

STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 20TH APRIL 2016

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Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 5:30 pm on Wednesday 20th April 2016. This will be preceded by the People's Meeting, which will be held on Wednesday 13th April 2016 at 6:00 pm in the Island Hall.

W Stuart Trought
President

Item I **The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016**

The following letter was received from Mr Stuart Trought, President of the States of Alderney:-

"Please find enclosed a letter from the Bailiff, dated 03 March 2016, seeking approval of the above law.

I would therefore be obliged if you would debate this matter at your meeting on 20th April 2016 and give your approval as set out in the letter.

W Stuart Trought
President"

The States of Alderney is asked to approve "The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016" and to request the President seek the Sanction of Her Most Excellent Majesty in Council for them to have the force of Law in the Island of Alderney.

Note:- A copy of the Projet de Loi entitled "The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016" may be seen at the States Office, Island Hall, and in the Library.

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Item II **The Succession to the Crown (Bailiwick of Guernsey) Law, 2016**

The following letter was received from Mr Stuart Trought, President of the States of Alderney:-

"Please find enclosed a letter from the Bailiff, dated 07 March 2016, seeking approval of the above law.

I would therefore be obliged if you would debate this matter at your meeting on 20th April 2016 and give your approval as set out in the letter.

*W Stuart Trought
President"*

The States of Alderney is asked to approve "The Succession to the Crown (Bailiwick of Guernsey) Law, 2016" and to request the President seek the Sanction of Her Most Excellent Majesty in Council for them to have the force of Law in the Island of Alderney.

Note:- A copy of the Projet de Loi entitled "The Succession to the Crown (Bailiwick of Guernsey) Law, 2016" may be seen at the States Office, Island Hall, and in the Library.

Item III **Audited Accounts 2015**

The following letter was received from Mr McDowall, Chairman of the Policy and Finance Committee:-

"In accordance with Section 61 (5) of The Government of Alderney Law 2004, as amended, and the mandate of the Policy and Finance Committee, I attach the accounts of the States of Alderney and the States of Alderney Water Board together with the Policy & Finance Committee Chairman's report, and the Auditors' Reports thereon, in respect of the year ended 31st December 2015.

I would be grateful if you would place this report before the States of Alderney with the propositions below.

*Robert McDowall
Chairman"*

The States of Alderney is asked to approve:-

- (a) The States of Alderney 2015 Accounts, and**
- (b) The States of Alderney Water Board 2015 Financial Statements**

Item IV **The Alderney Foundation**

The following letter was received from Mr McDowall, Chairman of the Policy and Finance Committee:-

"The Alderney Foundation is to act as an organisation for the purposes of receiving and holding funds to be applied to support projects of a public nature for the benefit of the residents of the Island of Alderney. These projects would include public facilities of a cultural, artistic or educational nature or facilities that would enhance the general wellbeing of the Island's residents.

Funding for the Foundation may arise where legacies might be left to the organisation by residents on the Island or by persons who have an affinity for the Island or through fund-raising activities or events or through donations.

Foundations, unlike trusts, have legal personality. They are registered with the Registrar of Foundations and exist as legal entities. In that sense, they are similar to companies, although they do not have any shareholders but serve a purpose

similar to that which is served by trusts. However, unlike trusts, there is no separation of legal and beneficial ownership and whilst there may be a beneficial class, the Foundation owns its assets both legally and beneficially.

The governing body of the Foundation is its Council. The Councillors in this instance should not be States of Alderney individuals but should be three appropriate and dedicated islanders who could be entrusted with managing the affairs of the Foundation. The States of Alderney would be the Founder of the Foundation.

As the Foundation would be established for a purpose rather than for the benefit of individual beneficiaries, it would need a Guardian. The role of a Guardian would be to hold the Councillors to account and to exercise an oversight function over the Council.

The Policy & Finance Committee resolved on the 23rd February 2016 to approve the revised version of the Rules and Charter of the Alderney Foundation.

I would be grateful if you would place this matter before the next meeting of the States of Alderney with an appropriate proposition.

*Robert McDowall
Chairman"*

The States is asked to approve the revised version of the Rules and Charter of the Alderney Foundation.

Item V

Committee Membership

The following letter was received from Mr McDowall, Chairman of the Policy and Finance Committee:-

"Section 49 of The Government of Alderney Law 2004 states:

(6) "The quorum at a meeting of a committee is 3 members or such larger number of members as the States may, in respect of a particular committee, resolve".

The Policy & Finance Committee resolved on the 23rd February 2016 to approve the quorum of any committee meeting to be 50% of the committee membership plus 1. The quorum of a meeting of the current General Services Committee would therefore be 4 members (rounded up), the Building and Development Control Committee quorum would also be 4 members (rounded up) and the Policy and Finance Committee quorum would be 6 members.

I would be grateful if you would place this matter before the next meeting of the States of Alderney with an appropriate proposition.

*Robert McDowall
Chairman"*

The States of Alderney is asked to approve the quorum of any committee meeting of the States of Alderney to be 50% plus 1 of the committee membership.

Item VI **Housing Strategy**

The following letter was received from Mr Birmingham, Chairman of the Building and Development Control Committee:-

"I write to formally request that under Rule 4 (a) (ii) of the States of Alderney Rules of Procedure, the Housing Policy proposals of the Building and Development Committee be included on the Billet d'Etat for the 20th April 2016 States Meeting for debate and consultation prior to final decision, without a formal resolution.

These policy proposals are set out in detail in a report by ARUP consultants which was published by the Committee on 19th February 2016. The findings of the report and its policy recommendations are the outcome of an open and inclusive consultation process which commenced last October and has included individual interviews and a stakeholder workshop. The public have also been invited to comment on the policy recommendations. The Committee is grateful for all those who have put forward their views and contributed.

Although States Members were individually included in the consultative process, the Committee wishes to seek the views of all States Members on the report's recommendations at this States Meeting before making a final decision.

The Housing Strategy report which has been widely circulated to stakeholders and States Members, is available for downloading on the States of Alderney website, can be viewed in the library or a copy can be obtained free of charge from the planning office.

The report's principal recommendations can be summarised:

- *A change in the law to abolish the C permit system which restricts planning consent being issued for housing developments to local qualified persons.*
- *Planning consent to run with the land i.e. no longer to be personal to the applicant.*
- *Improvements to the Land Use Plan (LUP) planning policies to encourage the right mix, type and quality of housing in Alderney including housing for older persons.*
- *Improvements to the Land Use Plan (LUP) to provide guidance to help ensure planning decisions make best use of available land.*
- *The LUP to provide for our future housing needs while maintaining the integrity of the designated area, our green belt.*

The executive summary of the report together with its recommendations in detail is attached.

*Matt Birmingham
Chairman"*

Item VII **Building and Development Control (Designated Area) (Alderney) Ordinance, 2016**

The following letter was received from Mr Birmingham, Chairman of the Building and Development Control Committee:-

"Section 12 of the Building and Development Control (Alderney) Law 2002 empowers the States by Ordinance to designate "such areas of the island as may

be defined as areas within which permission to carry out any development or other work ... shall NOT be granted“ by the Building and Development Control Committee, subject to certain exceptions set out in the Law.

The Designated Area, known generally as the “the green zone”, is of strategic importance and the foundation of land use planning and environmental conservation in Alderney.

The last time the States of Alderney passed an Ordinance to define the Designated Area boundaries was in 2004 when the previous 1998 Designated Area Ordinance was repealed. Changes to the Land Use Plan were approved in 2006 and 2011 with certain amendments affecting the Designated Area, however these changes were not reflected in an amending Ordinance as required under the Law.

During the current Land Use Plan review, it has also come to light that there were important inconsistencies between the wording of the Building and Development Control (Designated Area) (Alderney) 2004 Ordinance and the approved map (of the harbour area only) signed by the President at that time. The Law Officers of the Crown have advised that the Committee recommends the States of Alderney makes a new Ordinance which clearly defines the Designated Area reflecting the changes to the Designated Area approved in the context of the approval of the Land Use Plan. The proposed Ordinance provides a map which identifies the Designated Area clearly and unambiguously.

The Map of Alderney forming part of the attached draft Ordinance for States approval shows the land area which was NOT designated (The Building Area) by the 2011 Land Use Plan coloured in BROWN. All other land areas which are not coloured on this map, (White areas), form the Designated Area. Members will notice that there are within the Designated Area certain isolated pockets of settlements which the previous land use plan in 2011, approved as part of the Building Area.

The Building and Development Committee consider it important that this Ordinance, which accurately reflects the 2011 Land Use Plan decisions, be made by the States of Alderney, before the Planning Inquiry into the 2016 Land Use Plan takes place and the States of Alderney subsequently considers and debates any proposed amendments in the 2016 Land Use Plan. In this way the current extent of the Designated Area will be defined by Ordinance as required under the Law and clear to all before the Inquiry.

I would be grateful if you would place a copy of the “Building and Development Control (Designated Area) (Alderney) Ordinance, 2016” before the next meeting of the States of Alderney with an appropriate proposition.

*Matt Birmingham
Chairman”*

The States of Alderney is asked to approve the “Building and Development Control (Designated Area) (Alderney) Ordinance, 2016”.

Item VIII **Changes to the Council Regulations of the EU Sanctions Regime**

The following letter was received from Mr Simonet, Deputy Chairman of the Policy and Finance Committee:-

“There have been some technical changes to the Council Regulations of the EU Sanctions Regime recently which have necessitated amending legislation to be

prepared in order to apply the appropriate modifications to the Alderney Sanctions Regime.

The amendments are as follows:

- **Libya** – On the 18th January 2016 the EU published Council Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya.

EU restrictive measures against Libya were originally introduced by a regulation made in 2011 (No 204/2011). That regulation has been amended on a number of occasions. The purpose of the 2016 regulation is to consolidate the 2011 legislation and its amendments into one piece of legislation for the sake of clarity. As a consequence, the 2011 regulation has been repealed.

Alderney's legislation providing for sanctions measures against Libya (the Libya (Restrictive Measures) (Alderney) Ordinance, 2011) applies the 2011 regulation in Alderney. The measures include targeted financial sanctions (asset freezes); prohibitions on exports of equipment for internal repression; and measures on the provision of technical or financial assistance in relation to military activities. As the 2011 regulation has been repealed, The 'Libya (Restrictive Measures) (Alderney) Ordinance, 2016' has been drafted to implement the 2016 regulation.

- **South Sudan** - Alderney originally implemented EU sanctions legislation on South Sudan through the South Sudan (Restrictive Measures) (Alderney) Ordinance, 2014. This legislation freezes the funds and economic resources of persons, entities and bodies listed as obstructing the political process in South Sudan.

In light of the conflict emanating from internal political disputes among the country's political and military leaders and the consequential human suffering, in the Spring of last year the United Nations Security Council issued a resolution in relation to South Sudan. This followed by legislative changes in the EU, which introduced two separate criteria for listing persons, entities and bodies subject to the restrictive measures, namely:

- (a) obstructing the political process in South Sudan, including by acts of violence or violations of ceasefire agreements, and responsibility for serious violations of human rights (the original EU criteria from 2014); and*
- (b) involvement in actions or policies that threaten the peace, security or stability of South Sudan (the new UN criteria).*

Rather than amend its 2014 Regulation the EU repealed it and introduced a new Regulation, Regulation 2015/735. The 'South Sudan (Restrictive Measures) (Alderney) Ordinance, 2016' has been drafted to implement the new Regulation and repeal the 2014 Ordinance.

In a recent review of sanctions legislation across the Bailiwick carried out by Law Officers Chambers, it was discovered that Alderney did not have sanctions Ordinances in place for Eritrea, Somalia and the Republic of Guinea.

- **Eritrea** – In response to concerns that Eritrea had provided support to armed groups undermining peace and reconciliation in Somalia and that it had not withdrawn its forces following clashes with Djibouti, in 2009 the United Nations Security Council enacted Resolution 1097 (2009), which imposed an arms embargo and certain trading restrictions on Eritrea together with travel bans and targeted financial sanctions aimed at the political and military leaders of Eritrea.

The EU adopted Council Regulation (EU) No 667/2010 ("the EU Regulation") to give effect to the financial sanctions and certain other measures under

Resolution 1097 (2009) within the EU. Measures imposed by the EU Regulation include targeted financial sanctions and prohibitions on exports of equipment for internal repression and on the provision of technical or financial assistance in relation to military activities.

- **Somalia** – *In 2002, in response to the civil war and humanitarian crisis in Somalia, UN Security Council adopted Resolution 1425 (2002), which added to an existing arms embargo by imposing a prohibition on the financing of arms acquisitions and the indirect sale and supply of technical advice and military training to any person in Somalia.*

In 2008, in response to concerns about the increase in acts of piracy and armed robbery at sea against vessels off the coast of Somalia, and the role of piracy in financing embargo violations, the UN Security Council adopted Resolution 1844 (2008) which introduced targeted financial sanctions and other restrictions directed at certain named persons. The EU adopted Council Regulation (EU) No 356/2010 ("the EU Regulation") to give effect to Resolution 1844 (2008) within the EU.

- **Republic of Guinea** – *In 2009, in response to concerns about the activities of members of the National Council for Democracy and Development and individuals associated with them who were responsible for the violent repression within the Republic of Guinea, the EU adopted Council Regulation (EU) No 1284/2009 ("the EU Regulation"). The EU Regulation imposes targeted financial sanctions against certain persons.*

The 'Eritrea (Restrictive Measures) (Alderney) Ordinance, 2016', 'Somalia (Restrictive Measures) (Alderney) Ordinance, 2016' and 'Republic of Guinea (Restrictive Measures) (Alderney) Ordinance, 2016' have been drafted so that there is no gap in the Bailiwick's sanctions framework.

I would be grateful if you would place this matter before the next meeting of the States of Alderney with an appropriate proposition.

*Francis Simonet
Deputy Chairman"*

The States of Alderney is asked to approve:

1. "Libya (Restrictive Measures) (Alderney) Ordinance, 2016";
2. "South Sudan (Restrictive Measures) (Alderney) Ordinance, 2016";
3. "Eritrea (Restrictive Measures) (Alderney) Ordinance, 2016";
4. "Somalia (Restrictive Measures) (Alderney) Ordinance, 2016" and
5. "Republic of Guinea (Restrictive Measures) (Alderney) Ordinance, 2016".

Item IX

Questions and Reports

Issued: 8th April 2016