

STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 25TH JULY 2018

Price: £2.25

STATES OF ALDERNEY

BILLET D'ETAT

FOR WEDNESDAY 25TH JULY 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 25th July 2018. This will be preceded by the People's Meeting, which will be held on Wednesday 18th July 2018 at 7:00 pm in the Island Hall.

W Stuart Trought
President

Item I **Legislation to introduce a new single Property Tax**

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

“At its meeting on 12 June 2018, the Policy and Finance Committee unanimously agreed an update report on the implementation of a new Property Tax. This followed the States resolution in September 2017 which agreed that the existing Occupier’s Rate and States of Guernsey Tax on Real Property (TRP) should be merged into a single property tax with the incidence falling on the property owner.

The proposed changes will pass property tax raising responsibilities and control over revenues to the States of Alderney from 1st January 2020. TRP will remain on the statute book but will be levied at nil in future.

A single property tax will also bring benefits of simplicity, transparency and more efficient administration. It will also allow Alderney to adjust the rates of charge on businesses and domestic properties in a manner that best reflects the needs of the island. There are charges on some property types that better reflect the needs of Guernsey and some which are unduly penalistic on certain business types, reflecting a time-past when these were seen as an easy source of revenue. Having said this any reductions in the tax-take from one type of property will have to be met with increases on other types.

The new Property Tax will have some implications for landlords who may have to make some adjustments to leases and rental agreements in advance of the implementation date. The Law Officers have confirmed that this is a private contract law matter.

The Tax Office has also confirmed that a single property tax will not be allowed as a deductible expense as it represents a cost of property ownership.

A formal resolution is required from the States of Alderney to instruct the Law Officers to prepare the necessary legislation to effect this change,

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

J Dent, Chairman"

The States of Alderney is asked to resolve that the Law Officers be instructed to prepare the necessary legislation for the implementation of a new single Property Tax to be in place by 1st January 2020.

Item II Elections 2018

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

"Section 28(1) of the Government of Alderney Law, 2004, as amended states that the States shall appoint a day not earlier than 14th November and no later than 14th December on which an ordinary election shall be held for the purpose of electing members of the States in place of the members whose terms of office expire at the end of 2018, namely Mr Matthew Birmingham; Mr Graham McKinley; Mrs Norma Paris; Mr Steve Roberts and Mr Ian Tugby.

Saturday 1st December 2018 has been identified as the day for the Ordinary Election. Nominations to be received during the seven days ending at 4pm on Monday 19th November 2018.

The Plebiscite to take place on Saturday 8th December 2018. Nominations to be received during the seven days ending at 4pm on Tuesday 4th December 2018.

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

J Dent, Chairman"

The States of Alderney is asked to approve:

- i. the date of the Ordinary Election be Saturday 1st December 2018; and**
- ii. the Plebiscite be held on Saturday 8th December, 2018.**

Item III The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018

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

"The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 (The "Law") is broadly equivalent in scope and purpose to the UK's European Union (Withdrawal) Bill. Because so much about the process of Brexit is still unsure and undecided, the Law has been drafted to provide as much legislative flexibility as possible for the Bailiwick.

It has four primary purposes:

- 1. To repeal the European Communities (Bailiwick of Guernsey) Law, 1973 ("the 1973 Law"), and thus turn off the flow of European legislation which is directly applicable in the Bailiwick pursuant to Protocol 3 (see section 1);*

2. To preserve in domestic law that directly applicable EU legislation which had effect in the Bailiwick immediately before exit day ("Preserved EU law") (see section 2), to avoid a legal black hole on exit day;
3. To provide a suitable mechanism to amend and repeal both Preserved EU law and other enactments at short notice where that is necessary and expedient in consequence of the repeal of the 1973 Law or otherwise in consequence of Brexit (see the regulation making power at section 5); and
4. To make appropriate provision in relation to the interpretation, and status, of EU law after exit (see sections 6 to 8).

In all of this, and in the transitional provision it makes in Schedule 1, it is broadly consistent with provision within the UK Withdrawal Bill.

The Law does not require the preparation of what purports to be a comprehensive list of Preserved EU law. Instead, at section 3(2) there is a more general power for the Policy & Resources Committee (after consultation with HM Procureur) to publish information relating to Preserved EU law. In addition the Law makes provision in respect of any Withdrawal Agreement that the UK may enter into with the EU and which has application in the Bailiwick.

Section 1 repeals the 1973 Law on exit day (defined as 11pm on 29 March 2019, or such other day as the Policy & Resources Committee may appoint by regulations) but also provides that regulations under section 5 can amend the 1973 Law before exit day.

Section 2 preserves EU provisions (another defined term) in domestic law on exit day, subject to amendment by section 5 regulations and to the provisions of any enactment coming into force on or after exit day.

Section 3 provides that such saved EU provisions are Preserved EU law.

Section 4 is a 'for the avoidance of doubt' provision, making clear that Ordinances under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994 ("the Implementation Law") and other enactments implementing EU provisions continue to have effect, notwithstanding the repeal of the 1973 Law.

Section 5 gives power to amend or repeal Preserved EU law and other enactments by regulation where that is necessary and expedient in consequence of the repeal of the 1973 Law or otherwise in consequence of Brexit. To provide for enhanced scrutiny and protection in respect of the exercise of this wide power, it sets out a process of certification by HM Procureur at subsection (3); this regulation making power sits with the relevant Alderney and Sark Committees where exercised solely in respect of those Islands.

Sections 6 and 7 deal with the interpretation of legislation and other related matters after 'the designated day', which day is to be appointed by regulations made by the Policy & Resources Committee. If there is a transition period during which EU law continues to have effect, it is intended that the designated day will be the end of that transition period; if there is not, the designated day will simply be the same as exit day.

Section 8 deals with the status of Preserved EU law in the context of the Human Rights (Bailiwick of Guernsey) Law, 2000 and the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016.

Section 9 gives power to the States to make provision in relation to any Withdrawal Agreement (a defined term – see section 12), including provision equivalent to provision in the 1973 Law, thus enabling the States to provide for EU law to continue to have effect during a transition period. It also allows for such an Ordinance to provide that EU law which comes into force and is applicable in the Bailiwick during that period to be Preserved EU law.

Section 10 deems the EU Charter of Fundamental Rights to be an EU provision for the purposes of the Implementation Law and thus susceptible to implementation by Ordinance under that Law.

Section 11 makes provision in respect of Ordinances and regulations made under the Law; subsections (6) to (10) are concerned with regulations made under section 5.

Section 12 is the interpretation section, section 13 gives effect to the two Schedules, and sections 14 and 15 deal with citation and commencement.

Schedule 1 contains consequential, transitional and saving provisions, including amendments to the 1973 Law and the 1994 Law.

Schedule 2 contains the updated definition of "the EU Treaties".

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

J Dent, Chairman"

The States of Alderney is asked to approve the Projet de Loi entitled "The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

Note; A copy of the Projet de Loi entitled "The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018" may be viewed at the President's Office, Island Hall, and in the Library.

Item IV The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018

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

"As a result of the UK's withdrawal from the European Union, the Bailiwick of Guernsey requires a suitable mechanism to implement any international trade agreements to which it is a party, whether due to its inclusion by the UK or in its own right. It may also wish to implement such agreements in the future where there is no connection with the UK's withdrawal. The purpose of this enabling Law is to provide that mechanism.

Section 1 of the Law permits the States of Deliberation (in relation to Guernsey and the Bailiwick as a whole) and the States of Alderney and the Chief Pleas of Sark (in relation to their respective islands) to enact Ordinances where it is necessary or expedient for the purpose of implementing any international trade agreement or resolving trade disputes arising from an international trade agreement. Section 2 makes general provision in respect of Ordinances made under section 1, and the remaining sections deal with interpretation, citation and commencement.

The Law defines an "international trade agreement" as a free trade agreement, any other international agreement that relates to trade, and the Agreement on Government Procurement of the World Trade Organisation.

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

J Dent, Chairman"

The States of Alderney is asked to approve the Projet de Loi entitled “The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

Note; A copy of the Projet de Loi entitled “The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018” may be viewed at the President’s Office, Island Hall, and in the Library.

Item V **Code of Conduct Review Panel**

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

“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 5th 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*

This recommendation was approved at the States Meeting on 10th January 2018. However, the President has recently received notice from Mrs Pearson of her resignation. As it is important to ensure there are sufficient panel members available to form a panel allowing for absences from the island, it was proposed that Mr Peter Allen be appointed to the Panel. This matter was discussed at the Policy and Finance Committee meeting of the 22nd June 2018 where the Committee resolved to approve the recommendation that Mr Allen be appointed as member of the Code of Conduct Panel.

J Dent, Chairman”

The States of Alderney is asked to approve that Mr Peter Allen be confirmed as a Member of the States Members Code of Conduct Review Panel until the next Annual January Meeting of the States of Alderney.

Item VI **The Renewable Energy (Alderney) (Exemptions) Regulations, 2018**

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

“The Alderney Commission for Renewable Energy made the above Regulations on the 2nd July 2018 which came into operation on the same day.

The Regulations amend section 1(2) of the Renewable Energy (Alderney) Ordinance, 2008. This subsection provides for an exemption from the licensing requirements in the Ordinance for a renewable energy activity carried out in relation to renewable energy systems which heat water for the sole use of premises in which they are installed or which generate electricity (not fed into a network for public supply) and have a rated maximum output of no more than 20 kilowatts. The effect of the amendment is to extend the exemption from systems, any part of which are located at sea, to all systems including solely land based systems.

Under section 30(5) of the Renewable Energy (Alderney) Law, 2007 any regulations made under the Law must be laid as soon as practicable before a meeting of the States.

I would be grateful if you would place the Renewable Energy (Alderney) (Exemptions) Regulations, 2018 before the next meeting of the States of Alderney pursuant to Section 30(5) of the Renewable Energy (Alderney) Law, 2007 with an appropriate proposition.

J Dent, Chairman”

The States of Alderney is asked to resolve that ‘The Renewable Energy (Alderney) (Exemptions) Regulations, 2018’ not be annulled.

Item VII Questions and Reports

Issued: 13th July 2018