



OFFICIAL REPORT

OF THE

STATES OF THE

ISLAND OF ALDERNEY

HANSARD

The Court House, Alderney, Wednesday, 19th April 2017

*All published Official Reports can be found on the
official States of Alderney website www.alderney.gov.gg*

Volume 5, No. 3

Present:

Mr Stuart Trought, President

Members

Mr Matthew Birmingham

Mr Mike Dean

Mr James Dent

Mr Louis Jean

Mr Graham McKinley

Mrs Norma Paris

Mr Steve Roberts

Mr Alex Snowdon

Mr Ian Tugby

The Greffier of the Court

Ms Rachel Gaudion

Business transacted

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States of Alderney

*The States met at 5.30 p.m. in the presence of
Colonel Colin Mason, a representative of His Excellency Vice Admiral Sir Ian Corder KBE, CB,
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE PRESIDENT *in the Chair*]

PRAYERS

The Greffier

ROLL CALL

The Greffier

Apologies received

The President: Madam Greffier, we have apologies from Mr Barnes.
Can you please confirm that we are quorate for the purposes of the States meeting.

5 **The Greffier:** I can, sir. In accordance with the Government of Alderney Law, I can confirm
that you are quorate this evening.

The President: Thank you very much indeed.

Convener's Report of the People's Meeting held on 12th April 2017

10 **The President:** Mr Jean, as Convener, would you care to give the Convener's Report, please.

Mr Jean: Would you like me to report on each item, then call Item I?

15 **The President:** Yes, please. So if you just give the initial report and then I will say it, and the
number of people who were present etc.

Mr Jean: Yes. There were about 35 people present. I did not count how many States
Members but there were a reasonable number – I am sorry about that.

I think I will just let you call the first Item, sir, and then I will report, shall I, on the first one?

20 **The President:** Thank you. Yes, please. Just confirm that I was present at the People's
Meeting.

Mr Jean: Yes, you were indeed.

25 **The President:** Thank you.

Billet d'État for Wednesday, 19th April 2016

I. Beneficial Ownership – Item approved

Item I.

The States of Alderney is asked:

To approve the Beneficial Ownership of Legal Persons (Alderney) Law, 2017 and to request the President to seek the Sanction of Her Most Excellent Majesty in Council for it to have the force of Law in the Island of Alderney.

The President: Could we move to Item I, please, Madam Greffier.

The Greffier: Sir, Item I is Beneficial Ownership.

30 The States of Alderney is asked to approve the Beneficial Ownership of Legal Persons (Alderney) Law, 2017 and to request the President to seek the Sanction of Her Most Excellent Majesty in Council for it to have the force of Law in the Island of Alderney.

The President: Thank you very much.

35 Mr Jean, as Convener, were there any comments on this Item, please?

Mr Jean: There were, sir, quite a few comments received on this Item.

'Could it be explained in simpler terms?' The Interim Chief Executive gave a simplified description of beneficial ownership, stating that the central register will be set up with the Greffier in a single place for law enforcement purposes.

40 'The document only seems to apply to men,' one woman commented. The Interim Chief Executive stated that this is a legal term which does apply for male and female. Noted.

'Will members of the public have access to this register?' The Interim Chief Executive advised that the register is only available to law enforcement agencies and therefore it is kept in confidence.

45 'Isn't it available in the UK to the public?' The answer to that question was not known, but it has since been established that the UK register is available to the public. But that is not what the international standard requires; the international standard is that of a central register available to authorities.

50 It was stated that private companies need to remain private. It was felt that the list of those who are able to ask for disclosure is too loose. The Chief Officer of Police and the Bailiff are accountable. However, P&F are elected Members and were not, in the opinion of this speaker, qualified to deal with the register. The document is not as secure as it could be, as it can be amended at any time. This is quite concerning. Noted.

55 'Will the Greffier provide the information from the register to the enquiring party, or will the party look for themselves?' It is believed that the Greffier will provide the information required.

'Why does the register have to be kept private?' It was advised that if access to the register was too open it could have a detrimental effect on the formation of new companies.

'Does this apply to the foundation and charities?' It was noted that it only applies to the legal entities.

60 Thank you, sir.

The President: Thank you very much, Mr Jean.
Mr Dent, I believe you wish to propose Item I.

65 **Mr Dent:** Yes, Mr President, I now do wish to propose Item I. Do I have to make the amendment?

The President: If you just propose this we will get to the amendment in a minute and give you the full opportunity to speak on this.

70

Mr Dent: Okay, I will give my presentation, if I may.

Mr President and colleagues, the Beneficial Ownership of Legal Persons (Alderney) Law, 2017. The Financial Action Task Force is an intergovernmental body established in 1989 with 37 members, including the EU, Russia, the United States, New Zealand, Australia and Switzerland. It sets global anti-laundering and combatting of terrorism standards and is now requiring jurisdictions to have timely access to adequate, accurate and current information on beneficial ownership of legal persons.

75 In Alderney's case these are companies, as these are the only types of legal persons that can be created here. Trusts and foundations are not legal persons and so charities will only be affected if the charity takes the form of a company. Charities have nothing to fear as long as they are not involved in either money laundering or terrorism.

80 In simple language, the Financial Action Task Force want those combating money laundering and terrorism to be able, if needed, to determine who the people are who ultimately control companies. This Law will provide the required private, secure, consolidated and local access register of beneficial owners from Alderney. It will also bring in the measures needed to provide the access required by law enforcement agencies.

85 The register will be administered by the Greffier and its duties will mirror those to be introduced in the Guernsey Register of Beneficial Ownership.

90 Company agents, who must be either licensed by the GFSC or local real persons, will be obliged to supply beneficial ownership information as part of their customer due diligence work.

At this point I need to stress that these obligations have absolutely nothing to do with the proposals in the draft consultation paper on company law. That document spoke about open registers; these will not be open. And for those of you less familiar with some of the terms in the proposed legislation, you should be aware that the beneficial owner is defined as the natural person who ultimately controls or owns the company. Presently, the threshold in the GFSC handbook is 25% of share ownership. This is the level that will be regarded as signifying control.

95 This legislation is necessary if Alderney continues to operate a Companies Register and if Alderney companies are to be permitted to trade with the rest of the world. Amongst others, the Alderney Gambling Commission strongly supports this legislation.

100 Just before I finish, I want to quote from UK government advice:

Guernsey and Alderney committed by way of exchange of notes with Her Majesty's Government to make every effort to have the legislation enforced by the end of June.

105 The MoJ is working with all Crown Dependencies and Overseas Territories, and for our legislation, along with Guernsey I think each can prioritise such that it will be received by the Privy Council in May or June, so that the Law can be enacted and in place by the end of June. This is exceptionally fast. Everything is poised together. Richard Walker from Guernsey will be appearing before a UK parliamentary committee in May, where an update on the Law will be sought.

Efforts are being made on multiple fronts, therefore, to preserve the quality rating – that is to say *not* the blacklisting – of Guernsey and Alderney, and any apparent dragging of feet will work to our disadvantage.

110 Finally, I would like to quote from a message received this morning from the Alderney Gambling Commission:

The Alderney Gambling Commission is fully supportive of the creation of a central Register of Beneficial Ownership for Alderney limited companies as are outlined in the draft Law currently before the States of Alderney. This register will allow law enforcement and supervisory authorities, of which AGCC is one, to access this register to obtain details of those persons with control and influence over such companies. This complies with the international standard for a Beneficial Ownership Register and will assist those authorities in their fight against money laundering and terrorist financing.

Thank you, Mr President, and thank you, colleagues.

The President: Thank you, Mr Dent.

115 Mr McKinley, I believe you wish to second this.

Mr McKinley: I do, sir. Can I reserve my right to speak after the amendment, please?

The President: Yes, of course you can.

120 Mr Dent, I believe you wish to propose an amendment to Item I on the Billet. For the sake of the record, I will ask Madam Greffier to read out the amendment and then you can propose it.

The Greffier: Sir, the amendment is to Item I and it is proposed that the following text in section 25 in Part 5, entitled 'Miscellaneous and Final', of the Beneficial Ownership of Legal
125 Persons (Alderney) Law, 2017 – 'For the purposes of this Law, the expression "beneficial owner", and any related expressions, have the meaning prescribed by way of regulations made by the Policy and Resources Committee of the States of Guernsey under section 30 of the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 – is replaced with the following: 'For the purposes of this Law, the expression "beneficial owner", and any related expressions, have the
130 meaning prescribed by way of regulations made by the Committee'.

The President: Thank you very much indeed.

Mr Dent, would you care to propose your amendment, please.

135 **Mr Dent:** Mr President, colleagues, I would just like to say that the proposed amendment is important as it will allow Alderney and not Guernsey to have the final say over the definition of the term 'beneficial owner' in this Act.

The President: Thank you, Mr Dent.

140 Mr Tugby, I believe you wish to second the amendment.

Mr Tugby: Yes, sir, I second.

The President: Thank you very much, Mr Tugby.

145 Does any Member wish to speak on the amendment? Mr McKinley.

Mr McKinley: Mr President, could I just ask one question, please. When it says 'by the Committee' I assume that is the Policy and Finance Committee, but perhaps it should specify which committee.

150

The President: That is a very good question. Please answer that.

Mr Dent: Yes, you presume absolutely correctly. There is a definition in the Act of the words 'the Committee', and it is exactly as you say.

155 **The President:** Does any other Member wish to speak on the amendment?
In that case, Madam Greffier, would you put the amendment to the vote, please.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Tugby	None	None
Mr Birmingham		
Mr Jean		
Mr Roberts		
Mrs Paris		
Mr McKinley		
Mr Dent		
Mr Snowdon		
Mr Dean		

The Greffier: Thank you. Carried, sir.

160 **The President:** Thank you very much, Madam Greffier.

We will now continue with the debate on Beneficial Ownership, as amended by the change of expression under section 25. We have had this proposed and seconded correctly. Now does any Member wish to speak on the main Item of Beneficial Ownership?

165 Mr Jean.

Mr Jean: One of my concerns that I would like some reassurance about ... I am not actually sure whether I am going to vote for this, and I think I shall tell you why. I am concerned about consultation with the industry itself and people who regulate and look after companies here in the finance industry, as to whether they have been consulted. I am also concerned, even though we are reassured and told that there are no amendments, but there was enough concern expressed at the People's Meeting that I have a feeling that ... I do not think enough consultation took place.

I have voted for the amendment because I do not want to impede the progress of this legislation. I understand that it is important. I cannot see why we cannot deal with this in May. I think we are premature. I think we should wait until the debate takes place in Guernsey next week. It is my belief that we should and deal with this in May. In no way could that be construed as dragging our feet! I want to make that point, it is very important: in no way could it be misconstrued as fact that we were dragging our feet if we deal with it three weeks after Guernsey deals with it. I would like to see what is said in Guernsey by the people there. That also would, in my opinion, give us time to consult the industry. That would please me and reassure me. We are here, in my opinion, to absolutely try to do things right, in the right way. We seem to have rushed ahead and we are actually ahead of Guernsey, and even England have not done this yet, so I am only preaching caution and I am saying we would still have time to consult the industry and we would be able to see what the Guernsey debate itself reveals.

That is my concern. It might be possible to reassure me and it might be possible still that I could vote for it, but I am concerned about consultation and how we do our job, and I must press the point that when we do these things we really should get the industry in around us and talk to them. They are very wise and quite rightly they raise points about how deeply we know this legislation. They actually deal with it and they work with legislation all the time, and understand it perhaps better than we do – and I do not mind admitting that at all, I really do not. I can learn and I can see and I would like them to be happy about it.

Thank you.

195 **The President:** Thank you, Mr Jean.

May I just make two points of order there, Mr Jean. You referred to the regulators not being consulted in Guernsey: it is the regulators who have asked for this to come forward.

200 **Mr Jean:** I am so sorry, sir, I did not refer to the regulator; I was referring to the industry here in Alderney particularly.

The President: Very well, thank you.

Mr Jean: Thank you.

205 **The President:** The second point is that they already have an open register in England. You said it has not happened there yet – they have already opened their register.

210 **Mr Jean:** I apologise for that remark, sir, and I also apologise for not counting the number of people at the People's Meeting and States Members. I have not done a People's Meeting for a long time.

The President: Thank you.

Does any other Member wish to speak on Item I, Beneficial Ownership?

215 **Mr Roberts:** Yes. I am not an expert in this, but if I do not have much understanding of it I go and ask for advice, and in my view, from that advice, this is needed to show honest assessment of who owns what in the companies based here, so I do support this, sir.

The President: Thank you very much, Mr Roberts.

220 Any other Member? Please, Mr Dean.

225 **Mr Dean:** Yes, just a point of clarification, actually; I too have spoken to some people. Going to the Law itself, it is very badly worded that the definition of 'beneficial ownership' is defined in Alderney law as having the same meaning as in Guernsey law, and in Guernsey law it says the term will be defined in regulations – but the regulations are not actually in the public domain. So we are being asked to vote on something that we cannot actually see.

The President: Thank you, Mr Dean.

230 Does any other Member wish to speak on Item I?

235 **Mr Snowdon:** Yes, I think I agree with Mr Jean's comments, really, that we do need to talk to the industry and make sure the industry are absolutely happy with this proposal, or we risk things maybe going a little bit wrong. So yes, I think we need to wait and see what the outcome in Guernsey is and then follow through if everyone is happy in the industry and Alderney. What I personally feel is that we might be jumping the gun a little bit.

Thank you.

The President: Thank you, Mr Snowdon.

240 Does any other Member wish to speak on this Item? Mr Birmingham.

Mr Birmingham: Thank you, Mr President, fellow Members.

245 I have some sympathy for Mr Jean's position as well. In terms of procedure, normally we would see the legislation go through Guernsey, if amendments would be placed in Guernsey, and then we would see a mirror of the Law normally coming to Alderney. So I can understand that. But for me the one very important part here, for particularly the gaming industry in

Alderney, is that we have to appear whiter than white, and so I fully support the push to have the register. And for me the view of the AGCC on this, as our major regulator on the Island, is most important. So although procedurally perhaps going through Guernsey first would be preferable, I will still support the paper in front of us.

250

The President: Thank you, Mr Birmingham.
Does any other Member ... Two left. Mr McKinley.

Mr McKinley: Thank you, sir.

255

Just very briefly, this whole issue was debated fairly fully in Guernsey in February when Mr Jean and I attended, and without being disrespectful to the Members here, there are a lot of very well qualified Deputies there who do know probably a lot more about the whole business of beneficial ownership within the States of Guernsey than we do here. There was very little comment and indeed it was passed, and the final debate will take place in Guernsey next week.

260

I quite understand Mr Jean's position, but no amendment has been submitted by Guernsey at the moment for their debate next week and I believe actually that perhaps the proper way to have approached this if he wanted a delay would have been to put forward an amendment asking for a delay, because otherwise ... at the end of this we could actually vote do we want to delay it or do we want to pass it.

265

It will probably pass in Guernsey with very little comment, and as a matter of interest the paper in Guernsey is almost identical – slightly bigger, slightly more detailed particularly in the finance side in Guernsey than ours, but otherwise it is pretty well word for word, so we are debating pretty well the same thing this evening.

270

Beneficial ownership as proposed in this draft legislation has the full support of the Alderney Gambling Commission, and although Mr Jean stated that no local industries have been consulted, I believe it is probably they have not been consulted directly by us but I think they have been consulted by the Chamber of Commerce, and the Chamber of Commerce also wrote a letter of support on this issue, as has a very influential financial adviser in Guernsey and other people on the Island. I know there have been some letters of concern – we have all received such letters.

275

Mr Dent has outlined the benefits of passing this legislation. He has also made clear the problems that we may face if we do not pass this. I will be supporting it and I ask others to support it, sir.

280

The President: Thank you, Mr McKinley.
Mrs Paris, do you wish to speak on this matter?

Mrs Paris: No, I do not, sir, thank you.

285

The President: Thank you very much, Mrs Paris.
Mr Dent, do you wish to exercise your right of reply?

Mr Dent: I think all has been said that needs to be said. Thank you.

290

The President: Thank you very much.
Mr McKinley, do you wish to add anything?

Mr McKinley: Only, sir, that if we are to delay it I do not think at this moment we can actually ask for a debate on delay to May or pass it now.

295

The President: It is either pass it or not pass it, as it stands at the moment.

Mr McKinley: Well, I would have to ask the Greffier, but I do not think it is possible, is it, to ask for –

The Greffier: There has been no amendment lodged, sir. No amendment has been proposed or seconded on the floor which you need to consider, sir – unless those two speeches were exactly that, but no one's put that forward to you.

The President: Exactly.

Mr McKinley: Right, understood.

The President: Thank you very much, Madam Greffier. Would you please put Item I, Beneficial Ownership, to the vote.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Tugby	Mr Jean	None
Mr Birmingham	Mr Snowdon	
Mr Roberts	Mr Dean	
Mrs Paris		
Mr McKinley		
Mr Dent		

The Greffier: That is 6 for and 3 against, sir.

The President: Thank you very much. That is the motion carried, yes?

The Greffier: Yes, sir.

The President: Thank you very much.

II. Al-Qaida (Restrictive Measures) (Alderney) (Amendment) Ordinance, 2017 – Item approved

The States of Alderney is asked:

To approve The Al-Qaida (Restrictive Measures) (Alderney) (Amendment) Ordinance, 2017.

The President: Could we move to Item II, please, Madam Greffier.

The Greffier: Item II is the Al-Qaida (Restrictive Measures) (Alderney) (Amendment) Ordinance, 2017.

The States of Alderney is asked to approve that Ordinance.

The President: Thank you very much indeed.

Mr Jean, as Convener.

Mr Jean: There were no comments on this Item, sir.

The President: Thank you very much, Mr Jean.

Mr Dent, I believe you wish to propose this.

Mr Dent: Mr President, fellow colleagues, I wish to be very brief this time. This Ordinance is designed to strengthen measures against Al-Qaida and to better align them with EU regulations, and for those reasons I propose this motion.

335 **The President:** Thank you very much, Mr Dent.
Mrs Paris, I believe you wish to second this.

Mrs Paris: Yes, I do wish to second it, sir. Thank you.

340 **The President:** Thank you very much, Mrs Paris.
Does any Member wish to speak on Item II? No Member? Sorry, Mr Birmingham – apologies.

Mr Birmingham: Thank you, Mr President.

345 This is, I think, just for a point of clarification rather than anything else. It had been my understanding that these Restrictive Measures Ordinances, which we used to have a large number of, and used to, I believe, create some interesting debates certainly on occasions; I seem to remember Crimea being one of them ... These style of Ordinances have not been coming to the States for quite some while, and my understanding was that these Restrictive Measures were now put in place on behalf of Alderney by the Policy and Resources Committee in
350 Guernsey, but I have since been informed that ... I think that is the case and that this is in fact amending an old Ordinance and that is why it has had to come to the States here. I only mention that because I believe that some members of the public might be wondering why Restrictive Measures is back on the agenda.

355 **The President:** Thank you very much, Mr Birmingham.
Does any other Member wish to speak on Item II? Mr Roberts.

Mr Roberts: Here we go again. Why do we have to endorse each and every sanction? Why
360 can't we just agree that any enemy of Great Britain is an enemy of Alderney? It should be not necessary to keep repeating loyalty to the Crown, as it goes without saying. Al-Qaida: what is Alderney going to do, send the boys in?

Of course I support, but I think the work and the expense of doing this each and every time should be looked at. We have more pressing matters, but I do support.

365 **The President:** Thank you, Mr Roberts.
Does any other Member wish to speak on Item II? No.
Madam Greffier, would you put that to the vote, please?

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Dean	None	None
Mr Snowdon		
Mr Dent		
Mr McKinley		
Mrs Paris		
Mr Roberts		
Mr Jean		
Mr Birmingham		
Mr Tugby		

The Greffier: Thank you, sir, that is carried.

370 **The President:** Thank you very much.

**III. Questions and Reports –
Recent Representations of the States of Alderney on Brexit**

The President: Mr Jean, as Convener, were there any comments on Item III, please?

375 **Mr Jean:** There were no comments, sir.

The President: Thank you very much indeed.
Madam Greffier, if you could introduce Item III, please.

380 **The Greffier:** Sir, Item III is Questions and Reports and we have one report, entitled Recent Representations of the States of Alderney on Brexit, which was received from yourself, sir, dated 21st March.

The President: Thank you very much indeed.
385 Do any Members have any questions on this report? Mr Dent.

Mr Dent: Mr President, I would just like to ask: would the President not agree that the most important issue is to have Alderney recognised as a separate Crown Dependency and not as a dependency of Guernsey?
390

The President: I can attempt to answer that for you. I can assure you that in the eyes of the MoJ we are not seen as a dependency of Guernsey. We are recognised as a self-governing jurisdiction and they have said that when they have the resources they will undertake further work with regard to our identity as a Crown Dependency.

395 What is probably more important than our recognition as a Crown Dependency is the fact that when letters of entrustment are given to Guernsey they are peculiar to Guernsey only; they are not Bailiwick wide. I personally brought this to the attention of the Minister responsible and he assured me that in the event that we need to have recognition that Alderney has the right to have a letter of entrustment in its own right, then they will be willing to consider that.

400 Does anybody else have any questions with regard to the report on Brexit? Thank you very much indeed.

Madam Greffier, would you care to move to close the Court.

PRAYERS

The Greffier

The Assembly adjourned at 6.00 p.m.