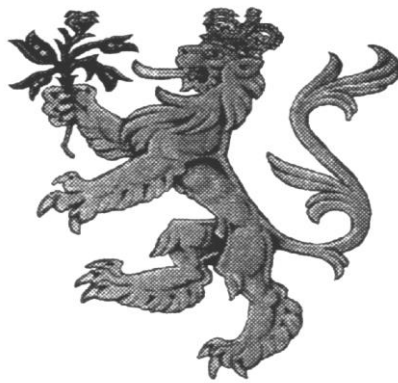


**STATES OF ALDERNEY**



**BILLET D'ETAT**

WEDNESDAY 26<sup>TH</sup> JULY 2017

Price: £2.20

## **STATES OF ALDERNEY**

### **BILLET D'ETAT**

#### **FOR WEDNESDAY 26<sup>TH</sup> JULY 2017**

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 26<sup>th</sup> July 2017. This will be preceded by the People's Meeting, which will be held on Wednesday 19<sup>th</sup> July 2017 at 7:00 pm in the Island Hall.

W Stuart Trought  
President

**Item I**      **The Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016**

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

***“Introduction***

*It is important that any legislation is unambiguous. To achieve this the main law for any particular activity will have an interpretation section which will explain what various words mean.*

*It is therefore proposed that there be a Bailiwick wide law providing definitions for commonly used words and terms.*

***Overview***

*The Gambling (Alderney) Law, 1999 spells out what is meant by ‘gambling’, by ‘money’ and several other commonly used terms, and it also clarifies that references to ‘the Committee’ mean the Policy & Finance Committee. This is typical of most laws.*

*There are however certain words and phrases which are commonly used across multiple laws. It therefore makes sense to define these in a single piece of legislation. In this respect the States of Guernsey introduced an ‘Interpretation Law’ in 1948 which sets out how various words and phrases are to be interpreted, such as what is meant by:-*

- *‘in writing’*
- *‘person’*
- *‘imprisonment’*
- *‘the Crown’*
- *‘service by post’*
- *‘distance’*
- *‘legislature’*

*Etc....*

*The 1948 Law was a Guernsey one but as much of the legislation we operate under is Bailiwick wide and even matters dealt with in the Court of Alderney can end up in the Royal Court in Guernsey it makes sense for there to be an interpretation of legislation law which cover all laws in the Bailiwick.*

*The Law Officers of the Crown consulted with the three governments of the Bailiwick in 2015 with the proposed draft law and this is appended.*

*At the time both Sark and Guernsey supported the proposed changes but Alderney had a number of questions. These have all been satisfactorily addressed but until recently there remained a minor concern that the wording might allow future Ordinances under the Interpretation and Standard Provisions Law to be passed without Alderney necessarily being consulted. This has however been clarified by the Law Officers' Chambers who advised as follows "This is standard wording used in relation to subordinate legislation, which was originally inserted for the avoidance of doubt to prevent claims that an Ordinance was invalid for lack of consultation; contrary to what might be feared, this is not a device to allow the States of Deliberation to legislate without consulting the other islands of the Bailiwick, but merely to promote certainty and to forestall sterile and legalistic argument about the fact and adequacy of consultation by those attempting to challenge the legislation. Incidentally, it should be noted that this section only applies to Ordinances enacted under this Law and the only Ordinance-making powers are in relation to commencement (s.30) and amendment of the Schedule (s.12(2)). In the light of these points, I am satisfied that the original text should not be altered."*

*The proposed new legislation makes eminent sense and poses no risk to the Sates of Alderney, but rather enhances and improves the efficiency of the legal system both from the point of view of the Courts and of their users.*

*The Policy and Finance Committee further considered this item at its meeting on 6<sup>th</sup> June and resolved unanimously to agree to submit the "Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016" to the States of Alderney for approval.*

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

*James Dent, Chairman"*

**The States of Alderney is asked to approve "The Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016"**

## **Item II      Questions and Reports**

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

*"I have three matters to report to Members, for information:*

### **1.    *Draft Building and Development Control (Alderney) (Amendment) (No.2) Ordinance 2017***

*Last month I advised States members that some of the policies proposed in the draft Land Use Plan will require law changes to implement them, if the plan is approved by the States following the Planning Inquiry in September.*

*On 4 July the Committee considered a first draft of the law change required which, if approved, would:*

- i) Remove the States blanket exemption from the need to make planning application for any development or work with the intention of replacing it with exemptions for routine maintenance work.*
- ii) Remove the Public Utilities blanket exemptions from the Land Use Plan, with the same intention.*
- iii) Provide specific exemptions from Section 12 for new infrastructure development or work which may presently be carried out by the States and by public utilities in the designated area under the current blanket exemptions.*
- iv) Exempt minor development or work in the designated area which have historically been permitted despite Section 12 e.g field shelters.*
- v) Make a new exception to Section 12 which would permit BDCC to approve a development or work in the designated area which the States, on the proposition of P & F Committee, have approved as being of strategic importance and of long term benefit. This would give effect to proposed policy S7 for Major Projects (page 3-17 of the draft Land Use Plan) and the draft statutory guidance for Major Projects (already issued for consultation).*

*In view of the significance and importance of item (v) the Committee resolved to publish the law change for public consultation concurrently with the draft Land Use Plan. This will be published after the July States meeting but before the closing date for representations to the Land Use Plan (14 August). The Policy and Finance and General Services Committees are being consulted on the draft in order that their views may also be taken into account.*

*It is also intended to add to the draft amendment, the legal authority for BDCC to make a charge for pre application planning advice provided in respect of major (non-householder) applications.*

## **2. Land Use Plan Videos**

*Throughout the Land Use Plan, the Committee has ensured it was produced in collaboration with the Alderney Community. Continuing this approach the Committee held an open drop in / exhibition session on Friday 7 and Saturday 8 July which were attended by the ARUP team, Planning Officers and members of the Committee. It has also published four short videos on 5 July to help explain the Draft Land Use Plan, videos which were produced with the very considerable help and expertise of Mr David Earl at short notice, for which the Committee thank him.*

## **3. Open Planning Meetings**

*The Committee has reviewed the trial of three Open Planning Meetings which were held on 28 Feb, 20 April and 1 June. All meetings were successful. They generated interest from the community. Several interested persons who had complied with its published procedural protocol for these meetings took up the option of speaking to the Committee about planning applications under consideration.*

*A number of lessons were learned. The Committee has agreed to continue with Open Planning Meetings with some important revisions to its published*

*protocol. These changes enable the Committee to defer their decision on an application. In which case it may announce its decision with a statement of reasons if the decision is made before the next open meeting.*

*This change will be exercised at the Chairman's discretion and where circumstances require it. For example, where a decision is likely to differ from the Planning Officer's recommendation; or to reflect on the comments made where they are particularly weighty or large in number; or to obtain further information from the applicant or third parties; or to make a site visit; or to request consultation from another body.*

*The revised protocol also recognises that written representations which are submitted or circulated by an individual objector to an application which follow up and repeat written objections they have previously submitted to the Committee in writing and/or orally, will be considered as lobbying and will not be taken into consideration."*

**Issued:** 14<sup>th</sup> July 2017