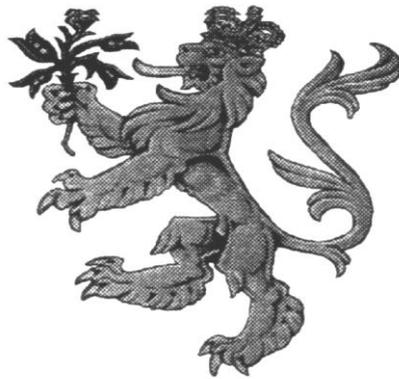


STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 14TH NOVEMBER 2018

Price: £2.25

STATES OF ALDERNEY

BILLET D'ETAT

FOR WEDNESDAY 14TH NOVEMBER 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 14th November 2018. This will be preceded by the People's Meeting, which will be held on Wednesday 7th November 2018 at 7:00 pm in the Island Hall.

W Stuart Trought
President

Item I **By-Election 2018**

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

“Due to the resignation of Mr Tony Barnes, there now exists a casual vacancy among Members of the States of Alderney for which there will be a need to hold a by-election for the remaining term of his office.

The Government of Alderney Law, 2004 as amended, states under section 28(3) “If a casual vacancy occurs among the members, the States shall appoint a day not later than three months after the vacancy occurs on which there shall be held a by-election,”

The options for by-election dates are very limited because the three month timescale takes us into the Christmas and New Year period. The latest date for a by-election would be the 9th January (or the 5th January if the traditional Saturday polling day was adhered to). However, the nomination period would be within the Christmas / New Year holiday and this would not be good electoral practice.

Combining the by-election with the 1st December General Election has been considered but this is problematic because candidates could submit nominations for both elections and, if the successful candidate in the by-election was also successful in the General Election there would be a legal doubt over which election place took precedence. It would also lead to a further by-election. There could also be confusion for the electorate with the same candidates appearing on two separate ballot papers. Saturday 15th December has also been considered but this is Homecoming Day and a number of practical difficulties would arise.

Having considered this issue in detail, it is recommended that Monday, 17th December should be chosen as the date to hold a by-election for the remaining two year period of office, taking into consideration that the Ordinary Election has been approved by the States, at its meeting on 25th July, to be held 1st December. This would allow the General Election to be concluded whilst the nomination period for the by-election is still open so that potential candidates would not need to nominate for the by-election unless they wished to do so after being unsuccessful in the General Election.

A further issue identified is whether the Plebiscite date, which has been decided as the 8th December 2018, should be moved to the 17th December 2018 and combined with the by-election to simplify the processes and reduce the cost.

The following arrangements are therefore proposed:

- *Nominations to be received during the seven days ending at 4pm on Thursday, 6th December 2018*
- *The Polling day to be Monday, 17th December 2018 and that the Polling room be the Members Room of the Island Hall, Royal Connaught Square.*

The successful candidate will hold office for the remainder of Mr Barnes's term of office which ends on 31st December 2020.

James Dent, Chairman"

The States is asked to approve of the arrangements for the By-Election 2018 to be held on Monday 17th December 2018.

Item II Transfrontier Shipment of Waste (Alderney) Ordinance, 2018

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

"The Transfrontier Shipment of Waste (Alderney) Ordinance, 2018 repeals and replaces the current Transfrontier Shipment of Waste (Alderney) Ordinance, 2002. The new and current Ordinance give effect in Alderney, with appropriate modifications, to European Union waste shipment legislation. The European Union legislation provides for a system of controlling waste shipments which differs depending on the nature of the waste (how hazardous), the process it is undergoing (whether for disposal or recovery) and the country to which it is being sent. Giving effect to the European Union legislation is also the means through which Alderney (and the other islands in the Bailiwick under their own similar Ordinances) meet the requirements of international agreements relating to waste shipments which apply to the Bailiwick.

Prior informed notification and consent of the competent authorities of destination (import), dispatch (export) and transit is needed for all shipments for disposal of waste and for recovery of hazardous and semi-hazardous waste. Shipments of green listed waste for recycling etc. generally have to meet less onerous requirements relating to the information to accompany the shipment and environmentally sound management.

The main difference from the 2002 Ordinance is that the new Ordinance clearly gives effect in Alderney to the current 2006 EU Waste Shipment Regulation rather than referring on its face to the previous 1993 EU Regulation.

This has resulted in changes to the detailed procedure in the main body of the Ordinance to reflect differences in the 2006 EU Regulation from the previous EU Regulation in particular in relation to financial guarantees or equivalent insurance required to be in place when waste is shipped. These are required to cover the cost of taking-back or otherwise dealing appropriately with waste when a shipment is illegal or otherwise does not meet relevant requirements. The financial guarantee etc. is now required only to be approved by the competent authority of dispatch/export. This makes no substantive difference for Alderney as imports of waste into the Island are prohibited so that the 2002 Ordinance only provides for a certificate to be issued by the Alderney competent authority for all shipments out of Alderney; under the new

system in the EU the competent authority of import does, however, have a power to review the cover approved by the exporting authority. Therefore, if Alderney were to export waste to an EU country, the competent authority of destination/import would have a power under their own legislation to review the cover required by the Alderney competent authority.

The Ordinance provides for consents for waste shipments and other regulatory functions to be carried out by the Director of Environmental Health and Pollution Regulation¹ (the Director) on behalf of the States of Alderney. It also provides for the waste import and export plan for Alderney to be prepared by the Policy and Finance Committee, acting on the advice of the Director. The proposed Director functions are currently carried out by the States of Guernsey Committee for Health & Social Care. The transfer of functions is also mirrored in the Guernsey and Sark Transfrontier Shipment Ordinances as it was considered more appropriate for the Director to carry out and be responsible for the relevant functions although in practice the same people with the relevant technical skills will be carrying out the work.

The prohibition against export of waste for disposal to Jersey has been removed as the UK's ratification of the Basel Convention on the control of trans-boundary movements of hazardous waste and their disposal is now extended to Jersey. More modern and comprehensive enforcement provisions are also included in relation to non-compliant waste shipments.

Amendments have been made in relation to the waste plan for waste shipments required to be prepared under the Ordinance. The current requirement for a waste export plan is extended to cover imports. Amendments have also been made so that obligations under international agreements, relating to waste shipments, applying in the Bailiwick are expressly required to be taken into account in the preparation of the waste import and export plan. The Plan has been prepared by the Policy and Finance Committee, acting on the advice of the Director, for submission to the States of Alderney and new powers are added for the Director to object to shipments into, out of and in transit through Alderney on certain grounds set out in the 2006 EU Regulation.

Modifications to the 2006 EU Regulation are set out in the Schedule to the Ordinance in particular so that it only applies to waste shipments into, from and in transit through Alderney and to adapt relevant references to competent authorities and the European Community to refer to the Alderney competent authority and Alderney. The modifications also dis-apply certain provisions such as those which are not relevant to Alderney and the enforcement provisions as specific enforcement provisions are included in the main body of the Ordinance. An unofficial, consolidated version of the 2006 EU Regulation as modified by the Schedule has been prepared and will be made available for those carrying out waste shipments.

Paragraphs 17 to 21 of the Schedule contain the modifications to the main prohibitions in relation to waste shipments. These are largely unchanged in effect from the provisions in the Schedule to the 2002 Ordinance except for the lifting of the prohibition on the export of waste for disposal to Jersey and the stricter prohibition on the export of waste for recovery to non-OECD Decision countries². In particular, the existing prohibition on the import of waste into Alderney is retained.

I would be grateful if you would place 'The Transfrontier Shipment of Waste (Alderney) Ordinance, 2018' and the 'States of Alderney Management Plan for Importation and Exportation of Waste' before the next meeting of the States of Alderney with an appropriate proposition.

¹Appointed under the Environmental Pollution (Guernsey) Law, 2004

²These are countries to which the OECD decision relating to the control of transboundary movements of wastes destined for recovery operations does not apply. The OECD decision does apply to the Bailiwick. Generally non-OECD decision countries are those which have fewer facilities for the environmentally sound recovery of waste.

James Dent, Chairman"

The States of Alderney is asked to approve

1. "The Transfrontier Shipment of Waste (Alderney) Ordinance, 2018"

and

2. The States of Alderney Management Plan for Importation and Exportation of Waste.

Item III **Questions and Reports**

The attached Reports, for information purposes, were received from Mr Dent, Chairman of the Policy & Finance Committee:-

- (a) Royal Connaught Residential Home Limited – Financial Statements 2017
- (b) Alderney Commission for Renewable Energy – Financial Statements 2017

Issued: 2nd November 2018