

# **STATES OF ALDERNEY**



# **BILLET D'ETAT**

WEDNESDAY 10<sup>TH</sup> JANUARY 2018

Price: £2.10

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**FOR WEDNESDAY 10<sup>TH</sup> JANUARY 2018**

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 10<sup>th</sup> January 2018. This will be preceded by the People's Meeting, which will be held on Wednesday 3<sup>rd</sup> January 2018 at 7:00 pm in the Island Hall.

W Stuart Trought  
President

**Item I**      **Opening of the States of Alderney Annual Meeting**

**Item II**      **Election Procedure**

The States of Alderney is asked to approve that the following elections should be by verbal vote, otherwise Rule 20 of the Rules of Procedure of the States Alderney, shall come into operation, ie., voting shall, unless the States otherwise resolves, be carried out by written ballot.

**Item III**      **Election of Vice President**

The States of Alderney is asked to elect a Vice President for 2018.

**Item IV**      **Appointment of Auditors**

The States of Alderney is asked to appoint KPMG Channel Islands Limited to be the States' Auditors for 2018.

**Item V**      **Appointment of Committee Chairmen**

The States of Alderney is asked to elect the Chairmen of the following Committees:

1. Policy and Finance Committee
2. General Services Committee
3. Building and Development Control Committee

**Item VI**      **Appointment of Members of the Policy and Finance Committee**

The States of Alderney is asked to elect a minimum of two Members in addition to the Chairman, to the Policy and Finance Committee.

**Item VII**      **Appointment of Committee Members of other Committees**

The States of Alderney is asked to elect the members of the following committees, in addition to the Chairmen:-

1. A minimum of two Members to the General Services Committee
2. A minimum of two Members to the Building and Development Control Committee

**Item VIII**      **Other Appointments: Commonwealth Parliamentary Association**

The States of Alderney is asked to elect three members to sit on the Management Committee in the affairs of the Alderney Branch of the Commonwealth Parliamentary Association (the President being Ex-officio Chairman) for 2018.

**Item IX**      **Other Appointments: Code of Conduct Panel Members**

Under Part III, Item 23 of the Code of Conduct, The President shall appoint 5 members of the population on the electoral role to form the Members Conduct Review Panel.

At the Policy and Finance Committee Meeting on 5<sup>th</sup> December 2017, it was resolved to recommend the following persons to be appointed to the Members Conduct Review Panel as referred to in Part III of the States Members Code of Conduct.

Mr Peter Cunningham  
Mrs Rosemary Hanbury  
Mrs Helen McGregor  
Mrs Pamela Pearson  
Mr William Tate

The States of Alderney is asked to approve that the five persons listed above be confirmed as Members of the States Members Code of Conduct Review Panel until the next Annual January Meeting of the States of Alderney.

**Item X**      **Other Appointments:- St Anne's School Management Committee**

The States of Alderney is asked to resolve to appoint, for a period of one year renewable at the next Annual January Meeting, one member as a Representative on the Management Committee of St Anne's School.

**Item XI**      **Election of Alderney Representatives to sit in the Guernsey States of Deliberation**

Following the procedure as laid out in the Resolution of The States of Alderney dated 18<sup>th</sup> October 2006, and the Plebiscite election of 10<sup>th</sup> December 2016, the States of Alderney is asked:-

- (a) To elect two members to sit in the Guernsey States of Deliberation for 2018, and
- (b) To elect two other members to sit in the Guernsey States of Deliberation as Alternative Representatives for 2018.

**Item XII**      **The Beneficial Ownership (Alderney) (Definition) (Amendment) (No.2) Regulations 2017**

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

*"The proposed amendments to the Beneficial Ownership (Alderney) (Definition) Regulations, 2017 (the Definition regulations), relate to the situation where shares or rights in a legal person are held by the States of Alderney, by an Alderney corporate trustee or by a foreign corporate trustee. The amendments primarily arise from queries by fiduciaries as a result of their experiences with the registry system to date, and they appear satisfactory from a risk perspective. The proposed changes in respect of corporate trustees correspond to changes that have recently been made in Guernsey following queries in this respect along the same lines as those that have been received in Alderney.*

**States of Alderney**

*The Definition regulations provide that where a States of Guernsey trading company appears in the ownership structure of a legal person, that trading company is treated as a corporate beneficial owner who may be entered on the register as the beneficial owner of the legal person, without needing to look into the beneficial ownership of that company itself. This is because there is no realistic risk of its being used for money laundering or terrorist financing purposes. There is no corresponding provision in respect of the States of Alderney because the latter does not use trading companies. There are, however, some Alderney companies where the States of Alderney features in the ownership structure. In this situation, it would be appropriate to identify the States of Alderney as a corporate beneficial in the same way as a States of Guernsey trading company,*

*as here too there is no realistic risk of money laundering or terrorist financing. Therefore, the draft regulations add the States of Alderney to the list of corporate beneficial owners in regulation 1(3) of the Definition regulations.*

**Alderney Corporate Trustees**

*The Definition regulations currently require the trustee itself and its directors to be identified, but not the beneficial owners of the trustee as this information will already be on the register. The draft regulations amend this to specify that, where a trustee is an Alderney corporate trustee, only the name of the trustee needs to be given. This is to remove a potential burden arising from the need to provide up to date details of the directors of Alderney corporate trustees (which information is in any event already publicly available), as it could cause industry difficulty in practice, particularly where the same firm holds shares as a trustee in several different companies.*

**Foreign corporate trustees**

*The Definition regulations currently require the directors and beneficial owners of the corporate trustee to be identified, but not the trustee itself. The draft regulations make three amendments to this. The first is the removal of the need to include directors of non-Alderney corporate trustees, for the same reason as for Alderney corporate trustees because similar issues could arise, and the need to include beneficial owners means in practice that anybody with the ability to control shares held by the trustee will already be included. The second is the expansion of the definition to include the name of the trustee itself, to plug a possible gap in the information available on the register. The third is the removal of the obligation to provide information on the beneficial owners of non-Alderney corporate trustees that are listed on a recognised stock exchange as they are already subject to transparency requirements.*

*The Beneficial Ownership (Alderney) (Definition) (Amendment) (No.2) Regulations, 2017 were approved and signed at the meeting of the Policy and Finance Committee meeting held on 5<sup>th</sup> December 2017.*

*I would be grateful if you would place The Beneficial Ownership (Alderney) (Definition) (Amendment) (No.2) Regulations, 2017 before the next meeting of the States of Alderney with an appropriate proposition.*

*James Dent, Chairman”*

**The States of Alderney is asked to resolve that “The Beneficial Ownership (Alderney) (Definition) (Amendment) (No.2) Regulations, 2017” not be annulled.**

**Item XIII Proposed Changes to eGambling Legislation**

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

*“At present the Alderney gambling legislation allows the Alderney Gambling Control Commission (AGCC) to license operators who meet all the necessary stringent requirements to ensure they are fit and proper and that the gambling operations they can control are conducted fairly and reasonably.*

*There are three categories of licence at present.*

*The first two are issued to businesses registered in Alderney and operating within the Bailiwick.*

*The first relates to a gambling company which is selling its product direct to the customer, this is commonly referred to as B2C (shorthand for Business-to-Customer).*

*The second is for a locally-based gambling business which is trading directly with another gambling business, for example providing software, expertise or other support services. This is commonly referred to as B2B (Business-to-Business).*

*The third, introduced in 2009, is for a gambling related businesses outside the Bailiwick which wants to supply services to locally-based gambling businesses. Thus for example a gambling software company may seek such a licence in order that it can sell its product to an Alderney gambling company, and the Alderney company can be assured that the software provider has met all the stringent requirements of the AGCC. This can be described as a B2B Associate.*

*What is now proposed is the introduction of a fourth category of licence which is very similar to the B2B Associate licence. It will however allow businesses outside of the Bailiwick, who can demonstrate that they meet all the strict criteria of the AGCC, to obtain an associates licence and be able to deal directly with gambling customers. This could be referred to as B2C Associate.*

*It is interesting to note that these businesses will still be subject to all the gambling regulatory requirements of the jurisdiction in which they are based. Furthermore in the event that something goes wrong they would be investigated and dealt with by their home licensing jurisdiction. Nonetheless, for trading on an international stage a number of these businesses throughout the world wish to demonstrate that they are operating to the highest of standards such as those set by the AGCC.*

*Whilst of course they could relocate from the current jurisdiction and set up business in Alderney, the organisational upheaval, the costs and the cultural ties of the business owners tends to make this unattractive. However, this new category of licence will enable them to subject themselves to scrutiny so as to demonstrate they are and "A++" quality gambling operator, and yet not have to relocate.*

*The feedback received from Alderney E-Gaming Ltd is that this would be a welcome addition to the licence offering. It is not expected to see any material reduction in the number of licences based in Alderney and operating out of the Bailiwick, but is predicted to increase the number of total licences issued by AGCC and with a corresponding increase in net revenue.*

*In accordance with the Memorandum of Understanding with the Guernsey Committee for Home Affairs, that Committee has been briefed and has noted the proposed changes.*

*The Alderney eGambling (Amendment) Ordinance, 2018 has been drafted by Law Officers Chambers and was considered by the Policy and Finance Committee at its meeting on the 5<sup>th</sup> December.*

*The Gambling (Alderney) Amendment Law, 2018 was also considered by the Policy and Finance Committee at its meeting of 5<sup>th</sup> December 2017. The 2017 Law makes an amendment to section (1) of the Gambling (Alderney) Law, 1999 regarding the membership of the Alderney Gambling Control Commission, to provide for "a minimum of three and a maximum of five other members" besides the Chairman; and also amends section 4 of the 1999 Law to insert after No member, officer or servant of the Commission is personally liable in any civil proceedings "and no liability shall be incurred by the Commission".*

*I would be grateful if you would place "The Alderney eGambling (Amendment) Ordinance, 2018" and "The Gambling (Alderney) (Amendment) Law, 2018" before the next meeting of the States of Alderney with an appropriate proposition.*

*James Dent, Chairman"*

**The States of Alderney is asked to approve:**

1. **"The Alderney eGambling (Amendment) Ordinance, 2018";**  
**and**
2. **The Projet de Loi entitled "The Gambling (Alderney) (Amendment) Law, 2018" and to request the Bailiff to present a most humble petition to Her Majesty in Council for Her Royal Sanction thereto.**

**Item XIV** **Co-opted BDCC Non-States Members**

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

*"The role of the Building & Development Control Committee (BDCC) is not always fully understood by the public. It is a Committee of the States but it is tasked with a regulatory function of the administration of the planning system. Its Members are therefore tasked with making quasi-judicial decisions in relation to planning applications.*

*However, issues sometimes arise in relation to governance when the States effectively makes planning applications to itself. Due to the limited size of the pool of States Members and the multiple roles they have to undertake, it is difficult to have a Committee composition that does not contain Members who have a technical conflict of interest by virtue of their other government roles (e.g. as a member of the General Services Committee, or as States nominated director of AEL). This also can mean that potential issues could arise around the quorum of the BDCC to make a decision. This is particularly true where all Members sit on Policy and Finance.*

*The current Members of BDCC do have proprietary guidance issued to them about such potential conflicts and how to act in certain circumstances. However, it is possible that circumstances could arise where the entire (or nearly entire) body of the BDCC could be conflicted upon a States Development. It would be possible to reduce this potential for conflict of interest by co-opting non-States Members onto the BDCC.*

*There is also the added benefit that non-States Members bring their own particular subject knowledge and experience which can contribute to the quality of Committee decisions.*

*Currently, The Government of Alderney Law, 2004, permits the States to elect non-States Members to, and subsequently by resolution remove from, a States Committee (except the Policy and Finance Committee) under Part 4 section 49. This is providing that the majority of that Committee are still States Members.*

*The BDCC therefore wishes the States to debate the principle of the co-opting of non-States Members onto the BDCC and receive the feedback from the public from the People's Meeting on the issue.*

*As Chairman I believe it might provide a helpful solution to the issue of States generated conflict and may aid the Committee in its decision making by finding suitably qualified members of the public with planning experience to assist in making planning decisions.*

*If there is general support for the proposal then the Committee will bring forward the names of such suitably qualified individuals for consideration by the States for potential election to the BDCC in addition to the States Members already elected, with a view to them serving for the remaining period of this States, through until 31st December 2018.*

*Matt Birmingham, Chairman”*

**The States of Alderney is asked to debate without resolution the option for electing non-States Members onto the Building and Development Control Committee.**

**Item XV Capital Expenditure - Road Resurfacing Project 2018**

**The following letter was received from Mrs Paris, Chairman of the General Services Committee:-**

*“In 2012 the States agreed that the annual road repair programme funded from general revenue should move to a biennial contract funded from capital expenditure. This move was made primarily in order to save on annual mobilisation costs. The 2012 and 2014 contracts were awarded to Ronez. However in 2016, due to the number of roads affected by the infrastructure improvement projects being carried out by Alderney Electricity Ltd, States Works and Water Board, it was agreed to defer the repair programme until such time as the majority of these works were completed and full reinstatement could proceed.*

*During this time the General Services Committee has also been looking at the alternative option of surface dressing with lock down binder, as used on many of the UK roads. Independent advice including a site visit has also been received from one of the UK local authorities using this method. The advantages of the two different surfacing options were subsequently considered by the Committee.*

*For comparison purposes expressions of interest were sought from ten companies, of which three responded with two providing final costings, one for the asphalt method used in previous years, and one for surfacing dressing.*

*At its meeting on 12<sup>th</sup> December 2017 the General Services Committee voted to accept the surface dressing option to be carried out by Road Maintenance Services Ltd, and approved capital funding of up to £245,000 for the 2018 road resurfacing project.*

*The main schedule of areas included in the 2018 programme is attached for reference, however this is not an exhaustive list and further areas will be identified during the visit which is expected to commence in spring.*

*Although £300,000 had been included in the 2018 approved capital budget, the surface dressing option is considered to be more cost effective, and therefore the cost of the project is expected to be £245,000.*

*I should therefore be grateful if you would place this matter before the States of Alderney with the appropriate proposition.*



Proposed schedule of areas to be included in the 2018 road resurfacing project:-

*Allee Es Fees  
Coin des Escailles/Mare Jean Bott  
Rue de la Saline  
Carriere Viront  
Les Mouriaux  
Hauteville  
La Trigale  
La Marette  
Airport Road  
Newtown  
Le Banquage (part)  
Butes Road & Butes car park (part)  
Impot Road  
Path between Val Car Park and Victoria Street  
Other areas to be confirmed*

**The States of Alderney is asked to approve capital funding of up to £245,000 for the 2018 road resurfacing project, and to award the contract for the surfacing dressing works to Roads Maintenance Services Limited.**

**Item XVI    Questions and Reports**

No Questions or Reports were received

**Issued:** 29 December 2017