports/survey-of-guernsey-living-standards.en>.

Household type	Percent who are poor	Proportion of the poor
Single pensioner	43	30
Pensioner couple	5	3
Single adult	16	12
Adult couple, no children	6	7
Lone parent	63	14
Couple with one child	10	6
Couple with two or more children	16	14
Three or more adults with children	26	11
Multiple adult household	4	3
Total	16	100

*Source:* Table 2.10: The Survey of Guernsey Living Standards.

156. As a result of the survey a number of measures have been put in place by the States of Guernsey as part of a Corporate Anti-poverty programme aimed at reducing relative poverty in Guernsey. The survey is due to be repeated in 2009/2010 to measure progress compared to the 2001 benchmark.

157. At present no data is available that would allow a breakdown of the Island’s GNP per capita into income groups.

158. The Physical Quality of Life Index has been calculated as follows:

- Literacy rate = 99;
- Indexed Infant Mortality Rate = 100.9;
- Indexed Life Expectancy = 102.1;
- Overall PQLI = 100.7.

159. Over, rather than under, nutrition is the major dietary problem facing Guernsey, with 20% of adult Guernsey women and 19% of adult Guernsey men being classified as obese. The Health and Social Services Department has recently agreed to support an integrated strategy to tackle obesity in Guernsey, which will be the subject of a report to the States of Deliberation later in the year. This will include progress for the dissemination of knowledge of the principles of nutrition.

160. All indications are that residents of Guernsey enjoy good quality healthcare and healthcare outcomes comparable with other advanced economies, but that Guernsey spends relatively less to achieve this.

161. The water supply is good and subject to testing for quality.

162. The Environmental Health Department regularly monitors all aspects of environmental health. Reported incidents, such as cases of food poisoning, have shown a year on year decline over the past seven years.

163. The Housing Department provides social housing, both directly and through housing associations, for those of limited means and housing standards are controlled by legislation which is implemented by the Environmental Health Officers and the Medical Officer of Health.

164. There have been no specific issues arising in respect of vulnerable or disadvantaged groups, no change in national policies, laws and practices and no measures to improve methods of producing, conserving and distributing food, as none has been necessary. Neither has there been any requirement for measures of agrarian reform.

165. The results of the 2001 Census revealed that there were 22,963 occupied dwellings in Guernsey, a rise from 20,455 dwellings in 1996, representing an increase of 2,508, or 12%. There were a total of 23,068 households in 2001 and the number of people in the average household fell from 2.55 in 1996 to 2.51 in 2001.

166. The early results of a Housing Needs Survey carried out in 2006 revealed that 41% of households own their properties, 33% own their property with a mortgage or a loan, 16% rent accommodation in the private sector and 10% of households live in social rented housing. This is broadly in line with the results of the 2001 Census, although it appears that there has been a slight decrease in percentage terms in the number of properties in the private rented sector and a small increase in owner occupation over this five year period.

167. The Housing Department has responsibility for advising the States on matters relating to the direction of the Island's Housing Strategy, which aims to ensure that all persons legally resident in the Island have access to accommodation to meet their reasonable needs.

168. The Housing Department has a revenue budget for 2007 of £1,725,000, for administration, staffing and for its residential homes, which includes the income in the form of fees for the occupation of its 110 residential home places. A further £7,000,000 of income is also received as rent paid by social housing tenants, which is net of rent rebates. This income is used for the ongoing repair and maintenance of properties and for the day to day administration of tenancy services.

169. In addition, a capital allocation of £7,000,000 has been made to the Corporate Housing Programme (CHP) for 2007 which is used for the States Houses Fund modernisation and improvement project, grants to Housing Associations and other capital projects in support of the CHP. These initiatives are discussed in more detail later in this report.

170. The Housing Departments' funding arrangements will change in 2008. The Department will continue to receive the rental income from its tenants, but the capital allocation will be replaced by a revenue payment to the value of the rent rebates, in the region of a further £7,000,000. This will give more financial certainty to the CHP and will allow the Department to more effectively plan ahead for future development projects.

171. The CHP was approved by the States in February 2003 (*Billet d'État* II 2003) as a means of providing a practical framework for implementing the Housing Strategy, through coordinated action by States' departments, non-governmental organisations, voluntary groups and the private sector.

172. The Programme comprises six Action Areas that, jointly, reflect the diversity of action that is required to meet the States Housing Strategy across a variety of fronts. The objectives of each of these six Action Areas are designed to cut across individual States departments' mandates and to focus action on meeting those objectives.

173. Action Area E of the CHP details a commitment to provide supported housing provision for those most in need, including older people and the young.

174. The Housing and Health and Social Services Departments have recently worked in partnership with a private organisation and provided grant funding to deliver the Islands first "extra care" housing scheme, which aims to meet the care and support needs of older people whilst enabling them to retain their independence.

175. The departments also provide ongoing grant funding to support the National Children's Home (NCH) Youth Housing Project, which meets the needs of young people who are without family support and at risk of homelessness, unemployment or social exclusion.

176. Although no statistics are kept regarding the number of homeless individuals and families and there is no relevant legislation governing it, there are believed to be very few homeless people in the Island. For those persons who might otherwise find themselves in a homeless situation, a rent allowance is provided by the Social Security Department, through the Supplementary Benefit Scheme, to assist them to rent accommodation in the private sector. However, there may be a small number of people who are intentionally homeless and who choose not to access the benefit system.

177. The States, through the Health and Social Services Department, provides limited accommodation at St. Julian's House for people that require a supported living environment on a long-term basis, such as those with social, medical or psychiatric problems and who might not otherwise be able to support themselves in the community.

178. The first "Housing Needs Survey" (HNS) was carried out in 2001, with the purpose of identifying the future housing need in the Island. The 2001 HNS informed the strategic house

build target, which is currently set at 300 new homes per year. The obligation to undertake a second HNS, and subsequent Surveys at regular intervals of five years, has been included in the annual Action Plans for the CHP.

179. A further HNS was undertaken in 2006 and revealed that the majority of households in the island have adequate or more space than is required to meet their needs, with as many as 1,700 households (71%) technically under-occupying their properties. Whilst 571 households, or 2.4% of the total number of households in the Island, technically live in over crowded conditions, of those, 37% consider that their home is about the right size.

180. The exact numbers of people who are considered to be living in substandard conditions is unknown. However, respondents to the 2006 HNS were asked for their views on the problems affecting their accommodation. 79% did not report a problem with their current home, but 21% of households reported that they had 1, 2 or 3 or more problems. The main ones identified were damp penetration and condensation. In real terms however, serious problems were found to affect only a very small minority of households.

181. The Office of Environmental Health and Pollution Regulation which is part of the Health and Social Services Department, has the responsibility, under the public health legislation, to determine whether premises are unfit for human habitation. In making an assessment, a wide variety of factors are taken into account, such as:

- Repair;
- Stability;
- Freedom from damp;
- Natural lighting;
- Ventilation;
- Water supply;
- Drainage and sanitary conveniences;
- Facilities for preparation and cooking of food and for the disposal of waste water;
- Heating;
- Thermal insulation;
- Electrical wiring installation;
- Sound insulation;
- External environment;

- Protection from fire and means of escape;
- Personal washing facilities (bath/shower, wash basin, hot and cold water); and
- Deficiencies contributing to hazards, which are likely to have an adverse physical or mental effect on the health, safety and well-being of any occupiers (or visitors).

182. Premises shall be deemed to be unfit for human habitation should they be so far defective in one or more of these areas that they are not reasonably suitable for occupation in that condition. If, following complaint by the occupant, any premises are found to be unfit the matter would be referred to the Director of Public Health, who has the power to close such premises. They would not then be available for occupation until sufficient works had been carried out to render them fit for purpose. Minor housing defects can be dealt with under the nuisance provisions of the public health legislation.

183. Through the CHP, a Private Sector Landlords' Forum has been established and landlords are being encouraged to adopt the recently revised voluntary code of good practice for rented accommodation to improve standards, which is published by the Office of Environmental Health and Pollution Regulation.

184. The Housing Department is undertaking research into the standards of shared accommodation in this sector, particularly within lodging houses and staff quarters, to investigate whether legislation is required to effect an improvement the condition of some properties.

185. The numbers of persons living in "illegal" settlements or housing is unknown.

186. The Rent Control (Guernsey) Law, 1946, as amended, came into force to ensure that tenants paid a reasonable and comparable rent for their accommodation in the private rented sector. Initially all privately rented properties were rent controlled. However, due to changes in the legislation over time, now only 1% of properties are regulated in this way. The effectiveness of this legislation is being reviewed.

187. Legislation is also in place to protect tenants of private sector rented accommodation from eviction.

188. With reference to the lease or tenancy agreement in place with the tenant, a landlord who wishes to remove a tenant from a property must first issue a Notice to Quit, stating the grounds of eviction. If there is a dispute over the eviction and a tenant fails to vacate the property, a landlord can apply to the Royal Court for an Eviction Order. Depending on the circumstances of the individual case, the Royal Court can grant a stay of eviction to the tenant for a specified term.

189. Since 2002, 124 Eviction Orders have been made; an average of approximately 25 per annum.

190. The tenancy agreement for tenants of social rented housing details the circumstances under which they could be evicted from their properties.

191. A tenant has the right to occupy the premises as long as:

- (a) They comply with the terms of Tenancy Agreement;
- (b) They continue to be eligible for States housing;
- (c) The property they are occupying is suitable for their needs.

192. If a breach of any of the above conditions occur, the Housing Department will, except in extreme cases, make every effort to obtain the co-operation of the tenant and avoid the necessity of taking eviction action but will do so where other approaches have failed.

193. A Notice to Quit is issued by the Department. If a tenant fails to vacate the property, then an Eviction Order is sought from the Royal Court. Only a very small number of cases reach this stage. Two cases were taken to court during 2006.

194. In cases of reviews of tenancy, eviction would only be sought where appropriate after the normal appeals process in respect of appeal to the Housing Appeals Tribunal has been followed and the decision requiring vacation of the property has been confirmed.

195. There are no set criteria for assessing whether housing expenses are affordable, based on ability to pay or as a ratio of income.

196. There is no legislation giving a right to housing, which means that there is no statutory duty on the States of Guernsey to provide housing. There is no such legislation in Guernsey such as housing acts, homeless person acts, municipal corporation acts, etc.

197. In order to minimise the development of open and undeveloped land, planning policies seek to ensure that as much new housing as practicable is provided within the existing urban areas and on previously developed land. Priority is given to making better use of the existing housing stock and to the conversion and re-use of other vacant buildings.

198. The importance of housing which meets the needs of all sectors of society is recognised and two aspects are considered particularly important; affordability and the ability to accommodate a range of housing needs for all members of the community, including elderly people and those with disabilities.

199. The main housing policy principles are:

- 90% of the Island's housing requirement should be accommodated in the Urban Area Plan area;
- As much new housing as is practicable should be accommodated within the Settlement Areas and on previously developed land (brown-field sites);
- The potential to convert and re-use derelict or vacant buildings and upper floor accommodation should be encouraged;

- The amount of development needed on open and undeveloped sites should be minimised; and the release of Housing Target Areas should be carefully controlled;
- The existing housing stock should be retained, improved and replaced where appropriate;
- Housing development should achieve as high a density as is compatible with achieving good standards of design, accommodation and residential amenity; and
- A wide range of housing which reflects housing needs should be encouraged, including homes for families and small households; communal residential establishments; and housing for the elderly and other households with special needs.

200. Housing Target Areas are a reserve of land that may be needed in the future to accommodate major new housing and other forms of development in accordance with an approved Outline Planning Brief.

201. Greenfield sites may be allocated as Housing Target Areas, but they are only released for development when the States are satisfied that there are insufficient opportunities for development within the existing built-up areas. The release of Housing Target Areas is carefully controlled.

202. There are currently five identified Housing Target Areas in the Urban Area Plan.

203. In order to meet the principles of sustainable development, Housing Target Areas are required to satisfy the following criteria:

- They are well related to the existing pattern of development, with access to local facilities;
- They are accessible by public transport;
- They avoid areas of important landscape, conservation, wildlife or other environmental interest; and
- Appropriate infrastructure can be provided in a sustainable manner.

204. With regard to the rural area, the development of housing is restricted to the conversion and sub-division of existing buildings. Methods for making better use of the existing housing stock is also encouraged through proposals for improving properties, bringing empty houses back into use and reducing under occupation.

205. The delivery of affordable homes to meet identified social needs will be limited to sites where the States is able to exert controls as landowner or other enforceable means, such as those adjacent to existing social housing estates. This includes the opportunity to provide further sheltered housing to meet an identified shortfall in this area.



206. All building work in Guernsey is governed by the Building (Guernsey) Law 1956 and The Building Regulations 1992 as amended by the Building (Amendment) Regulations 2006. The responsibility of ensuring that building work complies with the law and regulations rests with the Building Control section of the Environment Department.

207. There is no legislation which deals with discrimination in the housing sector.

208. The Dwellings Profit Tax (Guernsey) Law, 1975, was introduced to regulate property speculation by taxing, under certain conditions, the chargeable profit made on the sale or lease of a property. A number of transactions are exempt under Section 9 of the Law.

209. This legislation is an anti-inflationary measure which is not intended to have a negative impact on the fulfilment of housing rights for all sectors of society, but to restrict property speculation.

210. In October 2005, the States considered a report on the feasibility of a self build scheme in Guernsey. A decision was taken to defer the introduction of such a scheme until such time as other more urgent social housing options had been delivered and until the provision of funding and land was available.

211. The Housing Department actively works with community-based organisations, which provide housing related services. The above example of cross-departmental working between the Housing and Health and Social Services Departments and the NCH to provide accommodation for young people is testament to this, as is the Housing Department's relationship with the Guernsey Housing Association (GHA) (as discussed in more detail below).

212. Social rented housing is provided to people who cannot afford to purchase or rent without some form of financial subsidy from the States, housing association, or another provider. The Housing Department and the GHA work in partnership to meet the Island's social housing needs and to find the most appropriate housing solution for applicants for social rented housing. The States housing stock, which is made up of about 1982 properties, is reserved as a matter of priority for those with a housing need, primarily families with dependent children and pensioners, but also for those persons whose medical needs would be appropriately met by social rented housing.

213. The Housing Department undertakes tenancy reviews on an ongoing basis to ensure that the social housing stock is being used in the most effective way and that accommodation is available to those most in need. The allocations policy for social housing includes:

- A waiting list of those people who have been assessed as being in 'housing need' through meeting the eligibility criteria; and
- A points system, which gives each applicant accepted on to the waiting list, an indication of the priority they are likely to receive. The points system assists the Housing Department in ensuring that vacant properties, of the size which meet the needs of applicants, are allocated to the applicant who has the most urgent need of that property.

214. The allocations policy gives the Housing Department the flexibility to ensure that its stock is being used to appropriately meet needs as circumstances change. It is not intended to provide a tenancy for life unless there is a continued need.

215. The States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004 put in place a 'Rent Rebate Assessment Scheme' to ensure that social housing tenants pay an affordable rent for their accommodation.

216. This legislation clearly sets out the procedures involved in evicting a tenant from their property and the circumstances under which this can be effected, such as due to a change in a tenants' circumstance that renders them ineligible for continued occupation of social rented housing or breaches of the Tenancy Agreement. All social housing tenants receive a 'Tenants handbook' which details both their responsibilities and those of the Housing Department.

217. The States Housing (Tribunal and Appeals) (Guernsey) Regulations, 2005, as amended, introduced a Scheme that allows tenants or prospective tenants to appeal to an independent tribunal against a decision that has been made regarding the application of a key social housing policy, for example, on access to the waiting list, on a review of tenancy or on eligibility to a rent rebate.

218. In total, approximately 4,950 people are accommodated in social rented housing owned and managed by the Housing Department (approximately 8.25% of the total population).

219. In addition, the GHA also owns 167 units of accommodation of social rented housing. It is envisaged that over the next three years, the number of properties in the GHA's portfolio will increase to in the region of 500 homes. Over this period the Housing Department will rationalise its stock to approximately 1900 units of accommodation, from the 1982 properties that it currently manages.

220. There are currently 92 households registered with the Housing Department on the active waiting list. In addition, there are 311 households currently accommodated by the Housing Department or the GHA who have requested a property transfer. In addition, the GHA also has a waiting list which extends to 197 households.

221. The GHA operates different eligibility criteria to the Housing Department, which are slightly wider to enable more people to access their accommodation. For example, whilst the Housing Department's policies are designed to meet the identified housing needs of older persons and families on a low income, the GHA is able to allocate 25% of its stock to non-nominated tenants, which can include single people and couples without children on low incomes.

222. The Association has recently introduced a Partial Ownership Scheme to enable more people to purchase a proportion of the equity in a property. Whilst there are only 10 homes available as partial ownership at present, the social housing development programme focuses on such measures to support the intermediate housing market and increase this type of provision as the Housing Department's older estates are redeveloped.

223. The anticipated completion of a social housing development project in late 2008 will provide a further 25 partial ownership properties, representing 30% of the new accommodation on this site. A number of other social housing development projects are also being planned and the demand for further partial ownership will be evaluated on an ongoing basis.

224. A further aim of the social housing development programme is to redress the mismatch in the supply and demand for accommodation, particularly with regard to the current shortage of 1-bedroom properties that has been identified within the existing stock.

225. A full refurbishment of the Housing Department's older properties was completed in 2006 and the focus has now switched to a rolling programme of modernisation, to improve the insulation and energy efficiency of properties, in order to reduce tenants' fuel bills.

226. The Housing Department also administers a Home Loans Scheme to assist first time buyers to purchase a property in the general housing market. The Scheme is funded through the Housing Development and Loans Fund managed by the Treasury and Resources Department. In 2006, six loans were granted. Due to increasing house prices in the Island and the availability of affordable finance from private institutions, the use of the Scheme has reduced in recent years. The States has agreed that the surpluses in this Fund can be used to finance initiatives under the CHP.

227. A Home Improvement Loan Scheme also exists to assist with essential repairs and maintenance to properties, to those who cannot secure bank financing. Loans are usually provided at a lower than commercial borrowing rate. Only one loan was made during 2006. In addition, 24 grants were approved during 2006 to assist with the cost of document duty for first time buyers.

228. There have been no changes to legislation which have negatively affected the right to adequate housing during the reporting period.

229. The Bailiwick does not receive any international assistance in the full realisation of the rights under this Article.

### **Article 12 - Right to health**

230. The enactment of the Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 2000 has permitted the amendment of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 to be achieved more rapidly as it permits such amendment to be by Order rather than by Ordinance. Further reform in this area of the law has been achieved by the Misuse of Drugs (Bailiwick of Guernsey) (Amendment) Law, 2005, which changed the maximum sentences for various offences and the Drug Trafficking (Bailiwick of Guernsey) Law, 2000, which introduced confiscation orders and provided for further offences in relation to the manufacture and supply of controlled substances. The laundering of drug trafficking funds is dealt with by money laundering regulations made under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.

231. The Tattooing, Piercing, Acupuncture and Electrolysis (Guernsey and Alderney) Law, 2000 came into force in May 2000 and introduced a system of registration for practitioners of those activities and their premises, powers of entry and inspection thereof to ensure compliance with health standards and a system of enforcement through a series of criminal sanctions.

232. In 2002, the States enacted the Transfrontier Shipment of Waste Ordinance, 2002 which implemented Council Regulation (EEC) No. 259/93 of the 1<sup>st</sup> February, 1993 on the supervision and control of shipments of waste within, into and out of the European Community. That regulation in turn gave effect within the Community to the Basle Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal.

233. With the passing of the Smoking (Prohibition in Public Places and Workplaces) (Guernsey) Law, 2005, it was forbidden to smoke in any enclosed public place or enclosed workplace.

234. Guernsey is an island of 63 km<sup>2</sup> with a population a little over 60,000, giving a population density of 952 person per km<sup>2</sup>. Apart from the two main population centres of St Peter Port and St Sampson's, the whole island might be described as mixed/urban/rural development, and division between them would not be meaningful.

235. The political responsibilities of the Health and Social Services Department are 'to promote, protect and improve the health of all, through the provision of hospital, community, social and public health services'.

236. Plans for health service development are contained in the Health and Social Services Department 'Operational Plan 2007-2009', itself a component of the overall States of Guernsey Government Business Plan. This includes further development of a range of existing services, some of which are specific to children or older people. There is no distinction between the situations for men and women in the provision of services and the only significant changes over the past five years have been the introduction of a compulsory insurance scheme for long term care, development of extra care sheltered housing and creation of a rapid response team to provide care to people in their own homes and reduce the need for admission to hospital or care home.

237. The percentage of GDP spent on health and social care has risen from 7.1% in 1998 to 7.9% in 2003. 79% of total healthcare expenditure was centrally funded, with the balance coming from private health contributions. In 2001, Guernsey had 1.6 practising physicians per 1,000 population, of whom 48% worked in primary care. It is estimated that around 40% of the total healthcare budget is spent in the primary sector.

238. Infant mortality rate is 4.5 per 1,000 live births (mean 1999-2003). A more detailed breakdown is not available.

239. The entire population has access to safe water and safe excreta disposal facilities.

240. In 2003, 97% of the infant population had age appropriate immunisation against diphtheria, tetanus, pertussis and polio, and 89% against measles. Immunisation against tuberculosis is not given in Guernsey as there is no tuberculosis problem. No breakdown between urban and rural is possible.

241. Life expectancy at birth at the time of the Guernsey 2001 Census was 82 years for women and 77.5 for men. No further breakdown is meaningful for a small population.

242. Although some services are not provided free at the point of delivery, the Social Security Department pays the medical bills for those of limited means, so there are no problems of access to primary care, accident and emergency or maternity care. The whole population is within less than one hour's travel to all services. All pregnant women have access to trained personnel during pregnancy and for delivery. There have been no pregnancy related maternal deaths during the last ten years.

243. All infants have access to trained personnel for the provision of care.

244. The survey of Guernsey living standards, published in 2002, suggested that the two most disadvantaged population sub-groups were single mothers and pensioners living alone. Such social inequalities are being addressed through the Corporate Anti-Poverty Programme. There are no specific data to indicate whether the above groups suffer excess adverse health consequences as a result.

245. In order to minimise the occurrence of stillbirths, regular maternal morbidity and mortality meetings are held and Guernsey also participates in the (UK) Confidential Enquiry into Maternal and Child Health (CEMACH).

246. The Specialist Health Insurance Scheme means that all secondary care is free at the point of delivery and people are referred off island, at no cost to themselves, for services which are not available locally. The Health and Social Services Department is not aware of financial or other barriers preventing residents accessing high quality care in the case of serious illness.

247. As mentioned above, there is a state supported safety net to allow access to primary care and this also applies to the needy and older people. Prescription charges are waived for those over 65 years.

248. There have been no changes in national policies, laws or practices negatively affecting the health situation of the population or any particular group or area.

249. In the Health and Social Services Department's Operational Plan, one of the four work strands is 'prevention and screening' and the Health Promotion Unit has recently undertaken a public and professional consultation in order to prioritise health promotion initiatives to those areas regarded as most important by professional staff and the public more generally.

250. The Bailiwick does not receive any international assistance in the full realisation of the rights under this Article.

### Articles 13 and 14 - Right to education

251. Primary education is compulsory and free to all persons who have attained the age of five years. The Education (Guernsey) Law, 1970 provides that...”a statutory system of public education shall be organised in three progressive stages to be known as primary education, secondary education and further education; and it shall be the duty of the Council [the political body, appointed by the Guernsey States of Deliberation, and now constituted as the Department for Education], so far as its powers extend, to contribute towards the spiritual, moral, mental, and physical development of the community by securing that efficient education throughout those stages shall be available to meet the needs of the population.”

252. It shall be the duty of the Council to secure that there shall be available sufficient schools -

- For providing primary education, that is to say, full-time education suitable to the requirements of junior pupils who have not attained the age of ten years and six months, and full-time education suitable to the requirements of junior pupils who have attained that age and whom it is expedient to educate together with junior pupils who have not attained that age; and
- For providing secondary education, that is to say, full-time education to the requirements of senior pupils and full-time education suitable to the requirements of junior pupils who have attained the age of ten years and six months and whom it is expedient to educate together with senior pupils: and the schools available shall not be deemed to be sufficient unless they are sufficient in number, character and equipment to afford for all pupils, opportunities for education offering such variety of instruction and training as may be desirable in view of their different ages, abilities and aptitudes and of the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their respective needs.

253. Compulsory school age in Guernsey means any age between five years and fifteen years. A person shall be deemed to be over compulsory school age as soon as he/she has attained the age of fifteen years.

254. Further Education is post-compulsory education at National Qualification Framework (NQF) level 3 or below. Higher Education refers to courses above this level and includes undergraduate and postgraduate degree courses. Approximately 27 percent of 18 year olds go directly from school to Higher education; the number of students going onto Higher education at some point is approximately 37 per cent.

255. The majority of Guernsey students study off Island. The Island only has a limited capacity to offer full-time degree level courses on Island. The majority of courses are, therefore, undertaken in the UK, or elsewhere. Due to the Crown Dependency status of the Channel Islands, there has been an agreement for several years that students from the islands are not treated as international students in terms of charging of fees. The principle understood by universities is that UK higher education institutions should receive the same level of funding for a student from the islands as for a UK (home) student. The cost to the States of Guernsey which

is reflected in an agreement with Universities UK, is to fund students at the same rate as a home student. The Guernsey Education Department currently spends £6.5 million per year on higher education and other grants. Based on expenditure in 2005/06, about 84% of this budget funds undergraduate higher education awards. This rises to 90% when postgraduate courses and further education courses, which are not offered on-Island, are included.

256. Higher education is generally not free unless household income is below a certain threshold. Parents of students attending university are required to contribute towards the cost of their child's education costs. Some students qualify as independent students, in which case a parental assessment is not applicable. The current grant system is summarised below.

257. A person is generally entitled to apply for an award if he or she has been ordinarily resident in the Channel Islands, the UK, or Isle of Man for three years immediately before the commencement of the course. The Department makes two types of award for full-time study:

- Awards subject to parental contribution; and
- Independent student awards.

258. To be eligible for an award, the course must be one normally funded by the Department, e.g. a first degree at a recognised university. The award covers two main elements: (1) the maintenance allowance and (2) the course fees.

259. The maintenance allowance is an estimation of what is necessary to meet the cost of board and lodging. A travel allowance is also added. Fees from UK universities are in four fee bands. The costs to the States of Guernsey therefore varies according to the course undertaken and the level of parental assessment.

260. All parts of the award are subject to parental contribution (except for independent students). The parental contribution is normally assessed on income for the preceding financial year. An allowance is given which takes account of family circumstances (e.g. the greater the number of children in the family, the greater the allowance). This allowance is deducted from the income figure leaving a residual amount on which the rate of contribution is assessed as £1 in every £4.

261. Where the parental contribution is assessed to be less than the maintenance allowance, the Department pays the balance as a grant to the student. Parents on low incomes are not required to make any contribution either to maintenance or fees. Parents on relatively high incomes do not receive any maintenance grant and are required to make a maximum contribution to fees of £5,950 for students who commenced their course in September 2006. The maintenance and travel allowance may differ depending on the length of the course and the location of study.

262. Primary education is compulsory. The Board of the Education Department has the power to provide primary (and secondary) education otherwise than at school. Under section 45 (1) of the Education (Guernsey) Law, 1970, if the Board is satisfied that by reason of any extraordinary

circumstances a child or young person is unable to attend a suitable school for the purpose of receiving primary education, the Board may make special arrangements for him/her to receive education otherwise than at school, being primary, or secondary, education as the case may require; or, if the Board is satisfied that it is impracticable for him/her to receive full-time education, education similar in other respects but less than full-time.

263. The States of Guernsey is able to provide schools of sufficient number and character to fulfil the identified needs of the populace. No child legally resident in Guernsey is ever denied the right to education.

264. Education is compulsory for all Guernsey resident students to the age of 15 years. The school leaving age will be raised to 16 years in 2008.

265. Education and Training is available as States of Guernsey provision after that age. This is provided primarily through the Guernsey College of Further Education and the Guernsey Sixth Form Centre at the Grammar School. Provision includes:

- Fulltime courses at levels 1, 2 and 3;
- States Registered Apprenticeship Scheme;
- Part time vocational study – levels 1.-3.

266. Secondary education is available free of charge to students under 19 years. Mature students can apply for means-tested grants.

267. Literacy - The States of Guernsey provides education for all its young people. It has a clearly defined curriculum that has established literacy as a mandatory subject for all students.

268. National Curriculum Standard Assessment Tests (SATs) measure a child's achievement and help teachers identify strengths and weaknesses in children's understanding. It includes testing 11 year olds on their reading, writing and spelling. In 2005, the percentage of Guernsey pupils reaching Level 4 SATs in English reached 77%. The percentage of pupils passing English Level 4 SATs has risen by 24% since 1997.

269. Adults – A literacy programme has been established to support those adults who wish to access literacy projects at the Guernsey College of Further Education. The proportion of Guernsey's 16-19 year olds enrolled in post 16 full-time education in 2006 reached 70%; for those in full-time education and training it rises to 74%.

270. Budget - The Education Revenue Budget for 2007 is £67.1 million. The estimated revenue cost of public services is £301 million. The Education Budget is therefore approximately 22% of the total spent on public services.

271. System of schools - The Bailiwick has a primary and secondary education, and special schools system similar to the UK system. All children follow the UK National Curriculum. However, the schools and education system are not subject to UK education law. The schools



are located on three islands: Guernsey, Alderney and Herm. There are four maintained secondary schools and a Grammar School, one all age school in Alderney and 14 primary schools, some of which are infants and juniors and others are constituted as single primary schools. Primary age pupils in Alderney attend St Anne's School. There is also a small school on the Island of Herm. Children from Roman Catholic families may attend one of two Roman Catholic primary schools if they choose.

272. There are also three independent colleges supported financially by the Island's Government - the States of Deliberation and four smaller private schools: two of which are in Guernsey and one in Alderney and one in Sark. These private schools are not funded by the Island's Government.

273. The school a child goes to at primary age (5-11 years) is dependent upon where the child lives; this is known as the catchment area. Parental choice is limited, as normally a child would attend the school relevant to the catchment area in which the family home is situated. Some parents choose to send their children to the independent sector for which fees are payable. Entry to the Grammar School follows a selection process known as the eleven plus. There are also some scholarship places awarded, on the basis of performance in the eleven plus process and parental preference, for places in the Colleges. A child not selected to attend Grammar School or awarded a place to one of the independent colleges will attend a secondary school which again is based on catchment area.

274. The school leaving age is fifteen, though very few pupils leave school at this age. There are three kinds of school for pupils of secondary age in Guernsey and Alderney: those which provide courses up to the age of sixteen, those which provide courses to the age of eighteen and those which provide education for the children with moderate or severe learning and physical difficulties. All the schools have highly trained and well qualified staff.

275. At sixteen all pupils in Guernsey are offered the opportunity to pursue courses leading to A levels, AS level or vocational qualifications such as GNVQ or NVQ. Pupils in the Colleges may continue to follow courses in their own institutions but all pupils, whether at the colleges, the four secondary schools or the Grammar school, are eligible to be considered for entry to the Grammar School Sixth Form or to the College of Further Education, subject to achieving minimum entry requirements.

276. For those pupils whose educational needs cannot be met in mainstream schools, the Guernsey Education Department maintains two special schools. To be considered for admission, pupils will have undergone or be undergoing a Formal Assessment which identifies their prime area of need. The newly built Le Rondin School & Centre caters for primary age pupils with a range of special education needs. Pupils of secondary school age with special educational needs currently attend Oakvale School and the College of Further Education provides Post-16 opportunities.

277. Building schools- The provision of modern, fit for purpose facilities for all phases of the education system is one of the prime objectives of the Education Department.

278. The Education Development Plan (EDP) is a blueprint for the reorganisation, rationalisation and redevelopment of the education estate and Programme 1 of this plan involves the reorganisation of Special, Secondary and Post-16 education.

279. Three projects have already been completed on time and within budget – Le Rondin School and Centre, a primary special school and child development centre; the Sixth Form Centre at the Grammar School and the new Performing Arts Centre and Hall for the College of Further Education.

280. The construction of the first of three new secondary schools is now underway in the north of the island. This development also includes a new secondary special needs school which is collocated with the mainstream school with both schools sharing a central block of facilities including a 6-lane swimming pool, sports hall, gym and climbing wall.

281. These new buildings and those already completed will allow the reorganisation of special needs education from three schools to two and the reorganisation of secondary education from four schools to three. (St Peter Port School will close).

282. The new Sixth Form Centre and the redevelopment of the College of Further Education will also increase capacity in the Post-16 sector. The College of Further Education will eventually move onto a single site on the St Peter Port School site with the construction of the new campus buildings being phased as States funding becomes available.

283. All the EDP buildings will be designed to last for at least 50 years, be flexible to cope with any future changes in the delivery of education on the island, incorporate natural light and ventilation wherever possible and have a 15 year minimum period before the first major maintenance refit.

284. Indoor and outdoor sports facilities plus school halls and classrooms will be available for use by the wider community out of school hours.

285. With regard to practical enjoyment of the right to these levels of education and measures to promote literacy, are there any particularly vulnerable and disadvantaged groups? Indicate, for instance, to what extent young girls, children of low-income groups, children in rural areas, children who are physically or mentally disabled, children of immigrants and of migrant workers, children belonging to linguistic, racial, religious or other minorities, and children of indigenous people, enjoy the right to literacy and education spelt out in article 12.

286. There is no discrimination on the grounds of gender. Males and females have equal access to education. There are no particularly vulnerable groups although Guernsey does have a migrant workforce mainly in its hospitality and horticultural workforce. Traditionally this workforce has comprised migrants of Portuguese origin (Madeira, in particular) and more latterly, persons of an eastern European background, and more particularly, of Latvian origin. The majority of these people work in Guernsey for limited periods of time. Additional assistance is given in schools for children where English is not their first language.

287. Equal access is guaranteed by virtue of the compulsory nature of full-time education for any child aged 5-15 years.

288. Starting pay for qualified teachers compares well with other graduate professions. A newly qualified teacher (NQT) in Guernsey earns a minimum of £23,289, which compares favourably with the equivalent UK rate, for a newly qualified teacher, of £19,641 (all salary levels at September 2006). In addition to basic salary, benefits include a teachers' pension scheme, generous leave arrangements and access to additional pay for undertaking additional managerial responsibility. The Guernsey pay structure of a main pay scale of six pay points, an upper pay scale of three pay points and a Leadership Spine, closely resembles the position in England and Wales, but at each salary point, Guernsey monetary values are higher. Pay rates are normally up-rated annually.

289. Teachers enjoy up to 12 weeks of paid holiday each year and also have the advantage of a final salary occupational pension scheme with guaranteed benefits and a retirement age of 60. Teachers relocating to Guernsey from the mainland also benefit from relocation packages. Teachers also benefit from a comprehensive professional development programme and annual pay progression dependent on sustained good performance. In relation to teachers, the States of Guernsey is committed to ensure that teachers have appropriate planning, preparation and assessment time and in terms of general class sizes and pupil/ teacher ratios (1:15 in secondary schools) the island compares favourably with many other jurisdictions.

290. The Guernsey Civil Service has its own graduate recruitment programme. The usual starting point for a civil servant graduate is point 811. The starting point as at April '06 was £19,666. The equivalent starting point for a graduate teacher in Guernsey was £22,721. The Civil Service Scheme allows accelerated annual incremental progression. Within four years graduate entrants can move to point 820, which is equivalent to £28,589. The equivalent four year point for a teacher on the main pay scale would be £28,230. However, teachers will normally progress to £32,626, as part of a six-point scale, and so ultimately will exceed the Civil Service rates. In addition, teachers can increase their earnings by undertaking additional duties and are paid management allowances for this on top of basic pay. The minimum allowance payable (level 1) would increase a teacher's annual salary by £2,189, in terms of the figures already shown.

291. Qualified teachers who reach the top of the main pay scale may apply to be assessed against certain standards. If they meet these standards, they cross a pay threshold to an upper pay scale. There are three points on the new scale. The threshold provides an opportunity for good classroom teachers to progress to a higher salary range. Teachers in Guernsey as at April '06 could progress to a salary of £36,647, before any additional management allowance. The equivalent figure in England and Wales is £33,444.

292. Headteachers and other school leaders are paid on a 31 point pay spine which extends from £37,489 to £78,639. A headteacher's pay is largely related to school group size. The Civil Service Senior Officer range (2006-07 rates) extends from £38,141 to £115,747 by comparison.

293. As a percentage of the overall number of pupil places available, the figure is about 17%. Access is generally available to those individuals with the ability to pay the fees charged by these institutions. Some places are awarded by virtue of academic performance i.e. scholarship, and the Island's Government provides some financial assistance in these defined cases.

294. Compulsory and free education is available to all children between 5 years and fifteen years of age. Secondary education is available free of charge to all children under 19 years of age. Guernsey receives no international assistance towards meeting the requirements of Articles 13 and 14.

### **Sark**

295. Following an enabling law in 2002, the Sark (Education) Ordinance, 2003 was enacted to put the school system of the Island on a statutory footing. With the overall aim of ensuring the spiritual, moral, mental and physical development of the pupils up to the age of 15, the legislation also introduced the duty of parents to secure the education of their children and instituted the Education Committee of Chief Pleas specifically to oversee this system.

### **Article 15 - Right to culture**

296. All persons in the Bailiwick may exercise their rights to freedom of thought, conscience and religion (Article 10 of the European Convention), freedom of expression (Article 11) and freedom of assembly and association (Article 12) such that he or she can partake of and manifest the culture which he or she considers pertinent. Subject to prohibitions on acts which would be contrary to public order, which are intended or are likely to stir up racial hatred, which do or are likely to breach the peace or which involve the display of obscene materials or other indecent exhibition, there is no limitation on freedom of artistic creation or performance.

297. Due to the free enjoyment of the right to enjoy the benefits of scientific progress and its applications, the Bailiwick has not enacted any legislation to further these aims. However, this does not mean that it does not take scientific research into consideration when deciding upon policy matters. The Bailiwick has decided to implement the Convention on the International Trade in Endangered Species of Fauna and Flora in more formal terms, which will contain exceptions to the strict criteria for movement of relevant specimens in favour of scientific institutions.

298. Through the enactment of the Intellectual Property (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004, the Bailiwick has sought to ensure the full realisation of the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic work of which he or she is the author. The States has subsequently made the following legislation under the Law with the object of protecting these rights and, where necessary, making provision for a licensing regime:

- The Performers' Rights (Bailiwick of Guernsey) Ordinance, 2005 (rights of performers in public readings and dramatic or musical performances before an audience in relation to recording, broadcasting or issuing copies thereof);

- The Copyright (Bailiwick of Guernsey) Ordinance, 2005 (the rights in literary, dramatic, musical and artistic works, films and broadcasts in relation to copying, issuing copies, performance, rental or lending of such matters);
- The Database Rights (Bailiwick of Guernsey) Ordinance, 2005 (the rights in a database for the “maker”, a person who has substantially invested in the collation of its contents);
- The Unregistered Design Rights (Bailiwick of Guernsey) Ordinance, 2005 (the rights of an owner and/or exclusive licensee of a design right);
- The Registered Design (Bailiwick of Guernsey) Ordinance, 2005 (the rights of a proprietor of a design, which must have been registered overseas as the Bailiwick does not have any first registration procedure);
- The Trade Marks (Bailiwick of Guernsey) Ordinance, 2006 (the rights of the proprietor and/or licensee of a registered trade mark, which may be first registered in the Bailiwick); and
- The Unregistered Design Rights (Semiconductor Topographies) (Bailiwick of Guernsey) Ordinance, 2006 (the rights of an owner and/or exclusive licensee of a semiconductor product).

299. In addition, the Bailiwick is in the process of enacting the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007 and will enact the Registered Patents (Bailiwick of Guernsey) Ordinance, 2007 in order to give further protection. Upon completion of this legislative programme, 17 international conventions and agreements can be extended to the Bailiwick. The standards required by the Trade Related Aspects Of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organisation will also have been satisfied.

300. Despite the careful protection of the intellectual property rights of others by this legislation, it should be noted that, where necessary, the legislation includes exceptions for the benefit of institutions as educational establishments and libraries.

301. Legislation has not been made in the field of conservation, development and diffusion of science and culture or for the protection of the freedom indispensable for scientific research and creative activity as there are no limitations on these activities. In a modern society which respects human rights, such information is freely available to all and co-operation with other individuals and institutions is encouraged.

302. The Bailiwick does not believe that there have been any changes in national policies, laws and practices that negatively affect the rights contained in Article 15.

303. The Government Business Plan (GBP) outlines the importance of Guernsey's cultural and independent identity, and all of the actions that branch from this. The GBP refers to links with Latvian and Portuguese communities.

304. With regard to the Preservation and presentation of mankind's cultural heritage there are museum collection care policies in place. The government regularly considers new exhibitions of Guernsey heritage assets and is currently working on the development of Guernsey-French (the Island's indigenous language).

305. There is a wealth of talented youngsters in all cultural fields – the Education Department has subjects in a wide range of cultural studies/activities.

306. There are very high levels of participation in terms of organising and attending events, initiatives etc. by all sectors of the population.

307. Science is taught in local schools in accordance with the national curriculum.

308. No international assistance is received in the full realisation of the rights found in Article 15.

## CHAPTER 2. REPORT FROM THE BAILIWICK OF JERSEY

### Introduction<sup>5</sup>

This is the fifth periodic report submitted by the States of Jersey. A number of new measures have been introduced in the Island which support implementation of the principles of the Covenant and reference is made to these in the answers provided below.

### Part I

#### 1. Statistics

**Statistics (includes the sections “land and people” and “economic, social and cultural characteristics”)<sup>6</sup>**

Population	• 88,200 (Bailiwick of Jersey - in 2005).
Number of men per 100 women	• 95 (Bailiwick of Jersey - in 2001).
Ethnic groups	• 51% Jersey, 35 % UK, 6% Portuguese/Madeiran, 3% Irish (Bailiwick of Jersey - in 2001).
Percentage of population under 15	• 17% (revised) (Bailiwick of Jersey - in 2001)
Percentage of population over 65	• 14.1% (revised) (Bailiwick of Jersey - in 2001).
Percentage of population in urban areas	• 50% approx. (Bailiwick of Jersey - in 2005).
Religion	• Christian (majority)
GNI	• £3.2 billion (Bailiwick of Jersey - in 2005).
GNI per head	• £36,000 (Bailiwick of Jersey - in 2005).
Inflation	• 3.1% (Bailiwick of Jersey - in 2006).
Government (deficit)/surplus	• £51.8 million surplus (Bailiwick of Jersey - in 2006 - to be finally confirmed).
Government debt	• £111.8 million (Bailiwick of Jersey - in 2006 - to be finally confirmed: Pre-1987 pension scheme deficit)
Economic activity rate	• 84% (Bailiwick of Jersey - in 2006).
Adult literacy	See Education section
Languages	• English, French (Bailiwick of Jersey).
Life expectancy	• 77 - M; 82 - F (Bailiwick of Jersey - in 2004).
Infant mortality - number of deaths of children aged under 1 year per 1,000 live births	• 2.4 (Bailiwick of Jersey - in 2005).
Fertility rate <sup>7</sup>	• 52.4 (Bailiwick of Jersey - in 2005).

<sup>5</sup> See also <http://www.statesassembly.gov.je/documents/reports/41387-1314-1452007.htm>.

<sup>6</sup> States of Jersey Statistics Unit, *Jersey in Figures 2005, Report of 2001 Jersey Census, States of Jersey 2005 Financial Accounts*.

<sup>7</sup> Calculated in live births per 1,000 females aged 15-44.

## 2. General political structure

309. Since the last Report submitted in January 2000 the structure of the Island's Government has undergone major change. The Machinery of Government review has resulted in a ministerial system of government being established in place of the former committee system. The new system commenced in December 2005. The governing and legislative body, the States, has retained its role and there are still 53 elected members comprising 12 senators, 29 deputies and 12 connétables.

### (i) New ministerial structure

310. However there are currently 10 Ministers and 13 Assistant Ministers appointed from the elected States members. All the Ministers, including the Chief Minister, are appointed by the States. These ministers make up the Executive and they are responsible for proposing and developing policy.

311. The 10 Ministers are headed by a Chief Minister and all meet on a fortnightly basis at the Council of Ministers.

### (ii) New scrutiny panels

312. The remaining 30 non-executive members are available to sit on the newly formed scrutiny panels. Scrutiny panels are responsible for examining policy and holding the Council of Ministers to account. The six scrutiny panels are: Corporate Services; Economic Affairs; Education and Home Affairs; Environment; Health, Social Security and Housing Scrutiny Panel and the Public Accounts Committee.

### (iii) Departmental structure

313. Several departments have been re-aligned and each is now headed by a Minister. Ministers have authority to make decisions on a number of matters within the framework of the States Strategic Plan that has been approved by the States Assembly. Such decisions are recorded as Ministerial Decisions and come into effect once signed. Decisions are placed on the States Internet site in accordance with the Code on Public Access to Official Information.

314. The new departments are:

- |                              |                                  |
|------------------------------|----------------------------------|
| – Chief Minister's           | Transport and Technical Services |
| – Home Affairs               | Social Security                  |
| – Health and Social Services | Education, Sport and Culture     |
| – Housing                    | Treasury and Resources           |
| – Planning and Environment   | Economic Development             |

The judicial structure remains as previously.



**(iv) States Strategic Plan**

315. The Council of Ministers produced a visionary States Strategic Plan in 2006.

<http://www.gov.je/NR/rdonlyres/7D462750-EFD8-446E-A0E6-E024EEA59DE5/0/StatesStrategicPlan2006to2011.pdf>

316. The Plan covers the period 2006 -11 and was agreed by the States. It is a road map that sets out the direction that the government of Jersey wishes to follow. It includes six commitments that the Government has committed to work towards achieving. The work of all departments is both set and measured against the Strategic Plan.

**(v) The six commitments are:**

- One: We will maintain and enhance a strong, successful and environmentally sustainable economy
- Two: We will create an environment in which everyone in Jersey has the opportunity to enjoy a good quality of life
- Three: We will promote a safe, just and equitable society
- Four: We will maintain and enhance the natural and built environment
- Five: We will create a strong, recognised identity for Jersey and promote a real sense of belonging
- Six: We will ensure that States services are necessary, efficient and of good quality

317. This Plan evolved from a major consultation exercise engaging the community and particularly young people. Consultation and engagement with the community is seen to be a key element of its future success. To this end a Communications unit has been established in the Chief Minister's Department. Departments are formulating new policies such as the Cultural Policy and the Income Support policy to ensure that the commitments in the Plan are met. Others, including a Health and Social Care Strategy, a Social Inclusion Strategy and an Energy Strategy, are being worked on at present. Great emphasis is also being placed on the need for Government to adopt "joined up, coherent working" practices.

318. The Government of Jersey believes that the new style of ministerial government and the commitment to the States Strategic Plan are important achievements that support the spirit of the Covenant on Economic, Social and Cultural Rights and the implementation of the rights into Island life.

**3. General legal framework within which human rights are protected**

319. The 2000 Report referred to the Human Rights (Jersey) Law 2000, which incorporated the European Convention on Human Rights in the Island's domestic law. This Law came into force

on 10<sup>th</sup> December 2006. Human rights are also protected under the common or customary law of the Island, and by the international conventions on the protection of human rights to which the Island is a party through the United Kingdom.

#### **4. Information and publicity concerning the Covenant on Economic, Social and Cultural Rights and the reports to the Committee**

320. Under the provisions of the new ministerial government system this Report will be submitted for the Chief Minister's approval by a Ministerial Decision. As a result it will then be placed in the public domain on the States website. Public access to the internet, for those who do not have private access, is available free of charge in the public library.

#### **5. Legal status and specific implementation of the Covenant on Economic, Social and Cultural Rights**

321. The International Covenant is not part of the domestic law of the Island, but as an international obligation undertaken on the Island's behalf by the United Kingdom with the Island's consent, it will be taken into account by the courts of the Island in the application of domestic law – see *Benest v. Le Maistre*, Jersey Law Reports 1998 at page 213, a decision of the Jersey Court of Appeal confirming, in relation to the International Covenant on Civil and Political Rights, that the Convention was relevant to assist the Court in resolving ambiguities in legislation, in considering the principles on which the Court could exercise a discretion and when the common law is uncertain. In addition, the States of Jersey will not enact Laws which would put the Island in breach of its international obligations.

#### **6. Response to the concluding observations**

**Paragraph 24: Affirming the principle of the interdependence and indivisibility of all human rights, and that all economic, social and cultural rights are justiciable, the Committee reiterates its previous recommendation (see paragraph 21 of its 1997 concluding observations) and strongly recommends that the State party re-examine the matter of incorporation of the International Covenant on Economic, Social and Cultural Rights in domestic law. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee draws the attention of the State party to its general comment No. 9 on the domestic application of the Covenant.**

322. The government of Jersey has the utmost respect for the views expressed by the Committee; nevertheless it considers it would not be appropriate at this time to incorporate the Covenant into the domestic law of the Island. This position will naturally be kept under review.

**Paragraph 25: The Committee further recommends, recalling its previous recommendation (see paragraph 33 of its 1997 concluding observations), that the State party review and strengthen its institutional arrangements, within the government administration, which are designed to ensure that its obligations under the Covenant are**

**taken into account, at an early stage, in the Government's formulation of national legislation and policy on issues such as poverty reduction, social welfare, housing, health and education. Given that its general comments are based upon experience gained over many years, including the examination of numerous States parties' reports, the Committee urges the State party to give careful consideration to its general comments and statements when formulating policies that bear upon economic, social and cultural rights.**

323. Ministers of the Jersey government are required, when promoting legislation to have regard to all the Island's international obligations on human rights, and in particular to issue a certificate confirming that in their opinion the Law is compliant with the European Convention on Human Rights. Whilst there is no statutory requirement to issue a certificate of compliance with the ICESCR, this International Covenant is nonetheless taken into account in the formulation of legislation and policies that bear upon economic, social and cultural rights.

**Paragraph 30: The Committee urges the State party to ensure that human rights education curricula and training programmes for schoolchildren and for the judiciary, prosecutors, government officials, civil servants and other actors responsible for the implementation of the Covenant give adequate attention to economic, social and cultural rights.**

324. The issue of human rights training in schools is covered in the response to Articles 13 and 14. Prior to the implementation of the Human Rights (Jersey) Law in December 2006 a further training programme for Government officials was run by the Chief Minister's Department assisted by members of the legal profession.

**Paragraphs 33/34: The Committee urges the State party to ensure that the level of the national minimum wage is determined with due regard to the requirements of an adequate standard of living. Moreover, the Committee recommends that minimum wage protection be extended to workers under 18 years of age and that the scheme be applied in a non-discriminatory manner to persons between 18 and 22 years of age.**

**The Committee reiterates its previous recommendations (see paragraph 23 of the Committee's 1997 concluding observations) that the right to strike be incorporated in legislation and that strike action no longer entail the loss of employment.**

325. So far as Jersey is concerned these issues are referred to in the Responses to Articles 7 and 8 below.

**Paragraph 35: The Committee recommends that the State party continue its efforts to combat domestic violence and, in particular, to ensure that there are sufficient refuge places to meet the needs of victims of domestic violence. The Committee requests that the State party provide information in its next periodic report on further measures taken by the State party in relation to domestic violence, as well as on the results and effectiveness of such measures.**

326. The States of Jersey Police Domestic Violence Unit has been restructured and was placed under the direction of a new Public Protection Detective Inspector in mid-2006. Her remit was

initially focused on child protection issues but significant research has also gone into the introduction of innovative practices aimed at tackling domestic violence. In the meantime, States of Jersey Police continues to pursue a positive enforcement policy.

327. In June 2006, States of Jersey Police, the Women's Refuge and other partner agencies launched a Domestic Violence campaign with a theme of '*Is Your Home A Prison Without Bars*' to coincide with International Human Rights Day and the World Cup.

328. A number of measures are being introduced or promoted in the year ahead to support better protection for the victims of domestic violence and facilitate better intervention against the perpetrators of these offences:

- The Jersey Domestic Violence Forum, of which States of Jersey Police is a member, is exploring the benefits of a Specialist Domestic Violence Court (SDVC). In England and Wales, the SDVC programme aims to ensure that the courts recognise the difficulties and special concerns faced by victims of domestic violence when using the system;
- A new Domestic Violence Perpetrators Programme starts in January 2007. Many domestic violence victims support the concept as a means of changing the abusers' behaviour. Offenders can self-refer to the programme but referrals can also be court-mandated;
- One of the key policing priorities in 2007 is to protect vulnerable victims by targeting dangerous offenders. Prolific domestic violence offenders will be identified and targeted in 2007 in order to improve the safety of their victims.

**Paragraph 36: Given the principle of the dignity of the individual, which provides the foundation for international human rights law (see paragraph 41 of the Committee's general comment No. 13) and in the light of article 10.1 and 10.3 of the Covenant, the Committee recommends that the physical punishment of children in families be prohibited, in line with the recommendation of the Committee on the Rights of the Child (see paragraph 31 of the 1995 concluding observations of that Committee (CRC/C/15/Add.34)).**

329. The Island's government respects the views of the Committee; nevertheless it considers the existing legal position whereby a parent has a defence to a charge of assault if the physical punishment amounted to reasonable correction, creates a fair balance of all the different human rights involved. However, the government will keep this matter under review.

**Paragraphs 38/39: The Committee recommends that the State party focus its efforts to combat homelessness on those groups in society which are disproportionately affected, such as ethnic minorities. The Committee further recommends that the State party take the necessary measures to ensure that homeless persons suffering from serious health problems receive adequate health care.**

**The Committee recommends that the State party take immediate measures to improve the situation of the large number of families and individuals who live in poor housing conditions and to relieve the situation of those who are "fuel poor".**

330. So far as the Island is concerned these observations are referred to in the response for Article 11.

**Paragraph 41: The Committee urges the State party to take effective measures to ensure that the introduction of tuition fees and student loans does not have a negative impact upon students from less privileged backgrounds, in accordance with paragraphs 14, 20 and 45 of the Committee's general comment No. 13 on the right to education. The Committee requests the State party to provide, in its next periodic report, detailed information on the impact of tuition fees and student loans on lower socio-economic groups.**

331. The Education Sport and Culture department is currently undertaking a review of the way in which Government support is provided to assist with payment of tuition fees and funding for those pursuing further education. A consultation process has been followed in which the community has been engaged. The results of the review are yet to be finalised.

**Paragraph 44: The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, in particular among State officials and the judiciary. It also encourages the State party to involve non-governmental organisations and other members of civil society in the preparation of its fifth periodic report.**

332. This Report will be placed in the public domain on the States website. (See paragraph 4 above).

## **Part II**

### **Article 1 - Self-determination**

333. Jersey is a small Island with its own independent government and legislature, the United Kingdom remaining ultimately responsible for its defence and international relations. The island is globally recognised as a politically stable community.

### **Article 2 - Realisation of the rights contained in the Covenant**

334. Since the Second World War the Bailiwick has developed into a modern and forward thinking society in which there are few restraints upon individuals wishing to freely pursue their political, economic, social or cultural development. Although Jersey has been a party to the European Convention on Human Rights since the UK's ratification in 1951, the implementation of the Human Rights (Jersey) Law 2000 in 2006 has further secured the rights of the individual in accordance with the terms of the Convention.

### **Article 3 - Gender equality**

335. At present none of the rights of the covenant are specifically subject to non-discrimination provisions in the Island's legislation.

336. A public consultation paper on the Island's proposed Discrimination (Jersey) Law 200- was published in July 2006. The paper promoted the idea of an over-arching enabling law with

subordinate Regulations to be phased in over a period of time to provide protection from discrimination on the grounds of, as a minimum, race (to include colour, race, nationality, ethnic origin or national origin), sex, gender, sexual orientation, transsexuality; disability and age. However it is recognised that it is important to keep in perspective the need for legislation versus the size of the Island and the impact that legislation will have on resources.

337. The consultation closed in October 2006 with strong support received for the proposals. Work is currently being carried out on the final drafting of the Law and it is hoped to present it to the States for debate in the latter half of 2007.

338. The Discrimination Law is also intended to protect anyone who suffers a detriment as a result of discrimination or a range of prohibited acts such as victimisation, unlawful advertising, harassment and other discriminatory practices in certain conditions, and will provide an enforcement mechanism for complaints brought under the Law.

339. It is proposed that the scope of the law should extend to employment, including selection for employment, treatment of employees, contract workers, partnerships, professional or trade organisations, professional bodies and vocational training, and also discrimination in education, provision of goods, facilities and services, access to and use of public premises, disposal or management of premises and membership of clubs.

#### **Article 6 - Right to work**

**Please supply information on the situation, level and trends of employment, unemployment and underemployment in your country, in respect of both the aggregate and particular categories of workers such as women, young persons, older workers and disabled workers. Please compare the respective situation 10 years ago and 5 years ago. Which persons, groups, regions or areas do you consider particularly vulnerable or disadvantaged with regard to employment?**

340. There is little change in the situation since the 2000 Report. The Island has a workforce of approximately 52,000 (51,780 as at December 2006) which is increased by approximately 8,000 in the summer months. The Island has a relatively low unemployment rate and, by most economic measurements, would be deemed as having full employment. The average rate is around 0.5% and has not risen above 3% in the past ten years. As a rule, unemployment levels fluctuate throughout the year in Jersey, reducing when seasonable work is available in the spring/summer and increasing during the winter. On average unemployment levels are recorded at 400-450 unemployed people per month. Generally, those who find themselves out of work find new employment within six to eight weeks.

**Please describe the principal policies pursued and measures taken with a view to ensuring that there is work for all who are available for and seeking work.**

341. Employment agencies in the Island and various larger businesses advertise and manage a variety of recruitment programmes throughout the year. The media are also involved in promoting awareness of job opportunities in the Island.

342. The Job Centre managed by the Social Security Department continues to provide a comprehensive and professional service on all matters relating to employment and vacancies in the Island. The services provided by the Job Centre to both employers and those seeking work are free and are separate to those provided by private employment agencies.

343. The States also continues to take an active role in ensuring that work opportunities exist for persons with special needs. The Social Security Department allocates financial resources to support a range of sheltered, therapeutic and other work programmes for people with special needs. The budget for 2007 for the Workwise programme, referred to in the 2000 Report, and the Jersey Employment Trust totals £1,324,700. Support continues to be given by the public sector in providing placements for people with special needs.

**Please indicate what measures have been adopted to ensure that work is as productive as possible.**

344. No measures have been considered necessary to adopt to ensure that work is as productive as possible.

**Please indicate what provisions ensure that there is freedom of choice of employment and that conditions of employment do not infringe upon fundamental political and economic freedoms of the individual.**

345. Every person has the right to gain a living by work which they freely choose or accept.

**Please describe the technical and vocational training programmes that exist in your country, their effective mode of operation and their practical availability.**

346. The 2000 Report referred to the work of the Training and Employment Partnership (“TEP”). This work continues but since the establishment of the new system of ministerial government responsibility for it has passed to the newly created Enterprise and Business Development (E&BD) section of the Economic Development Department. The aim of this new service is to stimulate business start-ups, support growth within new and existing organisations and encourage diversification across all sectors of the economy.

347. A new Island Skills Strategy was jointly developed and published by the Education Sport and Culture and Economic Development Departments in 2005. The Strategy covers all areas of non-compulsory education.

348. In order to prioritise training needs the Island continues to commission Employers’ Surveys to examine the size and structure of the Island’s workforce, recruitment activity and difficulties, training and business development activities, and other challenges facing businesses. The results of the 2004 survey helped develop the 2005 Skills Strategy.

349. In response to these findings, E&BD has worked with employers and training providers to develop programmes and initiatives aimed at improving workforce skills. The approach was to concentrate on business development rather than selling training per se, in the belief that if employers are managing their business well, they will automatically see the relevance and value

of training and developing staff. Recognising that there are specific skills deficiencies in the trades sectors, the Jersey Apprenticeship Scheme continues, aimed at the achievement of NVQ Level 3, a nationally recognised standard for skilled craftspeople.

350. In addition, specific training programmes have been delivered for seasonal workers who predominantly work in the tourism sectors but also work in retail and other sectors of the economy. The initiative, Bein v' nue, has provided customer care training for over 1000 individuals. Other sector specific training schemes include a local Nurse Training Cadet Scheme, Health and Safety training in the construction sectors and a large investment in the achievement of the European Computer Driving License qualification.

351. The major provider of vocational training is Highlands College which is supported by its governing body under the aegis of the Education Department.

352. Take-up on training initiatives has increased since the 2000 Report. Between 2001 and 2006 the Island has supported:

- 500 businesses through management development training;
- 1500 businesses, translating into 10,000 people, in the achievement of qualifications, the majority of which are nationally recognised;
- 300 businesses, translating into 2000 people, in the achievement of National Vocational Qualifications (NVQs);
- 1000 individuals to achieve the ECDL qualification;
- 450 businesses on business planning seminars;
- 100 companies work towards Investors in People;
- Enrolled over 400 onto the Jersey Apprentice Scheme, which provides structured, work-based training in construction, the motor trade and electrical installation. This has helped to develop local residents to a skilled craft level, supplemented with basic business and management skills;
- Improved communication lines with employers which has resulted in the successful promotion of the job-matching service, the increased use of interview rooms for employers to use for recruitment purposes, and more open day initiatives allowing employers to conduct recruitment drives from within the centre;
- The Jersey Undergraduate Internship programme to help university students find and secure work placements;
- Invested in an e-learning environment for prisoners in custody at the Island's prison.



**Please state whether particular difficulties have been encountered in attaining the objectives of full, productive and freely chosen employment, and indicate how far these difficulties have been overcome.**

353. Non-applicable - see above.

**Please indicate whether there exist in your country any distinctions, exclusions, restrictions or preferences, be it in law or in administrative practices or in practical relationships, between persons or groups of persons, made on the basis of race, colour, sex, religion, political opinion, nationality or social origin, which have the effect of nullifying or impairing the recognition, enjoyment or exercise of equality of opportunity or treatment in employment or occupation. What steps are taken to eliminate such discrimination?**

354. There are no distinctions, exclusions or restrictions on any of these grounds in the protections offered to employees by the existing (or planned) employment legislation. Additional protection against any such eventuality will also be provided when the Discrimination (Jersey) Law 200- and supporting Regulations affording protection from discrimination on the grounds of race (to include colour, race, nationality, ethnic origin or national origin); sex, gender, sexual orientation, transsexuality; disability and age are introduced. (See Article 3 above.)

**Please supply information on the actual situation in your country regarding vocational guidance and training, employment and occupation of persons according to their race, colour, sex, religion, and national origin.**

355. No information is available regarding vocational guidance and training, employment and occupation of persons according to their race, colour, sex, religion, and national origin.

**Please indicate the main cases in which a distinction, exclusion or preference based on any of the above-named conditions is not considered in your country as discrimination, owing to the inherent requirements of a particular job. Please indicate any difficulties in application, disputes or controversies which have arisen in relation to such conditions.**

356. There is currently no discrimination legislation in the Island but see Article 3 above for details of current proposals.

**Please indicate what proportion of the working population of your country holds more than one full-time job in order to secure an adequate standard of living for themselves and their families. Describe this development over time.**

357. There is no available data to know what part of the working population holds more than one fulltime job.

**In case of subsequent reports, give a short review of changes, if any, in national legislation, court decisions, as well as administrative rules, procedures and practices during the reporting period affecting the right to work.**

358. See responses on the developments in the new employment legislation in Article 7 below.

**Please indicate the role of international assistance in the full realisation of the right enshrined in article 6.**

359. The role of international assistance is not relevant.

#### **Article 7 - Right to fair conditions of employment**

**Please supply information on the principal methods used for fixing wages.**

360. Please see answer below.

**Please indicate whether a system of minimum wages has been established, and specify the groups of wage earners to which it applies, the number of persons covered by each group as well as the competent authority for determining these groups.**

361. A minimum wage system is established under the Employment (Jersey) Law 2003, and came into force on 1<sup>st</sup> July 2005. It introduced a minimum wage and trainee rate which apply to all employees over compulsory school leaving age.

362. The Employment Law provides that certain “special classes of person” may not be covered by the minimum wage provisions, as in the UK. Those not covered include: mariners employed wholly outside the Island or not ordinarily resident in the Island; share fishermen; charities, voluntary organisations or statutory bodies; prisoners (except those undertaking work outside the prison under a rehabilitation programme, who must be paid the minimum wage); and residential members of religious and other communities.

**Are there any wage earners remaining outside the protection of the system of minimum wages in law or in fact?**

363. Young people under age 16 and special classes of person as detailed above remain outside the system of protection.

**Do these minimum wages have the force of law and in which ways are they secured against erosion?**

364. The minimum wage is established by the Employment Law and employees may enforce their right to receive the correct minimum wage via the Jersey Employment Tribunal. Fines may also be levied against employers who wilfully neglect or refuse to pay an eligible employee the minimum wage, or who fail to keep the required records.

365. The minimum wage is protected against erosion by the Employment Law which established the Employment Forum; an independent, non-political consultation body, set up for the purpose of consulting upon and making recommendations to the Social Security Minister on minimum wage rates, having taken into account the economic implications for the Island. The Employment Forum is made up of nine members of the community, 3 employer, 3 employee and 3 independent. The Social Security Minister must consult the Employment Forum before setting new minimum wage rates.

**To what extent and by which methods are the needs of workers and their families as well as economic factors taken into consideration and reconciled with each other in determining the level of minimum wages? What standards, goals and benchmarks are relevant in this respect?**

366. The Employment Law requires the Employment Forum to take economic factors into account in the preparation of its recommendations. The Forum takes into account all evidence and responses presented to it during the consultation process.

367. The Forum considers all statistics available at the time of review, including the household expenditure survey, average earnings figures and retail price index, plus any other labour statistics available. It also must consider the aims set out in the States of Jersey strategic plans for the Island, advice from the States Economic Adviser, minimum wage rates in other jurisdictions (particularly the UK and Isle of Man), but also other jurisdictions worldwide and how their minimum wages compare to median earnings.

368. It has always been essential in the Employment Forum's deliberations to achieve the correct balance between the desire to make a real difference to employees' pay packets, against the sustainability of the two most affected industries; agriculture and hospitality. These two industries tend to employ seasonal employees and are the industries that have the most employees who are paid at (or close to) the minimum wage. They are mainly export driven and therefore face competition with other jurisdictions with low (or no) minimum wage. The Forum is aware that it is vital that the needs of local employees generally, are balanced against the competitiveness of these two industries (and therefore the security of work opportunities within those industries).

**Please describe briefly the machinery set up for fixing, monitoring and adjusting minimum wages.**

369. The Forum currently reviews the minimum wage system annually, at the direction of the Social Security Minister. The Forum conducts a wide ranging public consultation with its database of approximately 150 interested and affected parties, including unions, staff associations, employers, employers associations, employees, independent people, and advisory bodies. The Forum considers all representations received and will meet with relevant parties for detailed discussion.

370. After completing its consultation, the Forum produces a recommendation to the Minister for the new rates that should apply the following April 1<sup>st</sup>, along with any other issues that have either been raised during the consultation, or that the Minister has specifically asked the Forum to consult upon.

371. The Minister then issues a response to the recommendations, including the reasons for the rejection of any of those recommendations (if any). The Minister then requests the preparation of the required legislative changes for any proposed changes to the minimum wage system or rates.

**Please supply information on the development of average and minimum wages 10 years ago, 5 years ago and at present, set against the respective development of the cost of living.**

372. There was no minimum wage 5 or 10 years ago. However average earnings have increased against the retail price index over the last 10 years.<sup>8</sup>

**Please indicate whether, in practice, the system of minimum wages is supervised effectively.**

373. There have been two reviews of the minimum wage so far since its introduction on 1<sup>st</sup> July 2005. The above-described method, as required by the Employment Law, has provided a very effective method of supervising the minimum wage with numerous check points along the way. The same method is used in the UK and Isle of Man, with public consultation via an advisory body that is independent of the Government department that ultimately proposes new minimum wage rates.

**Please indicate whether there exists in your country any inequality in remuneration for work of equal value, infringements of the principle of equal pay for equal work, or conditions of work for women which are inferior to those enjoyed by men.**

374. Equal pay legislation is part of Phase 2 of the employment legislation, as agreed by the States of Jersey in 2000. Work has already started on other aspect of Phase 2, including maternity pay and requests for flexible working. Following the completion of the Employment Forum's consultation on those issues, work on equal pay issues will begin.

**What steps are taken to eliminate such discrimination? Please describe the successes and failures of these steps with regard to the various groups that are discriminated against.**

375. There is no legislation dealing with work of equal value at present. It is intended to address this issue in the employment law programme for 2009-10.

**Please indicate what methods, if any, have been adopted to promote an objective appraisal of jobs on the basis of the work to be performed.**

376. No such appraisal has been carried out.

**Please indicate the income distribution of employees, both in the public and private sector taking into accounts both remuneration and non-monetary benefits. If available, give data on the remuneration of comparable jobs in the public and private sector.**

377. There is no specific data on comparable jobs in the public and private sector. However, the 2005 medium household annual income was £34,000 (HES 2005).<sup>9</sup>

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<sup>8</sup> See chart on <http://www.statesassembly.gov.je/documents/reports/41387-1314-1452007.htm>.

<sup>9</sup> See chart on <http://www.statesassembly.gov.je/documents/reports/41387-1314-1452007.htm>.

**What legal, administrative or other provisions exist that prescribe minimum conditions of occupational health and safety. How are these provisions enforced in practice and in which areas do they not apply?**

378. The main statutory law that has been enacted is the Health and Safety at Work (Jersey) Law, 1989, which sets out the legal and administrative framework for occupational health and safety. The Law includes:

- General duties placed on all parties involved with work activities, including designers, suppliers, employers, the self employed and employees;
- Provision for the States of Jersey to make subordinate legislation dealing with specific health and safety matters including licensing of specified activities;
- Arrangements for the Minister for Social Security to approve codes of practice, issue licenses for specified activities and direct investigations and inquiries;
- The appointment of Inspectors who are empowered to carry out investigations, inspect workplaces and issue administrative sanctions; and
- The prosecution of organisations and individuals for failing to comply with occupational health and safety legislation.

379. The Health and Safety at Work (Jersey) Law, 1989, does not apply to domestic servants working in a private household.

380. Persons who have been injured at work or suffer from work related ill health are able to pursue a claim for compensation from their employer by instigating civil proceedings in the Courts.

**Please indicate which categories of workers, if any, are excluded from existing schemes by law and what other categories benefit from such schemes only insufficiently or not at all.**

381. Persons who work as domestic servants in private households are the only category of worker not covered by the Health and Safety at Work (Jersey) Law, 1989.

382. They are, however, still able to pursue a claim for compensation from their employer by instigating civil proceedings.

**Please provide statistical or other information on how the number, nature and frequency of occupational accidents (particularly with fatal results) and diseases have developed over time (10 years ago, 5 years as compared with the present).**

383. Statistical information is based on claims which have been paid through the Social Security Benefit Scheme for 2 days or more off work. The benefit scheme was changed in 2004 resulting in a direct comparison not being available.

384. The new scheme introduced in 2004 also provided for work related ill health statistics. No work related ill health statistics were recorded prior to this date.

385. In 2005, the last year that statistics were published, 1226 claims for work related accidents and ill health were recorded through the Social Security Benefit System, of which 864 were as a result of accidents and 327 due to ill health. 1059 of the claims were made by employees, with 326 of these employees recorded as working in the construction industry. Further analysis of information provided by 757 claimants identified 37% of work related accidents to be due to overexertion of strenuous movements with 53% of claims for work related ill health as a result of occupational musculoskeletal disorders.

386. In 2001, claims for benefit made as a result of accidents at work amounted to 1456. Of these accidents, 497 occurred in the construction industry. The cause of 32% of these accidents was reported to be due to handling or lifting.

387. The accident statistics for the 12-month period ending 30<sup>th</sup> September 1995 indicate that 1510 claims were made as a result of accidents at work, of which 540 occurred to employees in the construction industry. 32% of these reported accidents were due to handling or lifting.

388. There were no fatal accidents recorded to persons at work for the recording period for 1995 or 2005 but 3 fatal accidents occurred to local fisherman (2 as a result of a single incident) in 2001.

**Please supply information on the actual realisation in your country of the principle of equal opportunity for promotion.**

389. This issue is not currently listed for consideration in forthcoming phases of employment legislation in regard to promotion opportunities.

**Which groups of workers are currently deprived of such equal opportunity? In particular, what is the situation of women in this respect?**

**What steps are taken to eliminate such inequality? Please describe the successes and failures of these steps with regard to the various disadvantaged groups.**

390. Please see above.

**Please describe the laws and practices in your country regarding rest, leisure, reasonable limitations of working hours, periodic holidays with pay and remuneration for public holidays.**

391. There is no limit on number of working hours for employees under the Employment Law. There are limitations on the number of working hours and rest periods for young persons not who are not covered by the Employment Law (ask Education).

392. The Employment Law requires that all employees have 10 days paid annual leave per year and paid time off for any Public and Bank holidays (9 in Jersey). If an employee is required to work on a public or bank holiday, he is entitled to receive another paid day off in substitution for that working day.

393. The Employment Law provides that all employees must have one uninterrupted 24 hour rest day in every 7 days. If the employee and employer agree, the employee may have on uninterrupted period of 48 hours rest in 14 days, or 2 uninterrupted rest periods of 24 hours in a 14 day period.

**Indicate the factors and difficulties affecting the degree of realisation of these rights.**

394. There are no difficulties envisaged surrounding annual leave. There have been some issues around public holidays regarding non-work days and rest days falling on days that are also a bank or public holidays. However additional guidance has been given on this point to ensure that employees do not lose any entitlement to paid leave or rest days.

395. The requirement to provide ‘uninterrupted’ rest days could potentially cause difficulties for organisations with call-out and standby arrangements, which guarantee uninterrupted provision of service and emergency services in various organisations, and meeting operational urgency through shifts and standby.

396. A definition of what constitutes ‘interrupted’ is therefore provided in a code of practice, as follows:

*A rest period should be considered to have been interrupted if, either contractually, or due to business requirements, the employee is **required** by the employer to do one of the following on their rest day;*

- To be available at the employers’ disposal to take a work related action away from the workplace (e.g. at home, on the telephone);*
- Attend the workplace; or*
- Be at or near the place of work.*

397. If the employee’s rest day is interrupted, compensatory rest must be made available within 14 days of the rest days that were interrupted. If a rest day is not interrupted, it counts as a ‘rest day’ and no compensatory rest would be required.

**Indicate which categories of workers are excluded by law or in practice, or both, from the enjoyment of which of these rights. What measures are contemplated or currently taken to remedy this situation?**

398. The rights apply to all employees.

**In case of subsequent reports, give a short review of changes, if any, in national legislation, court decisions, or administrative rules, procedures and practices during the reporting period affecting the right to just and favourable conditions of work.**

399. Minimum wage and trainee rate increases anticipated annually. No other changes anticipated, other than those resulting from the development of Phase 2 of employment legislation as mentioned above.

**Please indicate the role of international assistance in the full realisation of the right enshrined in article 7.**

400. The role of international assistance is not relevant.

**Paragraph 33 of the concluding observations. The Committee urges the State party to ensure that the level of the national minimum wage is determined with due regard to the requirements of an adequate standard of living. Moreover, the Committee recommends that minimum wage protection be extended to workers under 18 years of age and that the scheme be applied in a non-discriminatory manner to persons between 18 and 22 years of age.**

401. The baseline for future increases in minimum wage has been recommended (and approved by the Social Security minister) at 40% of the local average earnings figure. This is very close to the percentage or average (or sometimes median) earnings in other jurisdictions worldwide and is considered to be appropriate. For 2008, the minimum wage rate is intended to increase by average earnings from the baseline of 40%. The Forum intends to recommend increasing the baseline from 40% to 45% gradually over the coming years.

402. The minimum wage applies to all employees who have ceased to be of compulsory school leaving age (over 16).

403. All employees aged over 16 are entitled to receive either the full minimum wage, or a lower trainee rate, which can be paid to an employee (of any age) who is undergoing “accredited” training for a maximum period of one year, in a new job, with a new employer. Accreditation of training is via the approval of the Social Security Minister or meeting the requirements of a code of practice.

**Article 8 - Right to form and join trade unions**

**Please indicate what substantive or formal conditions, if any, must be fulfilled in order to join and form the trade union of one’s choice.**

404. There is currently no law relating to trade unions in Jersey and consequently, there are no conditions which must be fulfilled upon the establishment of a trade union. However, there are several branches of the larger organisations active in the Island. In so far as meetings are concerned, the legal position rests on the right of the citizen to liberty of person and speech.

405. However, a great deal of work has been undertaken since 1997 to develop legislation relating to trade unions. The Employment Relations (Jersey) Law 2007<sup>10</sup> has since been

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<sup>10</sup> <http://www.jerseylegalinfo.je/Law/Display.aspx?url=LawsInForce%2fhtm%2flawfiles%2f2007%2fL-03-2007.htm>.

[http://www.jerseylegalinfo.je/Law/display.aspx?url=LawsAdopted/Employment\\_Relations\\_\(Amendment\\_No.\\_2\)\\_\(Jersey\)\\_Law\\_200-.htm](http://www.jerseylegalinfo.je/Law/display.aspx?url=LawsAdopted/Employment_Relations_(Amendment_No._2)_(Jersey)_Law_200-.htm).



prepared and consulted upon extensively by the Social Security Minister. The draft Law was adopted by the States of Jersey on 17 May 2005 and has since been approved by the Privy Council and registered in the Royal Court. It is anticipated that it will come into force in mid-2007.

406. The Law is intended to provide a straightforward system of legal identification and registration of trade unions, collective associations and employer associations, and to accord such bodies clear legal status, which they do not have in customary law. Unions and associations will be required to provide information to verify their status on applying for registration. It is envisaged that all existing unions in Jersey will be automatically registered on enactment of the law.

407. The criteria required by the Employment Relations Law for a union to apply for registration are that the application is made by at least seven members of the trade union or employers' association, or an officer of the union or association. A person may only apply if they are authorised by the union or association to make the application.

408. The Law requires that an application must be accompanied by the name and address of the union or association, the name of each person who is an officer of the union or association and a copy of the constitution of the union or association (that has been verified by each applicant). It also requires that any fee payable accompanies the application, however the Government does not intend to prescribe a fee at this time; the provision is available only if the process becomes administratively onerous in the future.

**Please specify whether there exist any special legal provisions regarding the establishment of trade unions by certain categories of workers and, eventually, what these special provisions are, how they have been applied in practice, as well as the number of persons subjected to them.**

409. There are no special legal provisions for certain categories of worker.

**Are there any restrictions placed upon the exercise of the right to join and form trade unions by workers? Please provide a detailed account of the legal provisions prescribing such restrictions and their application in practice over time.**

410. To date this right has arisen by virtue of the common law right to associate for lawful purposes. However, as described above, the new Employment Relations Law will establish a simple registration process for unions. However this is not a limitation; it is a minor administrative requirement that will not be overly onerous, or adversely effect the free functioning of unions.

411. The Government does not intend to introduce criteria in respect of the 'representativeness' of unions or associations applying for registration. It is considered that the requirements are not overly prescriptive and are a formality.

**Please supply information on how your Government secures the right of trade unions to federate and join international trade union organisations. What legal and practical restrictions are placed upon the exercise of this right?**

**Please indicate in detail what conditions or limitations are placed upon the right of trade unions to function freely. Which trade unions have been adversely affected in practice by these conditions or limitations? What measures are being taken to promote free collective bargaining?**

412. Once registered, trade unions or employers' associations are granted immunities from liability for civil wrongs, such as intimidation, interference with business, or inducing a breach of contract, and from criminal liability insofar as it relates to restraint of trade, in respect of its actions or those of its members.

413. These immunities are limited in that they do not apply to the union or association (or its officials) if:

- The union or association is not registered under the Law; or
- A trade union takes an action without the agreement of the majority of members as determined by a ballot and as provided for in a code of practice; or
- If action is taken or conduct is such that it falls outside of what is defined as reasonable by a code of practice.

**Please supply data on the number and structure of trade unions established in your country, and on their respective membership.**

414. The forthcoming Employment Relations Law will introduce registration requirements for unions. Currently the Transport and General Workers Union, a branch of the United Kingdom Union, is by far the largest union organisation.

**Please indicate whether in your country workers are granted the possibility to strike as a matter of constitutional or legal right. If your answer is in the negative, what other legal or factual approach is used to guarantee the exercise of this right?**

**What restrictions are placed upon the exercise of the right to strike? Please provide a detailed account of the legal provisions governing such restrictions and their application in practice over time.**

415. The forthcoming Employment Relations Law does not refer specifically to strike action. At present the provisions relating to strike action are in the codes of practice which are currently subject to final consultation before being finalised.

416. However, no award by the Employment Tribunal under the Employment Law or Employment Relations Law will have the effect of compelling a person to work. Under the Employment Relations law, instead of allowing the Tribunal to order the specific performance of an employment contract, the Tribunal may make declarations in relation to terms and conditions of employment.

417. Referral of a collective dispute to the Employment Tribunal is the last resort if a voluntarily negotiated settlement cannot be reached by other methods at any stage of the dispute,

such as through negotiation, conciliation, mediation or arbitration (where both parties agree), with or without the assistance of the Jersey Advisory and Conciliation Service. Referral of a dispute to the Tribunal does not preclude a settlement by other means, if at all possible.

**Please indicate whether there exist any special legal provisions regarding the exercise of the right to strike by certain categories of workers and what these special provisions are, how they have been applied in practice, as well as the number of workers subjected to them.**

418. There are no legal provisions regarding specific categories of workers.

**Please indicate whether any restrictions are placed upon the exercise of the rights mentioned in paragraphs 2 and 3 above by members of the armed forces, the police or the administration of the State. How have such restrictions been applied in actual practice?**

419. The Employment Law does not apply to the employment of a person as an officer of the States of Jersey Police Force. The forthcoming Employment Relations Law does not contain the same exemption.

**In case of subsequent reports, give a short review of changes, if any, in national legislation, court decisions, as well as administrative rules, procedures and practices during the reporting period affecting the rights enshrined in article 8.**

420. The Employment Relations Law and associated codes of practice are intended to come into force during 2007.

421. The main aims of the Employment Relations Law are:

(a) To provide a straightforward system of legal identification and registration of trade unions, collective associations and employer associations, and to accord such bodies clear legal status;

(b) To create a legal dispute resolution process which supports and develops good employment relations in the Island, with the aim of reducing disputes and enabling early resolution of disputes by due process where they occur;

(c) To support codes of practice.

422. Draft codes of practice have been prepared following consultation by the Employment Forum, an independent body that has been established for the purpose of consulting and recommending on employment legislation. The Forum has a balance of representatives (3 employers, 3 employees and 3 independents).

423. Responses were collated and the Forum presented a recommendation to the previous Employment and Social Security Committee on the proposed content of the codes. Since that time, draft codes have been prepared and consulted upon and a working draft of the codes of practice is available.

424. The Social Security Minister intends to finalise the associated codes of practice after one last stage of public consultation. The codes will then be presented to the States of Jersey along with a proposed appointed day for the Law, which is intended to occur in mid 2007.

425. The Jersey Advisory and Conciliation Service has been operational since 2001 and part of its function is to promote the improvement of industrial relations in Jersey by settling employment disputes between employers (or employers' organisations) and employees (or trade unions / employee associations) through conciliation, mediation or arbitration.

426. JACS operates as an independent, publicly funded body, is not subject to political direction and is a statutory body, established under the Jersey Advisory and Conciliation Law.

427. Conciliation is recognised and promoted via JACS as an effective method of resolving collective disputes, without the need for reference to the Tribunal under the Employment Relations Law. If necessary, JACS can arrange for an independent arbitrator if the parties to a dispute are unable to resolve their differences through negotiation, conciliation or mediation.

428. JACS dealt with more than 75 requests for assistance in collective issues during 2005, and 48 in 2006, including pay disputes, interpretation of collective agreements and requests for assistance in recognition disputes. Whether or not mediation results in an immediate settlement of the dispute, it is almost invariably the case that it allows both parties to explore alternatives without prejudice, leading to a negotiated settlement at a later date.

429. Whilst the draft Employment Relations Law will provide a formal, legal process for resolving disputes, most parties prefer to raise matters informally. When the Law comes into force and a collective dispute is notified to the Tribunal, JACS will first be asked to try to settle the dispute by giving advice and assistance, and by offering conciliation or arbitration (if agreed by both parties).

430. During this process, JACS will be allowed sufficient time to try to encourage agreement via other methods and a voluntarily negotiated settlement may be reached between the parties at any stage of the process. Referral of the dispute to the Tribunal is a last resort if the dispute cannot be settled by other methods.

**Paragraph 34 of the Concluding Observations. The Committee reiterates its previous recommendations (see paragraph 23 of the Committee's 1997 concluding observations) that the right to strike be incorporated in legislation and that strike action no longer entail the loss of employment.**

431. The Employment Law provides that it is automatically unfair (which means that the normal upper age limit and length of service requirements do not apply) where an employee claims to have been dismissed on grounds relating to:

- Being, or proposing to become a member of a trade union;
- Taking part in, or proposing to take part in trade union activities at an appropriate time;

- Not being a trade union member, or refusing to become (or remain) a member;
- Selection for redundancy on grounds relating to union membership or activities.

432. When it comes into force, the Employment Relations Law will provide additional protection for employees in that it will also be automatically unfair for an employee to be dismissed on the grounds of having taken ‘reasonable’ industrial action (i.e. action that has not been specified as ‘unreasonable’ within the codes of practice drawn up under that Law).

433. The existing award that an employer must pay to an employee where a dismissal is found to have been unfair is considered to be significantly dissuasive. The award is an uncapped amount based on a scale, which relates to age and length of service, and can be up to 26 weeks pay. The award is provided in the Employment (Awards) (Jersey) Order 2005.

434. This can result in considerable awards being made against an employer and is deemed to provide adequate protection. Additional sanctions for anti-union dismissal are not considered appropriate given that this level of protection has been deemed appropriate for all other types of automatically unfair dismissal, such as dismissal on the grounds of pregnancy.

435. During this process, JACS will be allowed sufficient time to try to encourage agreement via other methods and a voluntarily negotiated settlement may be reached between the parties at any stage of the process. Referral of the dispute to the Tribunal is a last resort if the dispute cannot be settled by other methods.

#### **Article 9 - The right to social security**

**Please indicate which of the following branches of social security exist in your country:**

- **Medical care;**
- **Cash sickness benefits;**
- **Maternity benefits;**
- **Old-age benefits;**
- **Invalidity benefits;**
- **Survivors’ benefits;**
- **Employment injury benefits;**
- **Unemployment benefits;**
- **Family benefits.**

**Please describe for each branch existing in your country the main features of the schemes in force, indicating the comprehensiveness of the coverage provided, both in the aggregate and with respect to different groups within the society, the nature and level of benefits, and the method of financing the schemes.**

436. The provisions of this article are implemented by the following:

- Social Security (Jersey) Law 1974, as amended;
- Health Insurance (Jersey) Law 1967, as amended;

and a substantial body of subordinate legislation made there under. Copies of this legislation have previously been submitted. Copies of more recent instruments (which introduced some major reforms), passed since the submission of the last periodic report, are submitted with this report. These are:

- Social Security (Amendment No. 14) (Jersey) Law 2000;
- Social Security (Amendment No. 15) (Jersey) Law 2002.

437. As stated in the last report from the Insular Authorities, the following branches of social security exist in the Island.

### **Medical care**

438. Free hospital treatment is now provided by the Health and Social Services Department Committee.

439. Every person insured under the Health Insurance Law is entitled, subject to satisfying a six month residential condition, to medical benefit in the form of part reimbursement of the cost of the general medical practitioner's services and subsidised drugs and medicines (pharmaceutical benefit).

440. The benefits are financed from contributions to the Health Fund. A person whose income is below a prescribed limit can apply for Health Insurance Exemption, and thus qualify for the above-mentioned benefits without payment. Initiatives continue to maximise the use of IT links amongst doctors providing primary care, this being in the best interests of patient care.

### **Contributory benefits**

441. The Social Security Law provides, in return for earnings-related contributions, various cash benefits.

442. The Scheme is compulsory for all persons between school-leaving age and pension-age (subject to special provision for certain prescribed categories of persons).

443. Benefits are increased annually, as are contributions. The money to pay for the benefits comes from contributions payable by the employer, employee and the States. A staggered introduction of increased contribution percentages was completed in 2002 to secure a Social Security Fund, which is adequate to cope with the forecasted demographic shifts in the dependency ratio, thus safeguarding pensioners' rights to an income.

444. All of the following benefits, listed as (i) - (x) below have been reformed since the last report to ensure benefit payments are targeted on those who need them, and to ensure that claimants are not unintentionally barred from eligibility.

(a) *Short Term Incapacity Allowance* is payable in respect of periods during which a person is incapable of work through illness or accident, subject to certain conditions being satisfied;

(b) *Long Term Incapacity Allowance* replaces sickness benefit after 52 weeks, subject to certain conditions being satisfied. The benefit is based on the loss of faculty resulting from the illness or injury. Existing *Invalidity* benefit claimants continue to receive this benefit;

(c) *Injury benefit* has been replaced by STIA;

(d) *Disablement benefit* is the same benefit as LTIA. It is payable as a result of loss of physical or mental faculty following an accident or illness. It is not payable at the same time as STIA. The amount of benefit depends on the extent of disablement, and may be increased in respect of a wife or adult dependent;

(e) *Maternity grant* is a lump sum payment to help with the general expense of having a baby, and may be paid either on the mother's own insurance or that of her husband. An *Adoptive parent's grant* has been introduced at the same rate as *Maternity grant*;

(f) *Maternity allowance*. A woman who leaves her employment because of pregnancy is entitled to a weekly allowance for 18 weeks. The allowance is payable by virtue of her own insurance;

(g) *Survivor's Allowance* to help a widow/widower over the initial period of widowhood. A widow's allowance is payable for the first 52 weeks of widowhood. Thereafter, a Survivors Benefit will be payable to a widow/widower to ensure pension rights for widowers as well as widows;

(h) *Incapacity pension* has been introduced for those people under 65 who cannot work anymore due to illness or injury;

(i) *Old age pension*. Prior to 1975, the pension age was 60 for women and 65 for men. The 1975 Law provided for a common pension age of 65. However, the rights of women who were insured prior to 1975 are safeguarded in that they can claim an old age pension at 60 through their own insurance. The wife of a pensioner, though not herself insured, may qualify for a pension of her own at age 65 based on her husband's contribution record. A new 'flexi-pension' has been implemented which allows people to draw a reduced pension from the age of 63 years;

(j) *Death grant*. A lump sum is payable on the death of a contributor, or of his spouse or child. A non-contributory Death Grant may also be payable in certain cases.

### **Non-contributory pensions**

(a) *Attendance Allowances* (Jersey) Law 1973 provides for a monthly cash payment to be made in respect of persons who are so severely disabled, physically or mentally, that they need constant attention. Such an allowance is subject to a generous income limit, is tax free, and is in addition to any other benefits payable;

(b) *Non-Contributory Pensions* (Jersey) Law 1954 provides for the payment of non-contributory pensions to people born before 1896 (i.e. those who were too old to contribute and thereby qualify for old age pension);

(c) *Family Allowances* (Jersey) Law 1972 provides for the payment of a tax-free allowance for the benefit of the family as a whole. It is paid to families who have at least one child under the age of 16 and the scale of payment is related to family income/number of children. The allowance is reviewed annually;

(d) *Welfare milk*. Milk at less than the retail price is available to the following categories:

- Children under five years of age;
- Expectant mothers;
- Persons between the ages of 65 and 70 who -
  - Are in receipt of parish welfare; or
  - Hold a health insurance exemption; or
  - Require milk as a necessary and substantial part of their health;
- Persons over the age of 70;

(e) *Adult Disablement Allowance*. Payable to adults who have been unable to work for some time because of a disability. ADA is paid monthly and subject to residence and income conditions;

(f) *Invalid Care Allowance*. ICA is paid to individuals of working age who are unable to work because they stay at home to care for a person who is receiving an Attendance Allowance. The carer's social security contributions are also credited to protect their individual entitlement. As with some other benefits, there are income conditions;

(g) *Child Disablement Allowance* is payable for children under 16 years who are disabled but not to the extent that they qualify for Attendance Allowance. CDA is subject to residence and income conditions;

(h) *Disability Transport Allowance*. DTA is intended to assist adults and children who cannot safely leave home without help because they are severely physically or mentally disabled. The benefit is paid subject to medical, residence and income conditions;



(i) *Child Care Allowance*. CCA is paid to qualifying claimants to offset the cost of Child care for parents who work. The policy intent of this benefit is to seek to ensure that those who do not earn enough to pay Income Tax, and thereby qualify for taxation relief for child care costs, are not disadvantaged by virtue of earning less than the Tax threshold;

(j) *Parish welfare grants* (administered by the Parishes). The purpose of a welfare grant is to supplement the income of those people who are not in full-time work and whose income (if any) from Social Security benefits or other sources is not sufficient to meet their requirements.

445. Welfare grants are payable to people who were born in the Island or who have resided in the Island for at least five consecutive years.

446. In 2007 all the above-mentioned benefits, as well as the States Rent Rebate and Abatement Schemes are to be subsumed into an income support benefit based on a common means test of current income.

### **Unemployment benefit**

447. No such benefits are payable under the Social Security Law. Unemployed persons can claim a welfare grant from their Parish Welfare authority, (provided they pass the qualifying test described above).

**Please indicate what percentage of your GNP as well as of your national and/or regional budget(s) is spent on social security. How does this compare with the situation 10 years ago? What reasons are there for any changes?**

448. 1998 expenditure on Social Security was £87 million; the Health Fund - £13 million; and on non-contributory benefits - £21.5 million. In 2005 (latest published accounts) these figures were Social Security £146 million, Health £18.5 million and non-contributory benefits £30.5 million.

**Please indicate whether in your country the formal (public) social security schemes described are supplemented by any informal (private) arrangements. If such is the case, please describe these arrangements and the interrelationships between them and the formal (public) schemes.**

449. The formal social security scheme described is not supplemented by any informal arrangements and private insurance systems, occupational or individual have no impact on the social security scheme.

**Please indicate whether in your country there are any groups which do not enjoy the right to social security at all or which do so to a significantly lesser degree than the majority of the population. In particular, what is the situation of women in that respect? Please give particulars of such non-enjoyment of social security.**

**Please indicate what measures are regarded as necessary by your Government in order to realise the right to social security for the groups mentioned above.**

**Please explain the policy measures your Government has taken, to the maximum of its available resources, to implement the right to social security for these groups. Give a calendar and time-related benchmarks for measuring your achievements in this regard.**

**Please describe the effect of these measures on the situation of the vulnerable and disadvantaged groups in point, and report the successes, problems and shortcomings of such measures.**

450. All groups enjoy the right to social security. Since 2002 the scheme is based on individual entitlement and every woman, married or not, has a liability to pay contributions. Pension provisions have been altered to cover cases of married women divorcing who might receive small pension because they chose not to pay whilst married and working.

**In case of subsequent reports, give a short review of changes, if any, in national legislation, court decisions, as well as administrative rules, procedures and practices during the reporting period affecting the right to social security.**

451. The States of Jersey continues to review the operation of the Social Security and Social Assistance systems and on completion of the Income Support project will be looking at pension provision in the Island.

**Please indicate the role of international assistance in the full realisation of the right enshrined in article 9.**

452. Other than through Reciprocal Agreements no international assistance is necessary.

#### **Article 10 - Right to protection of the family**

**Please indicate what meaning is given in your society to the term “family”.**

453. The definition of “family” provided in Article 4(1) of the Family Allowances (Jersey) Law 1972, as amended is as follows:

“Subject to the provisions of this Law, each of the following shall be treated for the purposes of this Law as constituting a family, that is to say -

(a) A man and wife living together, any child or children being issue of theirs, his or hers, and any child or children being maintained by them;

(b) A man not having a wife or not living together with his wife, any child or children being issue of his, and any child or children being maintained by him; and;

(c) A woman not having a husband or not living together with her husband, any child or children being issue of hers, and any child being maintained by her”.

**Please indicate the age at which in your country children are deemed to attain their majority for different purposes.**

454. The age of majority is 18. The minimum school leaving age is 16. Protection is granted through the Employment (Jersey) Law 2003 for those aged 16 and over in the workplace. (See Article 6 response). Men and women are entitled to marry at 16 with parental consent and at 18 without.

**Please supply information on the ways and means, both formal and informal, employed in your country to grant assistance and protection to the family. In particular:**

**How does your country guarantee the right of men and, particularly, women to enter into marriage with their full and free consent and to establish a family? Please indicate and eventually give particulars about cases where the measures taken were not successful in abolishing practices adversely affecting the enjoyment of this right.**

455. The freedom of men and women to marry and establish a family is restricted only by those provisions of the Marriage and Civil Status (Jersey) Law 2001 which prohibit marriage between close relatives; step-relations or in-laws.

**By what measures does your country facilitate the establishment of a family as well as maintain, strengthen and protect it, particularly while it is responsible for the care and education of dependent children? Despite these measures, are there families which do not enjoy the benefit of such protection and assistance at all or which do so to a significantly lesser degree than the majority of the population? Please give details of these situations. Are extended families or other forms of familial organisation recognised in determining the availability or applicability of these measures, particularly with respect to government benefits?**

**With regard to shortcomings visible under subparagraphs (a) or (b), what measures are contemplated to remedy the situation?**

456. The situation with regards support provided through the social security Family Allowances; parish welfare and Health Insurance system remains as indicated in the 2000 Report.

457. The Bridge is a new centre that opened in 2006. It has been established to bring together various agencies both statutory and voluntary who are working to support families and young people. Those it supports are often those who might not normally access support easily. Support is offered to individuals of all ages including families and young people, often in times of crisis and allows individual skills to be developed to help them access the world of work. Individuals can either be referred through schools and agencies or by self referral.

458. The Separation and Maintenance Orders (Jersey) Law 1953 empowers the Petty Debts Court to make orders with respect to the separation of married persons, and the maintenance of either party to and the children of the marriage. On 20th October 2000, the Separation and

Maintenance Orders (Amendment No. 2) (Jersey) Law 2000 came into force. It provided for the jurisdiction of the Court to be exercised on an equal footing between either party to the marriage.

**Please provide information on your system of maternity protection. In particular:**

- Describe the scope of the scheme of protection;
- Indicate the total length of the maternity leave and of the period of compulsory leave after confinement;
- Describe the cash, medical and other social security benefits granted during these periods;
- Indicate how these benefits have been developed over time.

**Please indicate whether there are in your society groups of women who do not enjoy any maternity protection at all or which do so to a significantly lesser degree than the majority. Please give details of these situations. What measures are being taken or contemplated to remedy this situation? Please describe the effect of these measures on the situation of the vulnerable and disadvantaged groups in point, and report on successes, problems and shortcomings of such measures.**

459. The Social Security Department is about to start a consultation process to consider the issue of maternity pay and maternity leave entitlement as part of its phased introduction of Employment legislation. Preparation of legislation dealing with this issue will follow after the consultation has finished. Currently a number of Island employers have their own maternity schemes. A maternity grant and a maternity allowance are also available to those women who have paid sufficient social security contributions. (See article 9 response).

**Please describe the special measures of protection and assistance on behalf of children and young persons, especially measures to protect them from economic and social exploitation or to prevent their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development.**

- What are the age limits in your country below which the paid employment of child labour in different occupations is prohibited?;
- Please specify how many children, and of which age groups, engage in paid employment, and to what extent;
- Please specify to what extent children are being employed in their families' households, farms or businesses;
- Please indicate whether there are in your country any groups of children and young persons which do not enjoy the measures of protection and assistance at all or which do so to a significantly lesser degree than the majority. In particular,

**what is the respective situation of orphans, children without living biological parents, young girls, children who are abandoned or deprived of their family environment, as well as physically or mentally handicapped children?;**

- How are the persons mentioned in the preceding paragraph informed of their respective rights?;**
- Please give details of any difficulties and shortcomings. How have such adverse situations developed over time? What measures are being taken to remedy these situations? Please describe the effect of these measures over time and report on successes, problems and shortcomings.**

460. As indicated in the response to Articles 13 -14 attendance at school is compulsory in Jersey. The Island does not have an issue with children working when they should be at school and there are no statistics recorded on children in employment outside of school hours on a part time or a holiday basis; in family households, farms or businesses.

461. However, Article 48 of the Children (Jersey) Law 2002<sup>11</sup> gives the Minister for Health and Social Services power to make orders with respect to the employment of children generally, including a power for the Minister to give notice in writing to an employer prohibiting the employer from employing a child or imposing restrictions upon how the child may be employed if it is felt that the child's employment is prejudicial to his or her health or renders the child unfit to obtain the full benefit of education provided for the child. The Law also requires that the Minister grant a licence before any child can take part in a performance for which an admission fee is paid; a broadcasting or television performance or work on licensed premises.

462. In addition, the Careers Office has a Code of Practice in which they advise that children under the age of 14 should not work more than 19 hours per week and no more than two hours per day on a school day and no more than seven hours per day on a non-school day.

463. More generally, as reported in the 2000 Report, specialist services exist in Jersey to protect children and to assist children and families in need. Statutory powers and responsibilities are vested in the Health and Social Services Department to protect and promote child and family welfare under the comprehensive Children (Jersey) Law 2002. Services provided are free, and available to all regardless of national origin or period of residence. A new facility, known as "The Bridge" was opened in 2006. It offers a variety of facilities for young people with a youth worker to support them and advisory and parenting services.

464. The Children's (Jersey) Law 2002 also makes it an offence for any person who has responsibility for a child under the age of 16 to intentionally or recklessly cause any harm to

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<sup>11</sup> [http://www.jerseylegalinfo.je/Law/display.aspx?url=lawsinforce%5cconsolidated%5c12%5c12.200\\_ChildrenLaw2002\\_RevisedEdition\\_1January2006.htm](http://www.jerseylegalinfo.je/Law/display.aspx?url=lawsinforce%5cconsolidated%5c12%5c12.200_ChildrenLaw2002_RevisedEdition_1January2006.htm).

that child; expose the child to a risk of harm or neglect the child in a manner likely to cause the child harm. Any such offence is punishable by imprisonment for a term up to 10 years and a fine.

**In case of subsequent reports, give a short review of changes, if any, in national legislation, court decisions as well as administrative rules, procedures and practices during the reporting period affecting the right enshrined in article 10.**

465. The Children (Jersey) Law 2002, which has been referred to above, was introduced in 2005.

**Please describe the role of international assistance in the full realisation of the right enshrined in article 10.**

466. The issue of international assistance is not applicable.

**Article 11 - Right to an adequate standard of living (particularly the right to water and food, and housing)**

**Please supply information on the current standard of living of your population, in respect of both the aggregate and different socio-economic, cultural, and other groups within the society. How has the standard of living changed over time (e.g. compared with 10 years ago and 5 years ago) with regard to these different groups? Has there been a continuous improvement of living conditions for the entire population or for what groups?**

467. Jersey is regarded internationally as having a very high standard of living and there is no prevalence of hunger, malnutrition or thirst in Jersey. Current Government policy is to provide comprehensive welfare support for those on lower incomes and, as indicated in the States Strategic Plan and throughout this Report, will continue to support a high quality of life and improve where possible on these standards.

**In case your Government has recently submitted reports relevant to the situation with respect to all or some of the rights contained in article 11 to the United Nations or a specialised agency, you may wish to refer to the relevant parts of those reports rather than repeat the information here.**

468. The Island has not submitted a recent report on the general standard of living and is content to rely on the answers of this Report.

**Please indicate the per capita GNP for the poorest 40 per cent of your population. Is there a “poverty line” in existence in your country and, if so, what is the basis for this line?**

469. There is no recorded “poverty line”. Measurements are based on “relative low income”.

## Jersey Income Distribution Survey 2002

### Relative Low Income: 60% of median equivalized income

60% Median Income Thresholds for different Household Types (£ per week)

	Before housing costs	After housing costs
Adult living alone	192	133
Married couple	314	241
Couple, two preschool children	427	328
Couple, children aged 5 and 11	458	354
Single parent, children aged 5 and 11	336	246

## Jersey Income Distribution Study 2002

Relative Low Income (60% of median equivalised income) by Household Type (% of each household type)

Type of household	Before housing costs	After housing costs
Person living alone (pensioner)	33	45
Two or more pensioners	40	36
Single parent with at least one child < 16	37	64
Single parent with all children > 15	23	37
Couple with at least one child < 16	17	28
Couple with all children > 15	4	11
Couple one pensioner	15	19
Person living alone (not pensioner)	6	19
Couple not pensioners	5	9
Two or more unrelated persons	4	4
Other	7	11
All households	16	24

### Please indicate your country's Physical Quality of Life Index.

470. Jersey does not maintain a Physical Quality of Life Index.

### The right to adequate food and water

**Please provide a general overview of the extent to which the right to adequate food and water has been realised in your country. Describe the sources of information that exist in this regard, including nutritional surveys and other monitoring arrangements.**

471. The situation is as in the 2000 Report. There is more than adequate food and water available in Jersey and most of the problems relating to nutrition continue to be those of excess rather than shortage. Further relevant information is provided in the response to Article 12.

**Please provide detailed information (including statistical data broken down in terms of different geographical areas) on the extent to which hunger and/or malnutrition or thirst exists in your country. This information should deal in particular with the following issues:**

- **The situation of especially vulnerable or disadvantaged groups, including:**
- **Landless peasants;**
- **Marginalized peasants;**
- **Rural workers;**
- **Rural unemployed;**
- **Urban unemployed;**
- **Urban poor;**
- **Migrant workers;**
- **Indigenous peoples;**
- **Children;**
- **Elderly people;**
- **Other especially affected groups;**
- **Any significant differences in the situation of men and women within each of the above groups;**
- **The changes that have taken place over the past five years with respect to the situation of each of the above groups.**

472. The population of the country does not suffer from hunger or malnutrition.

**During the reporting period, have there been any changes in national policies, laws and practices negatively affecting the access to adequate food and water by these groups or sectors or within the worse-off regions? If so, please describe these changes and evaluate their impact.**

473. Non-applicable.

**Please indicate what measures are considered necessary by your Government to guarantee access to adequate food and water for each of the vulnerable or disadvantaged groups mentioned above and for the worse-off areas, and for the full implementation of the right to food and water for both men and women. Indicate the measures taken and specify time-related goals and nutritional benchmarks for measuring achievements in this regard.**



**Please indicate in what ways measures taken to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge have contributed towards, or have impeded the realisation of the right to adequate food and water. Please describe the impact of these measures in terms of ecological sustainability and the protection and conservation of food and water producing resources.**

474. Non-applicable.

**Please indicate what measures are taken to disseminate knowledge of the principles of nutrition and specify whether any significant groups or sectors within society seem to lack such knowledge.**

475. Reference is made in the response to Article 12 to the Government's current health strategy and 'healthy schools programme' both of which involve advising on nutrition issues. In addition State Registered Dietitians (SRDs or RDs) are employed by the Health and Social Services Department. They provide a source of nutritional expertise for the island and participate in the training of other health care professionals. They are specially trained to advise on individual diets and nutrition and have a mixed caseload of ward work (at the General Hospital and within the elderly care/rehabilitation hospitals) and out patient clinics. They also provide help and support for patients in the community. Patients in Mental Health establishments are seen as requested.

**Please describe any measures of agrarian reform taken by your Government to ensure that the agrarian system is efficiently utilised in order to promote food security at household level without negatively affecting human dignity both in the rural and urban settings taking into account articles 6 to 8 of the Covenant. Describe the measures taken:**

- **To legislate to this effect;**
- **To enforce existing law to this effect;**
- **To facilitate monitoring through governmental and non-governmental organisations.**

476. The principal measures aimed at improving agrarian systems are economic growth support and the conservation of agricultural land. The Agricultural Land (Control of Sale and Leases) (Jersey) Law 1974 requires, subject to exemptions, approval to be obtained before agricultural land can be leased or purchased. All land deemed to be productive agricultural land may only be worked by a bona fide agriculturist. Other aids to improve agricultural structures include a Rural Initiative Scheme and other business development measures. In addition, the Pesticides (Jersey) Law 1991 ensures strict adherence to codes of practice on the use of chemicals, the banning of certain chemicals and a programme of Maximum Residue levels in foodstuffs.

477. Conservation and cleanliness of the natural and farmed fish stocks for the best long term interest of the Island is also practised. In July 2004 the Granville Bay Treaty was entered into

by the United Kingdom (on behalf of Jersey) and France. The Treaty allows for the joint management of fisheries resources by Jersey and France on the basis of the precautionary approach, but having regard to socio-economic factors.

478. Yields from the fishery are maximised by management using minimum landing sizes and other types of control. Fish and shellfish are monitored regularly for pollution. Fish farming is actively supported by research, control of zones and monitoring of water quality and produce.

479. A new Coastal Zone strategy is currently being finalised. The strategy will help towards achieving a balance between the development of the fish-farming industry, the wider needs of the community and the quality of the resource.

480. Relevant legislation, which has amongst its aims the promotion of food security, includes:

- Agricultural Land (Control of Sales and Leases) (Jersey) Law 1974;
- Protection of Agricultural Land (Jersey) Law 1964;
- Agricultural Marketing (Jersey) Law 1953;
- Agricultural Returns (Jersey) Law 1947;
- Agricultural (Guaranteed Prices and Financial Assistance) (Jersey) Law 1965;
- Agricultural (Loans and Guarantees) (Jersey) Law 1974;
- Sea Fisheries (Jersey) Law 1994;
- Pesticides (Jersey) Law 1991.

481. The Environment Department publishes a monthly guide for growers, advising them of new developments and offering guidance. The fisheries section has an enforcement team and utilises a research/surveillance vessel for research work in the capture fishery and to monitor catches. Management measures are changed in the light of research to provide the best long term yield from the fishery.

482. On a general note, protection and conservation of the Island's food and water producing resources has been improved because of the merging of the former Agriculture and Fisheries section into the Environment division of Government.<sup>12</sup>

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<sup>12</sup> This has taken place as part of the recent government changes described in Part 1 of document E/C.12/GBR/5.

**Please describe and evaluate the measures taken by your Government in order to ensure an equitable distribution, in terms of both production and trade, of world food and water supplies in relation to need, taking into account the problems of both food-importing (and water-importing) and food-exporting (and water-exporting) countries.**

#### **The right to adequate housing**

**Please furnish detailed statistical information about the housing situation in your country.**

483. 30,242 structurally separate and occupied or partly-occupied dwellings were recorded in the 2001 Census, of which 94 per cent contained a single household. A further 2,065 units of residential accommodation were identified as being unoccupied at the time of the census. The increase in the total number of dwellings between 1991 and 1996 was 3,448, an increase of 12%.

484. 35,562 private households containing a resident population of 87,186 people were recorded in 2001. These figures give an average number of persons per household of 2.38. 18,031 or 51% of all households were owner/occupied.

**Please provide detailed information about those groups within your society that are vulnerable and disadvantaged with regard to housing. Indicate, in particular the number of homeless individuals and families.**

485. There are very few homeless individuals and families in the Island. The Housing Department has a responsibility for housing homeless families with residential qualifications and does so unless homelessness is self-imposed - e.g. a family has sufficient income or assets to house itself. The Housing Department no longer has homeless family hostels. The Health and Social Services Department and a number of voluntary agencies, in particular The Shelter Trust provide emergency accommodation for people who might otherwise find themselves homeless. In his 2005 annual report, the General Manager of the Shelter Trust stated that during the reporting period 58 individuals were found to have spent at least 1 night 'sleeping rough'. One person spent more than 100 nights 'sleeping rough' during the period. Almost all of the other 'rough sleepers' spent 'the odd night out'. 'Rough sleeping' is now viewed by homeless people as the 'least best option' available to them. The reduction in the 'rough sleeping' numbers is marked and attributable to the work of the Trust's Outreach Service. The overarching aim of the Service is to persuade homeless people to 'come in' to the emergency hostel provision that is available with a view to moving into mainstream accommodation as soon as is practicable. The three accommodation sites that the Trust provides for the homeless community were used by 411 people during 2005.

486. The Health and Social Services Department through the Children's Service also provides accommodation for up to nine homeless young people with residential qualifications between the ages of 16 and 18. In addition, various charitable organisations provide emergency accommodation for people who would otherwise find themselves homeless. Whilst such organizations tend to give preference to those with residential qualifications, this is not necessarily always the case.

**The number of individuals and families currently inadequately housed and without ready access to basic amenities such as water, heating (if necessary), waste disposal, sanitation facilities, electricity, postal services, etc. (insofar as you consider these amenities relevant in your country). Include the number of people living in overcrowded, damp, structurally unsafe housing or other conditions which affect health;**

487. Insofar as residentially qualified persons are concerned, the best guide to the number of individuals and families who are considered to live in sub-standard or over-crowded conditions, or are in need of re-housing for urgent medical reasons, are the urgent categories on the States rental waiting list. As at 31 March, 2007 the States rental waiting list stood at 264 with 122 of the applicants being "Urgent" or "High Priority". There are now no homeless family hostels administered by the Housing Department but individual units within the housing stock are used for "short stay" purposes from time to time.

488. Non-residentially persons are restricted to occupying uncontrolled accommodation. The Population Office controls standards in all registered lodging accommodation through legal powers and a Code of Practice. Any property in which residential accommodation is provided, for reward, for more than five persons, must by law register with the Population Office, which lays down strict conditions for registration e.g. - maximum number of persons who can occupy dependent on size of individual unit, provision of adequate cooking facilities, provision of toilets, washbasins, baths and showers, decor, etc. Re-registration is an annual matter and thorough inspections are made. Currently, there are 250 registered lodging houses, providing accommodation for 5,375 persons.

**The number of persons currently classified as living in "illegal" settlements or housing;**

489. The number of persons who may be living in accommodation illegally is unknown, but the Population Office is proactive in investigating alleged breaches of both the Housing Law and Lodging House Law, and submitting case files to the Attorney General for consideration of possible prosecution.

**The number of persons evicted within the last five years and the number of persons currently lacking legal protection against arbitrary eviction or any other kind of eviction;**

490. There is no record of the number of persons evicted within the last five years. In terms of tenants, the figure remains likely to be less than 200 and between 400 and 500 if lodgers are included. The number of persons living in lodgings remains at about 10,000. Increased competition in the rental sector is giving the tenants the ability to move on where better terms or lower rentals can be achieved.

**The number of persons whose housing expenses are above any government-set limit of affordability, based upon ability to pay or as a ratio of income;**

491. 5,329 residentially qualified householders who rent accommodation cannot afford to rent without a subsidy. Annual rent subsidy paid is currently £23.5 million per annum. The Housing Department operates generous subsidies for residentially qualified persons who rent in the public

and private sectors, whose income is not sufficient to meet their housing costs. Tenants with low incomes, are provided with subsidies to ensure that not more than 27% of income is paid in rent. Persons without residential qualifications, however, are likely to have to pay considerably in excess of one-quarter of their income to provide for their accommodation.

**The number of persons on waiting lists for obtaining accommodation, the average length of waiting time and measures taken to decrease such lists as well as to assist those on such lists in finding temporary housing;**

492. As stated above, the States rental waiting list stood at 264 applications on 31<sup>st</sup> March 2007. The length of waiting continues to vary according to priority and urgency ranging from a day to perhaps five years. The Housing Department no longer administers Hostels but the average length of time for a family with two children to be provided with three bedroom accommodation is 12 months.

493. Rent subsidy schemes for both private and public sector tenants help to ensure that affordable accommodation is available for the majority of residents.

494. The Department is continuing to support Housing Trusts with financial subsidies in order to assist the Department in building sufficient units for social rented housing.

**The number of persons in different types of housing tenure by: social or public housing; private rental sector; owner-occupiers; “illegal” sector; and other.**

495. Figures are taken from the 2001 census:

Total number of households:	35,562	
Owner/occupied	18,031	51 per cent
Public rental housing	5,017	14 per cent
Private sector rental and lodgings/ staff accommodation	12,365	35 per cent

Within the private rental/service etc. there are some 1,000 units of Housing Association accommodation.

**Please provide information on the existence of any laws affecting the realization of the right to housing, including:**

- **Legislation which gives substance to the right to housing in terms of defining the content of this right;**
- **Legislation such as housing acts, homeless person acts, municipal corporation acts, etc.;**

- **Legislation relevant to land use, land distribution; land allocation, land zoning, land ceilings, expropriations including provisions for compensation; land planning, including procedures for community participation;**
- **Legislation concerning the rights of tenants to security of tenure, to protection from eviction; to housing finance and rental control (or subsidy), housing affordability, etc.;**
- **Legislation concerning building codes, building regulations and standards and the provision of infrastructure;**
- **Legislation prohibiting any and all forms of discrimination in the housing sector, including groups not traditionally protected;**
- **Legislation prohibiting any form of eviction;**
- **Any legislative repeal or reform of existing laws which detracts from the fulfilment of the right to housing;**
- **Legislation restricting speculation on housing or property, particularly when such speculation has a negative impact on the fulfilment of housing rights for all sectors of society;**
- **Legislative measures conferring *legal* title to those living in the “illegal” sector;**
- **Legislation concerning environmental planning and health in housing and human settlements.**

496. The legislation remains the same as that referred to in the 2000 Report except that it is now the Population Office that controls registration, standards, etc. of private lodgings which offer accommodation for more than five persons in accordance with the terms of the Lodging Houses (Registration) (Jersey) Law 1962, as amended from time to time and Lodging Houses (General Provisions) (Jersey) Orders, 1962, and subsequent Orders.

497. The relevant legislation dealing with eviction issues is:

- The *Loi (1915) sur la location de bienfonds*, which deals with the required period of notice in relation to land;
- The *Loi (1946) concernant l’expulsion de locataires réfractaires*, which confers discretion on the Judge of the Petty Debts Court to grant a delay before any eviction order is enforced.

498. As indicated previously, the proposed Discrimination (Jersey) Law will, amongst other aspects of its scope, extend to discrimination in relation to the disposal and access to premises including residential accommodation.

**Please provide information on all other measures taken to fulfil the right to housing, including:**

**Measures taken to encourage “enabling strategies” whereby local community-based organisations and the “informal sector” can build housing and related services. Are such organisations free to operate? Do they receive Government funding?**

499. The situation remains the same as in the 2000 Report.

**Measures taken by the State to build housing units and to increase other construction of affordable, rental housing;**

500. The provision of new housing in recent years has primarily been facilitated using housing trusts which are provided with support from the States in the form of loan interest subsidy for their borrowing.

**Measures taken to release unutilised, under-utilised or mis-utilised land;**

501. The Island’s Planning and Environment Department is responsible for rezoning sites and is currently preparing a new proposition to rezone land to provide potentially another 250 homes specifically for those over 55 years of age. Rezoning plans were contained in the Island Plan approved by the States in 1987, and the States have periodically approved additional land rezoning since, in response to regulate updated estimates of projected housing requirements. The States is also involved in an on-going ‘urban site initiative’ aimed at securing the release of previously used land in the built up areas of the Island.

502. There is a growing need to refurbish the States-owned housing stock. The principle hurdle to this remains securing adequate funding. A programme of works has been identified and initial funding secured from the Capital programme. To meet the shortfall in funding the Department will look to its substantial property portfolio as a means of generating that additional funding. 26% of States tenants are not receiving any financial subsidy to rent and this together with other factors has suggested a considerable demand from tenants to be able to purchase affordable homes. The Department has produced a ‘Property Plan’ which if approved by the States in 2007 will provide for the sale by way of shared equity of some 800 homes to existing tenants over a 10 year period. The income derived from these sales will be used to offset the shortfall in refurbishment costs and to allow the Department to purchase sheltered accommodation which is needed to satisfy the demands of the Island’s increasingly ageing society.

**Financial measures taken by the State including details of the budget of the Ministry of Housing or other relevant Ministry as a percentage of the national budget.**

503. Range of financial assistance provided, eg.-

- (a) Rent subsidies - approx. £23.5 million per annum;
- (b) States loan subsidies outstanding - approx. £70 million;
- (c) Cheap loans to parishes to provide residential accommodation for elderly persons;

(d) Cheap loans or grants and/or property leased at nominal rents to voluntary organisations to provide accommodation for various categories including the elderly; handicapped; homeless; low income families; battered wives; individuals dependent on alcohol and drug dependency.

**Measures taken to ensure that international assistance for housing and human settlements is used to fulfil the needs of the most disadvantaged groups;**

504. The issue of International Assistance is not applicable.

**Measures taken to encourage the development of small and intermediate urban centres, especially at the rural level;**

505. The Planning and Environment Department and many parishes have worked together in the past on small village developments. States loans can be granted to assist first-time buyers purchasing dwelling units in those developments.

**Measures taken during, inter alia, urban renewal programmes, redevelopment projects, site upgrading, preparation for international events (Olympics, expositions, conferences, etc.), “beautiful city campaigns”, etc., which guarantee protection from eviction or guaranteed re-housing based on mutual agreement, by any persons living on or near to affected sites.**

506. There is no additional protection to that available under the 1946 Law quoted above.

**During the reporting period, have there been any changes in national policies, laws and practices negatively affecting the right to adequate housing? If so, please describe the changes and evaluate their impact.**

507. There have been no changes in national policies, laws and practices during this reporting period.

**Please give details on any difficulties or shortcomings encountered in the fulfilment of the rights enshrined in article 11 and on the measures taken to remedy these situations (if not already described in the present report).**

508. The issues and actions being taken remain the same as those referred to in the 2000 Report.

**Please indicate the role of international assistance in the full realisation of the rights enshrined in article 11.**

509. The issue of International Assistance is not applicable.

**Article 12 - Right to health**

**Please supply information on the physical and mental health of your population, in respect of both the aggregate and the different groups within your society. How has the health situation changed over time with regard to these groups?**



510. The right to physical and mental health is included in the overall strategy for health and social care in Jersey. The Government measures population health through a variety of performance measures and health surveys. These measures are set in the States Business Plan, Health and Social Services Department Business Plan and Annual Report of the Medical Officer for Health. Some examples are given below:

<p><b>INCREASE LIFE EXPECTANCY AT BIRTH IN JERSEY FOR MEN AND WOMEN</b></p> <p><b>What did we measure:</b> Life expectancy at birth in Jersey for men and women.</p> <p><b>Why it is important:</b> A fundamental indirect measure of health in a particular country is life expectancy. Though healthcare systems have an influence on life expectancy - as equally important if not more so are a wide range of other factors such as personal income, lifestyle, education, nutritional standards, and housing quality. One way of measuring life expectancy is the number of years that individuals born 'now' can on average expect to live if current patterns of mortality and disability continue to apply.</p> <p><b>Target:</b> for men to 78.6 AND for women to 82.5 by 2010</p>	<p><b>Performance:</b> for men <b>76.8</b> and women <b>81.8</b></p> <p>Life expectancy at birth has been increasing for men and women in Jersey and is approaching the 2010 target. England rate for men 76.6 and women 80.9.<sup>13</sup></p>
<p><b>REDUCE MORTALITY FROM HEART DISEASE AND STROKE</b></p> <p><b>What did we measure:</b> Mortality rates from heart disease and stroke and related diseases for people under 75.</p> <p><b>Why it is important:</b> The most significant causes of death from disease in Jersey are cardiovascular illness and cancer.</p> <p><b>Target:</b> 85 per 100,000 population (aged standardized mortality) by 2010.</p>	<p><b>Performance: 84.1 per 100,000</b></p> <p>This target is close to being achieved and is projected to do so before 2010.<sup>14</sup> England rate 96.7.<sup>15</sup></p>
<p><b>REDUCE MORTALITY FROM CANCER</b></p> <p><b>What did we measure:</b> Mortality rates from cancer for people under 75.</p> <p><b>Why it is important:</b> The most significant causes of death from disease in Jersey are cardio-vascular illness and cancer.</p> <p><b>Target:</b> 113 per 100,000 population (aged standardized mortality) by 2010.</p>	<p><b>Performance: 118.3 per 100,000</b></p> <p>This target is close to being achieved and is projected to do so before 2010.<sup>16</sup> England rate 121.6.<sup>17</sup></p>

<sup>13</sup> National Centre for Health Outcomes Development 06.

<sup>14</sup> 95% confidence intervals for the 2004 data (2002-2004) are 66-102 i.e. the actual population rate is between 66 and 102 per 100,000 with 95% confidence.

<sup>15</sup> National Centre for Health Outcomes Development 06.

<sup>16</sup> 95% confidence intervals for the 2004 data (2002-2004) are 97-140 i.e. the actual population rate is between 97 and 140 per 100,000 with 95% confidence.

<sup>17</sup> National Centre for Health Outcomes Development 06.

<p><b>REDUCE MORTALITY FROM SUICIDE AND UNDETERMINED INJURY</b></p> <p><b>What did we measure:</b> Mortality rates from suicide and undetermined injury.</p> <p><b>Why it is important:</b> Death from suicide and undetermined injury is a key concern, not only as it relates to the individual involved but also its effect on family members.</p> <p><b>Target:</b> 7.4 per 100,000 population (aged standardized mortality all ages) by 2010.</p>	<p><b>Performance: 8.6 per 100,000</b></p> <p>This target is close to being achieved and is projected to do so before 2010.<sup>18</sup></p> <p>England rate 8.6.<sup>19</sup></p>
<p><b>REDUCE ADULT AND CHILDREN SMOKING RATES</b></p> <p><b>What did we measure:</b> Adult and children's smoking rates.</p> <p><b>Why it is important:</b> Smoking is the single greatest cause of illness and premature death. It accounts for a third of all cancer and a seventh of all cardiovascular disease.</p> <p>Over 80% of deaths from lung cancer are the direct result of smoking.<sup>20</sup></p> <p><b>Target:</b> Adults 16+ = 24% (prevalence) by 2010. Children aged 14 &amp; 15 = 29% (prevalence) by 2006.</p>	<p>Rate Previous Year 2006</p> <p>Adult 29%<sup>21</sup> 25%</p> <p>Children 33%<sup>22</sup> -</p> <p><b>Performance: Adults - 25%</b><sup>23</sup></p> <p>Performance continues to improve and it is most likely that the target will be attained by 2010 if not sooner.</p> <p>Children <b>33%</b> - children's data available later in the year.</p> <p>England rate Adult 25%.<sup>24</sup></p>

**Please indicate whether your country has a national health policy. Please indicate whether a commitment to the WHO primary health-care approach has been adopted as part of the health policy of your country. If so, what measures have been taken to implement primary health care?**

<sup>18</sup> 95% confidence intervals for the 2004 data (2002-2004) are 3 -14. i.e. the actual population rate is between 3 and 14 per 100,000 with 95% confidence.

<sup>19</sup> National Centre for Health Outcomes Development 06.

<sup>20</sup> Delivering Choosing Health, DoH 2005.

<sup>21</sup> Jersey Health Survey, 1999.

<sup>22</sup> Jersey Health Related Behaviour Survey 2002.

<sup>23</sup> Jersey Annual Social Survey 2005.

<sup>24</sup> National Centre for Health Outcomes Development 06.

511. The combination of health insurance for primary care and comprehensive, free public secondary health care means that all the population, including the 'disadvantaged', have access to health care. Provision of 'health insurance exemption' ensures access to primary health care and prescriptions free of charge for some individuals. (See Article 9 response)

**Please indicate what percentage of your GNP as well as of your national and/or regional budget(s) is spent on health. What percentage of those resources is allocated to primary health care? How does this compare with 5 years ago and 10 years ago?**

512. The net revenue actual expenditure 2005 for the Health and Social Services Committee (now Department) on secondary health services and social care was £127,493,011 (approximately 26% of total net revenue expenditure).<sup>25</sup>

**Please provide, where available, indicators as defined by the WHO, relating to the following issues:**

**Infant mortality rate (in addition to the national value, please provide the rate by sex, urban/rural division, and also, if possible, by socio-economic or ethnic group and geographical area. Please include national definitions of urban/rural and other subdivisions);**

513. See the table in the Statistics information in Part 1.

**Population access to safe water (please disaggregate urban/rural);**

514. 90% of the population are on the Island's mains water supply which has a supply network throughout the Island. The remaining residents are supplied either by boreholes and wells or they purchase water through one of the mains water suppliers.

**Population access to adequate excreta disposal facilities (please disaggregate urban/rural);**

515. In total 86% of the Island's population is connected directly to the foul sewer. The remainder of properties being on septic tanks which are emptied into the network for treatment. The sewage is treated to the European Urban Waste Water Treatment Directive standards. After full mechanical and biological treatment and separation, prior to discharge into the aquatic marine environment the effluent is subjected to ultra violet disinfection. Jersey was the first in Europe to install a large scale uv plant. This system protects the Island's recreational water users and high bathing water quality encouraging Tourism. Sewage Sludge is treated utilising advanced treatment methods prior to recycling to land or disposal.

**Infants immunised against diphtheria, pertussis, tetanus, measles, poliomyelitis and tuberculosis (please disaggregate urban/rural and by gender);**

516. Please see information below re prevention of disease.

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<sup>25</sup> See chart on <http://www.statesassembly.gov.je/documents/reports/41387-1314-1452007.htm>.

**Life expectancy (please disaggregate urban/rural, by socio-economic group and by gender);**

517. Please see information in Table 1.

**Proportion of the population having access to trained personnel for the treatment of common diseases and injuries, with regular supply of 20 essential drugs, within one hour's walk or travel;**

**Proportion of pregnant women having access to trained personnel during pregnancy and proportion attended by such personnel for delivery.**

518. All the population has access to trained personnel as specified above.

**Please provide figures on the maternity mortality rate, both before and after childbirth;**

519. The maternity mortality rate in Jersey is exceptionally low. No such occurrence has been recorded in the last ten years.

**Proportion of infants having access to trained personnel for care.**

520. All infants have access to trained personnel.

**(Please provide breakdowns by urban/rural and socio-economic groups for indicators (f) to (h).)**

521. Non-applicable.

**Can it be discerned from the breakdowns of the indicators employed in paragraph 4, or by other means, that there are any groups in your country whose health situation is significantly worse than that of the majority of the population? Please define these groups as precisely as possible and give details. Which geographical areas in your country, if any, are worse off with regard to the health of their population?**

522. Jersey is a small island, so there is no meaningful breakdown of data possible for the size of sample. However, there is no evidence of significant differences between groups within the community.

**During the reporting period, have there been any changes in national policies, laws and practices negatively affecting the health situation of these groups or areas? If so, please describe these changes and their impact.**

**Please indicate what measures are considered necessary by your Government to improve the physical and mental health situation of such vulnerable and disadvantaged groups or in such worse-off areas.**

**Please explain the policy measures your Government has taken, to the maximum of available resources, to realize such improvement. Indicate time-related goals and benchmarks for measuring your achievements in this regard.**

**Please describe the effect of these measures on the health situation of the vulnerable and disadvantaged groups or worse-off areas under consideration, and report on the successes, problems and shortcomings of these measures.**

523. The above four bullets are non-applicable.

**Please describe the measures taken by your Government in order to reduce the stillbirth-rate and infant mortality and to provide for the healthy development of the child.**

524. Mortality rates are consistently amongst the best compared with OECD states. There is an active child health surveillance programme aimed at ensuring healthy development in children.

**Please list the measures taken by your Government to improve all aspects of environmental and industrial hygiene.**

525. Under the provisions of the Water Pollution (Jersey) Law, which was fully enacted on the 27 November 2000, a year-round monitoring programme of surface waters and groundwater is carried out by officers of the Planning and Environment Department. The results are entered into a comprehensive database of the Island's aquatic environment for the benefit of the whole community.

526. It is planned to introduce comprehensive water resource management legislation in the near future (States Debate 5 June 2007) which will allow for the protection, better management and enhancement of water resources in Jersey and will protect the water rights of current and future abstractors.

527. The Waste Management (Jersey) Law 2005 was fully enacted on the 1 February 2005. This Law requires all waste sites to be licensed (unless exempted) and for the on-island movements of hazardous and healthcare wastes to be carried out only by registered carriers. It will also allow for the resumption of shipments of the Island's hazardous wastes for specialist treatment and disposal to the UK and other EU States.

**Please describe the measures taken by your Government to prevent, treat and control epidemic, endemic, occupational and other diseases.**

528. The Department has an extensive immunisation and screening programme covering:

- Flu immunization;
- DPT;
- MMR;
- Men C;
- Hib i;
- Breast Screening;
- Cervical Screening.

529. The Government also has a pandemic flu plan and has stockpiled the required levels of Tamiflu.

**Please describe the measures taken by your Government to assure to all medical service and medical attention in the event of sickness.**

**Please describe the effect of the measures listed in subparagraphs (e) to (h) on the situation of the vulnerable and disadvantaged groups in your society and in any worse-off areas. Report on difficulties and failures as well as on positive results.**

**Please indicate the measures taken by your Government to ensure that the rising costs of health care for the elderly do not lead to infringements of these persons right to health.**

530. As hospital treatment is free and everybody, regardless of age, is covered by health insurance which provides individual subsidies for GP and pharmaceutical services, rising costs are not barriers to accessing health care. For those of limited means GP and pharmaceutical services can be provided free at the point of access.

**Please indicate what measures have been taken in your country to maximise community participation in the planning, organisation, operation and control of primary health care.**

531. Primary medical services in Jersey function entirely as a private sector operation which maximises the opportunity for direct interaction between members of the community and health professionals. In addition, community nursing services are provided by a charitable organisation under the supervision of a Board of Trustees. Funding is largely provided in accordance with a public service level agreement.

**Please indicate what measures have been taken in your country to provide education concerning prevailing health problems and the measures of preventing and controlling them.**

532. The Government has a clear health strategy and works with 'third sector' organisations to deliver health improvements. The current focus is on:

- Reducing smoking;
- Tackling rising obesity levels;
- Chronic diseases e.g. diabetes.

533. The Government also has an extensive 'healthy schools programme'. This is an ambitious programme that aims to:

- Support children and young people in developing healthy behaviours;
- Help to raise pupil achievement;
- Help to reduce inequalities;
- Help to promote social inclusion.

534. The focus is on:

- Personal, social and health education (PSHE) covering - sex and relationship education, drug education (including alcohol, tobacco and volatile substance abuse);
- Healthy eating;
- Physical activity;
- Emotional health and well being (including bullying).

**Please indicate the role of international assistance in the full realisation of the right enshrined in article 12.**

535. The role of international assistance is not applicable.

#### **Articles 13 and 14 - Right to education**

**With a view to achieving in your country the full realisation of the right of everyone to education: How does your Government discharge its obligation to provide for primary education that is compulsory and available free to all? (If primary education is not compulsory and/or free of charge, see especially article 14.**

536. The right to education is governed by the Education (Jersey) Law 1999.<sup>26</sup>

537. The education of all children between the ages of 5 and 16 years is mandatory. Primary schools have been established within reasonable distance of all parts of the population. Special provision is made in the case of children requiring special educational needs, including those for whom English is a foreign language. Primary education covers 100% of children of 5 to 11 years of age. 74% of the primary population choose free education; the remaining 26% choose fee-paying schools, almost all of which receive States aid. It is considered that the right of free education is fully realised.

**Is secondary education, including technical and vocational secondary education, generally available and accessible to all? To what extent is such secondary education free of charge?**

538. Secondary education is compulsory up to the age of 16 years and freely available after that age, subject to academic ability. Technical education covers approximately 10% of the curriculum. It is considered that most education is vocational in some respect. Free secondary education is available at all academic levels (11-18 years); in addition, there are a number of private schools which are subsidised by the States. It is considered that the right to secondary

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<sup>26</sup> [http://www.jerseylegalinfo.je/Law/display.aspx?url=lawsinforce%5cconsolidated%5c10%5c10.800\\_EducationLaw1999\\_RevisedEdition\\_1January2007.htm](http://www.jerseylegalinfo.je/Law/display.aspx?url=lawsinforce%5cconsolidated%5c10%5c10.800_EducationLaw1999_RevisedEdition_1January2007.htm).

education is fully realised. Full-time education is compulsory up to the age of 16 in the Island, and 90% of students choose to remain in education thereafter with 45% subsequently going on to enrol in further education courses. Only 0.07% of children leaving school do so with no formal qualifications.

**To what extent is general access to higher education realised in your country? What are the costs of such higher education? Is free education established or being introduced progressively?**

539. The overall investment in supporting students in higher education is in the region of £17,000,000. The States contribute approximately £10,000,000 of this through a scheme of means tested support to individuals. Students who meet higher education entrance requirements through the United Kingdom examinations taken locally are able to apply for, and obtain, places in higher education. Owing to the small size of the Island, there is little higher education in Jersey (except through the Open University and Highlands College) and students generally receive university education in the United Kingdom. It is estimated that 45% of the schools population go on to participate in higher education and state aid is provided for these students on the basis of parental income. Approximately 40% of each cohort will achieve a first class degree.

**What efforts have you made to establish a system of fundamental education for those persons who have not received or completed the whole period of their primary education?**

540. Recent research into levels of literacy and numeracy in Jersey suggested that one in five adults would welcome additional support. This figure is similar to findings of similar research carried out in the UK. Much of the issue in Jersey is attributed to new island residents many of whom do not speak English as a first language and a minority of whom did not complete secondary education in their country of origin. A 'skills for life' strategy has been developed and basic skills tuition and "English as a second language" courses have been increased.

**In case your Government has recently submitted reports relevant to the situation with respect to the right contained in article 13 to the United Nations or a specialised agency, you may wish to refer to the relevant parts of those reports rather than repeat the information here.**

541. The educational system is designed to encourage the development of each individual intellectually, aesthetically, morally and spiritually. Each pupil is given an understanding of the society in which he lives, its historical background, its rights and its privileges in order that he may compare this with other social structures. A pupil's entitlement to a broad and balanced curriculum is described in the Jersey National Curriculum, which is based upon the curriculum model currently used in the United Kingdom. 'Human rights teaching' as reflected in the Charter of the United Nations would in one way or another, form part of a pupil's curriculum. Links are developed and encouraged with neighbouring nations, particularly France and the United Kingdom; people of all other nations legitimately living or working in the community have equality of access to education. Pupils are made aware of the functions and activities of the United Nations as a fundamental part of the curriculum.



**What difficulties have you encountered in the realisation of the right to education, as spelt out in paragraph 1? What time-related goals and benchmarks has your Government set in this respect?**

542. N/A.

**Please provide statistics on literacy, enrolment in fundamental education with information on rural areas, adult and continuing education, drop-out rates at all levels of education as well as graduating rates at all levels (please disaggregate, if possible, according to sex, religion, etc.)**

543. Mandatory education has been in operation long enough for all of the population to have been educated to some extent, but for those who require it, confidential individual Basic Skills tuition is available for all adults. Adult illiteracy is a very minor problem in Jersey and is dealt with on an individual basis. Detailed statistics on drop out rates are not available however there is no drop out rate from compulsory education, all children must attend. Approximately 11% of those remaining in education at 17 drop out before completing two years.

**Also provide information on measures taken to promote literacy, with data on the scope of the programmes, target population, financing and enrolment, as well as graduation statistics by age group, sex, etc. Please report on the positive results of these measures as well as on difficulties and failures.**

544. The Department for Education, Sport and Education has a literacy strategy targeted at three distinct groups. The percentage of the adult population involved in basic adult education in 2005 was 0.58%. The proportion of the adult population engaged in learning was 5.5% spread across 35 learning venues. 391 adults were enrolled in the learning programme. Figures for 2006 are not yet available.

545. Work is carried out within the community with the following target groups:

- Adults for whom English is not the first language: The majority of these students are from the Polish and Portuguese communities and sessions have been successfully run with the Catholic Church on church premises;
- Adults for whom English is the first language: In this case, the Department works in partnership with the Probation, Prison and Youth Service to identify need and promote the programmes;
- Finally, the Departments' strategy for the 14-19 curriculum places greater emphasis on literacy, numeracy and ICT skills in order to stem the flow of adult with literacy and numeracy issues in the future.

**Please provide information on the percentage of your budget (or, if necessary, regional budgets) spent on education.**

546. The percentage spend on Education, Sport and Culture for 2005 was 21.5% of total States of Jersey non-trading expenditure. Net revenue expenditure was £90.8 million in 2005 an

increase of £1.2 million, (1.3%) compared with 2004. The main increase in expenditure during the year related to an increase in student numbers within both Secondary and Higher education totalling £1.6 million.

547. Since the last report the department has assumed responsibility for sport, leisure, culture and heritage - net expenditure on these areas totalled approximately 1.4% of total States of Jersey non-trading expenditure (included within the 21.5%).

**Describe your system of schools, your activity in building new schools, the vicinity of schools, particularly in rural areas, as well as the schooling schedules.**

548. The system is as follows:

Primary	25 schools	(5-11 years)	Population	714
Special	2 schools	(5-11 years)	Population	55
Secondary	4 schools	(11-16 years)	Population	3 034
	2 colleges	(11-18 years)	Population	1 398
	1 high school	(14-18 years)	Population	694
	3 special schools	(11-16 years)	Population	94
College of Further Education	(16+ years) full and part time courses:			
	Full time enrolments			813
	Part-time vocational			3 763
	Adult education			6 059
	Jersey Business School			1 043

549. All parishes in Jersey have at least one primary school. Children from outlying areas have the opportunity to use the school bus service to their secondary school.

550. Jersey is coming to the end of a comprehensive building programme, begun in the early 1990's, which has seen nearly all primary and secondary schools either rebuilt or redeveloped over that period.

551. Over the last ten years the Department has:

- Completed the new build construction of two secondary schools for 11-16 age pupils;
- Completed the new build construction of a College for Girls aged 11-18;
- Completed new build construction of a school for 14-18 age pupils;
- Undertaken the phased reconstruction of another secondary school for 11-16 age pupils;
- Completed the construction of two sports centres serving secondary schools and the College of Further Education;

- Completed the new build construction or major refurbishment of seven primary schools;
- Undertaken significant refurbishment work in three further primary schools;
- Developed a new special needs provision on the site of an existing secondary school.

552. Current and planned (funded) building projects include:

- The construction of a new primary school and nursery on the site of an existing school, plus the major refurbishment of another primary school;
- The major refurbishment of a special needs school;
- A further phase in the redevelopment of a secondary school;
- The major refurbishment and redevelopment of a secondary school;
- A major refurbishment project at the College of Further Education.

553. The Department has developed standard briefs for the accommodation required in primary and secondary education which ensure the creation of spaces which are appropriate for the delivery of a modern curriculum.

554. All Island schools work to a similar schedule whereby school starts at about 8.30 a.m. and finishes at about 3.30 p.m. Start and finish times vary slightly to help ease traffic congestion. In addition some schools have extra curricular activities that extend the academic day. At least two breaks are included, one in the morning and afternoon.

**To what extent is equal access to the different levels of education and measures to promote literacy enjoyed in practice? For instance:**

**What is the ratio of men and women making use of the different levels of education and taking part in these measures?**

555. 6,500 students (10% of the adult population) are involved in some sort of further education at Highlands College. Equal access is afforded to all adult educational programmes, however, there are no statistics available on the ratio of men and women who partake in the programmes. Information on literacy programmes is provided above.

**With regard to practical enjoyment of the right to these levels of education and measures to promote literacy, are there any particularly vulnerable and disadvantaged groups? Indicate, for instance, to what extent young girls, children of low-income groups, children in rural areas, children who are physically or mentally disabled, children of immigrants and of migrant workers, children belonging to linguistic, racial, religious or other minorities, and children of indigenous people, enjoy the right to literacy and education spelt out in article 12.**

556. The Education Service has a clear policy of equal opportunity in the curriculum for all levels and amongst all groups:

- (a) The ratio is in proportion to the numbers of each sex in the population;
- (b) All groups enjoy the right to literacy and education described above;
- (c) Continuous monitoring of materials and teaching methods;
- (d) Provision for families where the mother tongue is not English has been extended over the years as the need has grown.

**What action is your Government taking or contemplating in order to introduce or guarantee equal access to all levels of education within your country, for instance in the form of anti-discriminatory measures, financial incentives, fellowships, positive or affirmative action? Please describe the effect of such measures.**

557. The Department for Education, Sport and Culture has an inclusive approach to its provision of education. In adopting these inclusive values every effort is made to ensure that pupils and staff are treated equally and that schools strive to minimise discriminatory practices. The Department's support of equality and diversity are further illustrated in the response to the question above.

**Please describe the language facilities provided to this effect, such as the availability of teaching in the mother tongue of the students.**

558. The Department has fully funded and implemented a programme for English as an additional language (EAL). The role of Head of EAL and a support post has recently been appointed, both roles will be responsible for co-ordinating the language requirements of pupils whose first language is not English. Additional language support is also provided within nursery and reception classes at various primary schools.

**Please describe the conditions of teaching staff at all levels in your country, having regard to the Recommendation concerning the Status of Teachers, adopted on 5 October 1966 by the Special Intergovernmental Conference on the Status of Teachers, convened by UNESCO. How do teachers' salaries compare to salaries of (other) civil servants? How has this ratio developed over time? What measures does your country take or contemplate to improve the living conditions of teaching staff?**

559. Teachers' salaries are negotiated locally with increases generally in line with other civil servants. Teachers who come to the Island on contract are provided with rent subsidies. It is considered that the requirements of this Section are adequately complied with.

**What proportion of schools at all levels in your country is not established and administered by the Government? Have any difficulties been encountered by those wishing to establish or to gain access to those schools?**

560. Independent schools may operate within the Island provided that the Minister for Education, Sport and Culture is satisfied that they are adequately staffed and that pupils receive

a satisfactory education. There are currently seven schools with approximately 2,307 pupils which are not established and administered by the Government. No difficulties have been encountered by those wishing to establish or gain access to these schools other than the limitations on numbers that can be accommodated.

**During the reporting period, have there been any changes in national policies, laws and practices negatively affecting the right enshrined in article 13? If so, please describe these changes and evaluate their impact.**

561. During the period there have been no changes negatively affecting the right enshrined in Article 13. The Island has updated the legislation in this area to reflect and provide for current practices.

**Please indicate the role of international assistance in the full realisation of the right enshrined in article 13.**

562. Rights have been achieved without international assistance.

**If compulsory and free primary education in your country is not currently enjoyed, please provide details on the required plan of action for the progressive implementation, within a reasonable number of years fixed in this plan, of this principle. What particular difficulties have you encountered in the realisation of this plan of action? Please indicate the role of international assistance in this respect.]**

563. N/A.

#### **Article 15 - Right to culture**

**Please describe the legislative and other measures adopted by or in your State to realise the right of everyone to take part in the cultural life which he or she considers pertinent, and to manifest his or her own culture. In particular, provide information on the following:**

**Availability of funds for the promotion of cultural development and popular participation in cultural life, including public support for private initiative.**

564. The States of Jersey made a formal commitment to the support of cultural life through its adoption in September 2005 of the Island's first Cultural Strategy. This set a far-reaching agenda for cultural development and established a new mechanism for channelling public funds to the organisations established to support cultural activities.

565. The scope of the strategy is broad, covering seven principal strategic objectives:

- To foster, develop and strengthen the Island's identity;
- To make cultural activities integral to the development of Jersey;
- To help develop and boost economic activity;

- To enrich the quality of life for all residents and enhance our visitors' experience;
- To help strengthen culture at the grass roots;
- To encourage all the major cultural providers to become learning organizations dedicated to helping their staff and volunteers in their self-development;
- To widen access to and participation in cultural activities.

**The institutional infrastructure established for the implementation of policies to promote popular participation in culture, such as cultural centres, museums, libraries, theatres, cinemas, and in traditional arts and crafts.**

566. The States of Jersey provides funding directly to four major cultural organisations: the Jersey Heritage Trust, the Jersey Arts Trust, the Jersey Arts Centre and the Jersey Opera House. In order best to encourage cultural development and the achievement of the many detailed objectives of the Cultural Strategy, the Education, Sport and Culture Minister has established a Cultural Council as a means of drawing together the various agencies involved in cultural activity. It has two aspects: an annual conference open to all Islanders, whether members of cultural organisations or individuals, and a number of core and project groups which encourage the sharing of ideas across the cultural sector, encompassing government departments, non-profit cultural organisations and the voluntary sector. Funding is also available in order to help realise the aims set out in the strategy.

**The Jersey Heritage Trust**

567. The role of Jersey Heritage Trust *“is to care for [Jersey’s Heritage], promote wide access to it, act as advocates on its behalf and bring imagination to telling its stories so [to] inspire people to create a better island for everyone.”*

568. In July 2000 the Jersey Archive opened creating a repository for all the Island's records, public and private. The archive catalogue is available online and the archive plays an important role in the Public Records Law (Jersey) 2002.

569. In 2004 the Island celebrated 800 years of its unique constitutional arrangement with the Crown of England and the Jersey Heritage Trust was one of the major partners in the organization of the celebrations with which the Island marked this major anniversary.

570. In 2006 after a five-year programme of archaeological excavation, academic research and building work and restoration, the refurbished and re-interpreted Mont Orgueil castle opened to great acclaim.

571. As an organization the Jersey Heritage Trust continues to work with community groups and volunteers to facilitate access to 'cultural life' in Jersey through both formal and informal education programmes and through a variety of media including open days, events, flash days, workshops, talks, evening classes, exhibitions and tours.

572. A strategy of encouraging participation in cultural activities has sought to reduce economic barriers access to heritage. Flashcards ensure all local students in full time education have free entry to Jersey Heritage Trust sites, Gold cards issued to the over-60s mean that the Island's senior citizens are able to enjoy unlimited free access; the Jersey Archive is free to all.

573. The Jersey Heritage Trust has an agreement to make funds from the States of Jersey available to the Société Jersiaise, a learned society dedicated to the study, understanding and promotion of Jersey's history and culture. It operates a research library and photographic archive available not only to members but also to the general public to facilitate research.

### **The Jersey Arts Trust**

574. The role of the Jersey Arts Trust has been directed by the Cultural Strategy towards support for the local arts and crafts community. The Trust gives grants to practitioners and also supports the activities of that community by publicising events in listings and by email, by organising specific activities (e.g. a competition to encourage original writing, artists' open studio days etc), by publishing work, and by offering an advice service to local practitioners, covering subjects including export procedures for artists showing outside the Island, sponsorship and promotion. The Trust also offers annual bursaries and it provides a means by which the wider community can communicate with practitioners across a range of art forms.

575. Among the individuals and organisations funded by the Trust is the Jersey Eisteddfod which runs creative and performing arts festivals in Spring and Autumn each year, attracting for each some 3,000 entries. There are currently fourteen autonomous sections each of which sets its own syllabus, engages one or more adjudicators and supervises the entries and the management of the competitions; and is responsible for communications with the competitors. Next year the organisation celebrates its centenary.

### **Jersey Opera House**

576. The Jersey Opera House, a traditional 650-seat proscenium theatre, re-opened in 2000 after a major refurbishment programme, and receives a revenue grant from the States of Jersey in order to present an annual programme which balances professional work brought to the Island with productions staged by the active community sector within Jersey.

### **The Jersey Arts Centre**

577. The Jersey Arts Centre comprises a 250-seat theatre, a gallery and a number of craft rooms used for classes and as meeting spaces for local cultural organisations. The Centre has an active outreach programme which includes the co-ordination of an open-air programme of summer concerts and street performances with support from Jersey Tourism; an active Youth Theatre which has toured productions to France and Germany, and a recent history of Theatre in Education with productions promoting and celebrating Jersey's history and culture.

578. Significant support from the States of Jersey is also given to a range of festivals and special events, including the Battle of Flowers, the Jersey International Air Display and the annual celebration of the Island's Liberation from occupation on 9 May.

**Promotion of cultural identity as a factor of mutual appreciation among individuals, groups, nations and regions.**

579. A major celebration was mounted in 2004 of the 800<sup>th</sup> anniversary of the Island's allegiance to the English Crown; it included exhibitions, special events, the commissioning of historical research and the commissioning of a holographic portrait of Her Majesty The Queen which has been shown in a number of major galleries in the UK and abroad. These celebrations draw attention to the extent to which Jersey's cultural heritage, and in particular the emergence of its autonomous institutions, depend upon the link with the Crown forged in 1204 and confirmed over subsequent centuries. The celebration has led to a deeper understanding of Jersey's identity.

580. The Jersey Heritage Trust has been increasingly active in producing publications which explore the nature of this identity, including a new history of the Occupation of the Channel Islands from 1940-1945, and a scholarly study of the significance of 1204 to the development of the Island community.

581. As part of initiatives to promote an understanding of Jersey's cultural heritage, the Education, Sport and Culture Department's Citizenship programme will, from 2008, include a cultural component to introduce Primary school pupils to the institutions of their legislature (the States of Jersey) and judiciary (the Royal Court), and to the importance of Jersey's links with the Crown through which these autonomous institutions have developed. Focusing on a single year group across the Island's schools, the introduction of the programme will ultimately mean that every pupil in state primary education will have had such an introduction as a formal element in the curriculum.

**Promotion of awareness and enjoyment of the cultural heritage of national ethnic groups and minorities and of indigenous peoples.**

582. Particular attention is being focused on recognising the impact which minority groups are making on the cultural fabric of the Island today. With regard to the latter, the Jersey Arts Trust supported a Polish Festival in 2005 which drew upon the creative strengths of the members of that community, and included a Polish film festival element. Other minority groups including the Portuguese (largely Madeiran), French and Italian communities continue to play an important part in Island life and to take part in alfresco cultural and gastronomic events for the benefit of residents and visitors. Both the Jersey Heritage Trust and the Jersey Arts Centre have included in their programmes events which specifically celebrate the cultural life of indigenous groups within the community.

583. Efforts have been made to consolidate Jersey's historical and physical links with the neighbouring French regions of Brittany and Normandy. A number of Jersey Parishes are twinned with communities in Lower Normandy and there are regular events which bring together those communities. Organisations including the Amitiés Franco-Britanniques and the Association Jersey-Coutançais, take an active interest in French cultural activities and the Commission Amicale, established in 1994 between the States of Jersey and the Conseil Régional de Basse Normandie, continues to reinforce cultural and commercial links between the two areas. The Maison de Normandie et de la Manche, an information and advice centre in Jersey



supported by the Conseil General de la Manche and Conseil Regional de Basse Normandie, is active in promoting Normandy in the Island. Meanwhile, La Maison de Jersey which opened in July 1998 in Caen, and now has an office in Rennes, promotes the Island in Brittany as well as Normandy. Jersey is an active member of both the Commonwealth Parliamentary Association and the Association Internationale des Parlementaires de Langue Française.

584. In May 2003, the Friendship Agreement between Jersey and Madeira signed on 12 May 1998 was renewed, and a number of visits to the Island have taken place by cultural groups from the community. After many years working towards reconciliation, the Parish of St Helier has successfully twinned with the South German town of Bad Wurzach to which islanders were deported during the occupation of the Channel Islands (1940-1945). A number of cultural exchanges have taken place as a result of the twinning, including exhibitions of work by leading artists and performances by the Youth Theatre. A group of students from Bad Wurzach were involved in a short performance on Liberation Day 2005 given as part of the celebrations for the visit of Her Majesty The Queen.

#### **Role of mass media and communications media in promoting participation in cultural life.**

585. The local communications media, which include television and radio stations and press, all participate actively in promoting the Island's cultural life with a combination of coverage integrated into news and current affairs programming, and dedicated specifically to the arts and culture. Emphasis has been given to encouraging support for local creative talent whether through publication of creative writing, the playing of music on air or coverage of the visual arts.

#### **Preservation and presentation of mankind's cultural heritage.**

586. The States of Jersey has obligations under the Convention for the Protection of the Architectural Heritage of Europe (Granada, October 1985); the European Convention on the Protection of the Archaeological Heritage (revised) (Valletta, January 1992); to:

- Identify and protect buildings and places of cultural significance (arising from their architectural, archaeological, historical or other relevant interests);
- Maintain an inventory of these cultural heritage assets;
- Develop public awareness and understanding of the Island's architectural and archaeological heritage.

587. Through the adoption and implementation of a legislative and policy framework, principally represented by the Planning and Building (Jersey) Law 2002 and the Jersey Island Plan 2002, together with associated secondary legislation and supplementary planning guidance, these obligations are met. The Island's Register of Buildings and Sites of Architectural, Archaeological and Historic Importance in Jersey is a key tool: it is a complete list of individual sites, buildings and areas which are specifically identified as being of cultural heritage value at any one time. Inclusion of a cultural asset on the Register is intended to preserve its contribution to the cultural heritage and amenity of Jersey, and to ensure that it is a material consideration in the planning process where protection is conferred upon buildings and sites of cultural interest

either by statutory listing and/or planning policy. The Island also operates a scheme to provide some financial assistance in support of the repair, maintenance and restoration of the Island's historic built fabric for buildings included on the Register.

588. The States of Jersey recognises that the form and the quality of the Island's built environment makes an important contribution to its local distinctiveness and cultural identity. Through the planning process, it is committed to securing a high quality built environment and public realm where buildings, public spaces, art and design make a positive contribution to maintaining and enhancing its unique character. Design principles have been adopted which require considerable weight to be given to ensuring the local relevance of new development and the inclusion of public art is encouraged in development schemes of a significant scale. Good quality design and local distinctiveness is recognised and celebrated through a biennial award scheme to showcase and raise awareness of new buildings and places that have made a positive contribution to the Island's built environment.

**Legislation protecting the freedom of artistic creation and performance, including the freedom to disseminate the results of such activities, as well as an indication of any restrictions or limits imposed on the freedom.**

589. There is no legislation protecting the freedom of artistic creation and performance; however, the only limitations imposed on such freedom are that no display should offend morals or contravene the laws on public nuisance.

**Professional education in the field of culture and art.**

590. The Island has a strong tradition of education in the field of culture and the arts, with specialist teaching supported by provision of high quality facilities in schools and at the further education college. A significant number of students go on to take arts-related degrees and other courses each year.

**Any other measures taken for the conservation, development and diffusion of culture.**

591. The States' Cultural Strategy gives emphasis to developing a sense of the island's identity through the understanding and promotion of its culture. Specific objectives include exploring the desirability of adopting Jèrriais as Jersey's official minority language and working with a number of agencies to revive its use in the Island; the commissioning of programmes which celebrate a sense of identity particularly among the young; and reviewing the scheme by which plaques are erected to help increase awareness of the way in which a sense of place has been defined by historical events or celebrated people. Responsibility has been conferred upon the Education, Sport and Culture department to monitor progress on all aspects of the delivery of the Cultural Strategy and its updating in the future.

**Please report on positive effects as well as on difficulties and failures, particularly concerning indigenous and other disadvantaged and particularly vulnerable groups.**

592. The Island is a small community and the Cultural Strategy seeks to embrace all its members.

**Please describe the legislative and other measures taken to realise the right of everyone to enjoy the benefits of scientific progress and its applications, including those aimed at the conservation, development and diffusion of science. In particular, provide information on the following:**

**Measures taken to ensure the application of scientific progress for the benefit of everyone, including measures aimed at the preservation of mankind's natural heritage and at promoting a healthy and pure environment and information on the institutional infrastructures established for that purpose.**

**Measures taken to promote the diffusion of information on scientific progress.**

593. The following measures have been taken in the period 2000-2006:

- **Departmental consolidation.** In 2004 as part of Jersey government reorganisation the former Environmental Services Unit (natural history and semi-natural land management), The Department of Agriculture and Fisheries, the Water Resources Section and the Meteorological Department merged to form the Environment Division of the Planning and Environment Ministry. This merger consolidated most of the environmental scientific work carried out by Jersey government departments. Listed below are the relevant activities;
- **State of Jersey Report (2005)** outlined current and future responsibilities towards the Island's environment, categorising them into twelve 'environmental perspectives'. Using these perspectives, five 'environmental priorities' are identified. The key actions needed to address them together with baseline data and proposals for monitoring progress are included. This report is available online and in printed form (<http://www.gov.je/>);
- **Biodiversity action plans** Indicators of changes in biodiversity and key populations are measured by the Environment Division's monitoring programme. Indicator measures include habitat condition of proposed and existing sites of special interest, and population status of indicator species such as birds and butterflies in a sample of habitats in the island. The monitoring proposals for each of the priority species are detailed in individual action plans. A campaign to involve volunteers in data collection and in practical action to implement the plans has been launched and has been well subscribed;
- **Establishment of Ramsar<sup>27</sup> areas:** designation of three new Ramsar sites effective World Wetlands Day, 2 February 2005, all of them reef and shoal systems off-shore from the Channel Island of Jersey. With huge tidal ranges in the area of the

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<sup>27</sup> Jersey is a party to the "Ramsar Convention" which recognises the conservation and wise use of wetlands to achieve sustainable development throughout the world.

Golfe de St-Malo along the northwestern coast of France, all three sites present an array of reef and intertidal habitat types. Les Écréhous & Les Dirouilles is a large area of reefs off the northeast coast of Jersey, Les Minquiers is the area of shoals 34km south of the main island, and the Les Pierres de Lecq, lies off the northwest coast;

- **International Conference** “Biodiversity that Matters” on conservation in UK Overseas Territories and other small island communities was held in Jersey in 2006. This conference brought together delegates from most of the United Kingdom Overseas territories and dependent territories to discuss environmental issues on small islands and exchange information;
- **Bathing water standards** bathing water quality research carried out under the auspices of the States of Jersey Environment Division informed development of the newly revised EC directive (EC 2006/7/EC) on bathing water standards;
- **Monitoring commercial fish stocks** is carried out by the fisheries section of the Environment Department and includes a Ray tagging programme;
- **Research into potentially damaging species** is part of the Department’s remit and studies include Gypsy Moth pheromone auto-confusion studies. Resistance testing of local races of fungal pathogens to fungicides aim to investigate possibilities of more targeted chemical use.

**Measures taken to prevent the use of scientific and technical progress for purposes which are contrary to the enjoyment of all human rights, including the rights to life, health, personal freedom, privacy and the like.**

**Any restrictions which are placed upon the exercise of this right, with details of the legal provisions prescribing such restrictions.**

594. There are no such measures.

**Please describe the legislative and other measures taken to realize the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic work of which he or she is the author. In particular, supply information on the practical measures aimed at the full implementation of this right, including provision of the necessary conditions for scientific, literary and artistic activities, and the protection of intellectual property rights resulting from such activities. What difficulties have affected the degree of realisation of this right?**

595. The following relevant legislation is in place:

- Copyright - Loi (1913) au Sujet des Droits d’Auteur;
- Registered Designs (Jersey) Law 1957;
- Trade Marks (Jersey) Law 1958; Trade Marks (Amendment) (Jersey) Law;

- Patents (Jersey) Law 1957, as amended in 1981;
- The Trade Marks (Jersey) Law 2000;
- Loi (1908) au sujet des droits de compositeur.

596. The intention of the Island Authorities is to bring its Intellectual Property Legislation up to international standards and significant progress has been made on this.

**What steps has your Government taken for the conservation, development and diffusion of science and culture? Please describe in particular:**

**Measures at the constitutional level, within the national educational system and by means of the communications media;**

**All other practical steps taken to promote such conservation, development and diffusion.**

597. There are no laws or agreements covering this subject. In a progressive society, members are made aware, through the news media, and, where appropriate, through the educational system of development in the field of science and culture throughout the world.

598. Everyone has the right to the freedom of scientific research and creative activity, although, in a small community such as Jersey it is neither appropriate nor economical for much research to be carried out locally.

599. Those persons who do engage in the scientific and creative work referred to in this Section are obviously free to consult with appropriate organisations, both within and outside the Island.

**Please describe the legal, administrative and judicial system designed to respect and protect the freedom indispensable for scientific research and creative activity, in particular:**

**Measures designed to promote enjoyment of this freedom including the creation of all necessary conditions and facilities for scientific research and creative activity.**

**Measures taken to guarantee the freedom of exchange of scientific, technical and cultural information, views and experience between scientists, writers, creative workers, artists and other creative individuals and their respective institutions.**

**Measures taken to support learned societies, academies of science, professional associations, unions of workers and other organisations and institutions engaged in scientific research and creative activities.**

**What difficulties have affected the degree of realisation of this freedom?**

600. Please see answers to questions above and below.

**Please describe the legislative and other measures by which your Government encourages and develops international contacts and co-operation in the scientific and cultural fields, including measures taken for:**

**The fullest utilisation, by all the States concerned, of the facilities afforded by their adherence to regional and international conventions, agreements and other instruments in the scientific and cultural fields.**

**Participation by scientists, writers, artists and others involved in scientific research or creative activity, in international scientific and cultural conferences, seminars, symposiums, etc.**

**What factors and difficulties have affected the development of international co-operation in these fields?**

601. The States of Jersey is party to a number of international conventions governing the scientific and cultural fields, including the European Cultural Convention and it follows that international co-operation takes place when appropriate.

**During the reporting period, have there been any changes in national policies, laws and practices negatively affecting the rights enshrined in article 15? If so, please describe these changes and evaluate their impact.**

602. During the reporting period, there have been no changes in national policies, laws and practices which negatively affect the rights enshrined in this Article. On the contrary, the adoption of the Cultural Strategy commits the States of Jersey to a strategic approach to the encouragement of cultural activities.

**In case your Government has recently submitted reports relevant to the situation with respect to the rights contained in article 15 to the United Nations or a specialised agency, you may wish to refer to the relevant parts of those reports rather than repeat the information here.**

603. The Island has not submitted recent reports relevant to this Article to any United Nations or specialised agency.

**Please indicate the role of international assistance in the full realisation of the rights enshrined in article 15.**

604. The issue of International Assistance is not applicable.

## **CHAPTER 3. REPORT FROM THE ISLE OF MAN**

### **Summary of Main Developments - July 2007**

#### **Article 1**

605. There have been no significant changes since the Fourth Periodic Report.

#### **Articles 2 and 3**

606. The Human Rights Act 2001,<sup>28</sup> which incorporates the provisions of the European Convention on the Protection of Human Rights and Fundamental Freedoms into Isle of Man law, has been enacted and it came fully into operation on 1<sup>st</sup> November 2006. The rights and freedoms of the European Convention incorporated into Isle of Man law apply to all Island residents without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

607. The Race Relations Act 2004<sup>29</sup> which will provide protection against discrimination on the grounds of race has been enacted. The Act is not yet in force as Codes of Practice to implement it are still in development. This Act does not deal with discrimination in employment, which will be dealt with in a separate Employment Equality Bill which is included in the Government's legislative programme for the session 2007 - 2008.

608. The Disability Discrimination Act 2006<sup>30</sup> has been enacted to make it unlawful to discriminate against disabled persons in connection with the provision of goods, facilities and services and the disposal or management of premises. The Act is not yet in force and given its financial and practical implications, as in the United Kingdom when similar legislation was enacted, is envisaged that it will be brought into force gradually over several years.

#### **Articles 4 and 5**

609. The European Convention of Human Rights, as now incorporated into the law of the Isle of Man by the Human Rights Act 2001 recognises that not all rights are absolute but where they are limited or qualified, interference with those rights may only take place where is a clear legal basis (e.g. an Act of Tynwald) for the interference and the interference is to achieve a legitimate aim such as protection of national security; prevention of crime or disorder; and the safety of the public.

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<sup>28</sup> <http://www.gov.im/lib/docs/infocentre/acts/hra2001.pdf>.

<sup>29</sup> <http://www.gov.im/lib/docs/infocentre/acts/rra2004.pdf>.

<sup>30</sup> <http://www.gov.im/lib/docs/infocentre/acts/disability.pdf>.

### **Articles 6, 7 and 8**

610. The Employment (Sex Discrimination) Act 2000 has been enacted to provide for equality of treatment between men and women in the field of employment. The Act came fully into operation in October 2001.

611. The Minimum Wage Act 2001<sup>31</sup> has been enacted and it came into force on 1st January 2002. The Act established the minimum amount that any employee could be paid, irrespective of the type of work involved.

612. New legislation, the Employment Act 2006,<sup>32</sup> has re-enacted, updated and strengthened employment law in the Isle of Man. The Act is in force, and together with subordinate legislation made there under, it makes new or strengthened provision in areas such as:

- Annual leave entitlement;
- Flexible working;
- Maternity, paternity and adoption leave;
- Protection against discrimination at recruitment is extended to cover the applicant's past trade union membership and activities;
- Inducements by employers to workers to be, or not to be, trade union members or involved in union activities, or not to have their pay or conditions negotiated by collective bargaining are made unlawful;
- Existing protection against any detriment (e.g. demotion, dismissal) for exercising trade union rights is now extended to cover some other types of trade union activities such as use of trade union services;
- Protection for employees taking industrial action is strengthened; and
- The remedies for dismissal on trade union (and other) grounds are strengthened and the Employment Tribunal is given new powers to order re-employment.

### **Article 9**

613. There have been no significant changes since the Fourth Periodic Report. Social security legislation remains broadly in line with that in the United Kingdom. However, it should be noted that although at present the state pension age is 60 for women and 65 for men, the state pension age for women will be increased gradually from 2010. By 2020 the state pension age will be 65 for both men and women.

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<sup>31</sup> <http://www.gov.im/lib/docs/dti/employmentRights/acts/minimumwageact2001.pdf>.

<sup>32</sup> [http://www.gov.im/dti/employmentRights/Employment\\_Act/](http://www.gov.im/dti/employmentRights/Employment_Act/).



### Article 10

614. The principal legislation in the Isle of Man concerning the welfare of children is now contained in the Children and Young Persons Act 2001.<sup>33</sup> This Act also re-enacts Parts I and II of the Family Law Act 1991. This Act has amended and reformed existing child-care legislation and made new provision concerning the welfare of children. The Act closely follows the principles contained in the UN Convention on the Rights of the Child.

615. In relation to marriage, the Matrimonial Proceedings Act 2003,<sup>34</sup> which came into force on the 1 April 2004, re-enacts with amendments the previous Acts in this area, including those parts of the Family Law Act 1991 relating to matrimonial proceedings. The 2003 Act also repeals the Married Women's Property Dower and Widowright Act 1921 and the Married Women's Property Act 1965 and re-enacts certain relevant provisions thereof with amendments in terms conferring jurisdictional opportunity on both spouses. The Act also makes new provision for family homes and domestic violence. Further information about children and families has been provided in the Isle of Man Government's recent reports under the UN Convention on the Rights of the Child and UN International Covenant on Civil and Political Rights.

616. Improved provision in relation to protection for expecting and working mothers, and working parents with family commitments, has been made in the Employment Act 2006, and in subordinate legislation made under that Act, in particular:

- Maternity Leave Regulations 2007 [*SD No 76/07*];
- Adoption Leave Regulations 2007 [*SD No 77/07*];
- Suspension from Work on Maternity Grounds Order [*SD No 98/07*];
- Parental Leave (Disabled Child) Regulations 2007 [*SD No 97/07*];
- Flexible Working Regulations 2007 [*SD No 96/07*];
- Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2007 [*SD No 104/07*];
- Paternity Leave (Birth) Regulations 2007 [*SD No 78/07*].

### Article 11

617. There have been no significant changes since the Fourth Periodic Report.

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<sup>33</sup> <http://www.gov.im/lib/docs/infocentre/acts/cypa2001.pdf>.

<sup>34</sup> <http://www.gov.im/lib/docs/infocentre/acts/mpa2003.pdf>.

### Article 12

618. The Isle of Man Government believes that it provides a very good standard of health care to Island resident, which is broadly similar to that available in many areas of the United Kingdom. The widest possible range of health services are provided, to the highest practical standard. Hospital based services are now largely provided in the new Noble's Hospital, situated on the outskirts of the Island's capital, which opened in July 2003. Through an agreement with the United Kingdom, where a particular treatment that is provided by the National Health Service is not available in the Isle of Man, a patient may be referred to the UK for treatment at no cost to them.

619. The National Health Service Act 2001<sup>35</sup> has re-enacted with amendments the previous enactments relating to health services.

### Article 13

620. The principal Isle of Man legislation in the area of education is now the Education Act 2001,<sup>36</sup> which came into operation in 2004. The Act, which re-enacted and updated the existing legislation, confirmed the Department's aim to promote the spiritual, moral, social and cultural development of pupils (*the Education (Curriculum) (No. 2) Order 2004*) and placed a statutory obligation on the Department to ensure that sufficient schools are available to afford all pupils opportunities for education, including practical instruction and training, appropriate to their respective needs. Further information concerning the present state of educational provision in the Island has been provided in the Isle of Man Government's submission under the UN Convention on the Rights of the Child.

### Article 14

621. This article is not relevant to the Isle of Man; free, compulsory education at primary and secondary is provided in the Island.

### Article 15

622. There have been no significant changes since the Fourth Periodic Report. There continue to be no restrictions which limit the rights of all people in the Island to take part in the cultural life which they consider pertinent, and to manifest their own culture.

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<sup>35</sup> <http://www.gov.im/lib/docs/infocentre/acts/nhsa2001.pdf>.

<sup>36</sup> <http://www.gov.im/lib/docs/infocentre/acts/ea2001.pdf>.