

THE BAILIFF OF GUERNSEY
SIR RICHARD COLLAS

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THE BAILIFF'S CHAMBERS
ROYAL COURT HOUSE
GUERNSEY GY1 2NZ

The President
States of Alderney
Island Hall
Royal Connaught Square
ALDERNEY
GY9 3UE

14th December, 2018

Dear Sir

On the 7th June, 2017, the States of Deliberation resolved as follows:-

“IIV: After consideration of the Policy Letter entitled “Implementation of International Sanctions Measures” dated 28th March, 2017 of the Policy & Resources Committee:-

(i) to agree to the introduction of a Bailiwick-wide Law for the implementation of sanctions:

(ii) to the introduction of regulation-making powers for the Policy & Resources Committee to enable the implementation of EU and UN sanctions measures across the Bailiwick as a whole;

(iii) to agree to the introduction of measures to permit the future direct implementation of UK sanctions measures in Bailiwick law;

(iv) to approve the enactment of related measures including powers to obtain and share information; permitting reliance on a certificate from a UK Secretary of State in respect of sensitive or closed source material in the interests of national security; and any necessary consequential amendments; and

(v) to direct the preparation of such legislation as may be necessary to give effect to the forgoing”.

The Policy Letter referred to above is enclosed for reference.

At the 12th December, 2018 meeting, the States of Deliberation will consider approving the draft Projet de Loi entitled "The Sanctions (Bailiwick of Guernsey) Law, 2018".

I enclose three copies of the Projet de Loi and shall be obliged if you will place it before the States of Alderney for their approval at their next meeting.

Yours faithfully,

A handwritten signature in blue ink, appearing to be "R. Collas", is written below the text "Yours faithfully,".

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

IMPLEMENTATION OF INTERNATIONAL SANCTIONS MEASURES

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 28 March 2017 of the Policy & Resources Committee, they are of the opinion:-

- (i) to agree to the introduction of a Bailiwick-wide Law for the implementation of sanctions;
- (ii) to the introduction of regulation-making powers for the Policy & Resources Committee to enable the implementation of EU and UN sanctions measures across the Bailiwick as a whole;
- (iii) to agree to the introduction of measures to permit the future direct implementation of UK sanctions measures in Bailiwick law;
- (iv) to approve the enactment of related measures including powers to obtain and share information; permitting reliance on a certificate from a UK Secretary of State in respect of sensitive or closed source material in the interests of national security; and any necessary consequential amendments; and
- (v) to direct the preparation of such legislation as may be necessary to give effect to the foregoing.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

POLICY & RESOURCES COMMITTEE

IMPLEMENTATION OF INTERNATIONAL SANCTIONS MEASURES

Presiding Officer
Royal Court
St Peter Port
Guernsey

28 March 2017

Dear Sir

1. Executive Summary

- 1.1 The Bailiwick has long been committed to the effective implementation of sanctions that bodies such as the United Nations ("UN") and the European Union ("EU") impose to achieve international policy objectives. Sanctions may take the form of restrictions that are applicable to particular countries, such as prohibitions on investment or the supply of arms, commodities and related technical or financial services, or targeted financial restrictions such as asset freezes that are applicable to named individuals or entities. Speed of implementation is essential for all forms of sanctions, and this is particularly so in the case of targeted financial restrictions given the ease with which financial assets can be moved and the attendant risk of asset flight. The immediate implementation of certain UN sanctions relating to the financing of terrorism and weapons proliferation is also a requirement of the Financial Action Task Force's Recommendations in relation to money laundering, terrorist financing and the financing of weapons proliferation ("FATF standards"). Therefore, it is clearly of the utmost importance to the Bailiwick's reputation as a major international financial centre that every effort is made to give effect to sanctions as quickly as possible.
- 1.2 The Policy & Resources Committee, which (as the successor to the Policy Council for these purposes) is the competent authority for most sanctions measures across the Bailiwick, has reviewed the current legislative process for the implementation of both UN and EU sanctions within the Bailiwick and concluded that in general it works well but there are some respects in which it could be improved; primarily that EU sanctions are currently implemented independently for Guernsey, Alderney and Sark rather than on a Bailiwick- wide basis, and that enhancements could be made to the process for giving effect to UN measures. Change in these areas would also address a specific recommendation about implementation of sanctions in the report published by MoneyVal in January 2016 on its assessment of the Bailiwick's framework for anti-money laundering and combatting the financing of terrorism.
- 1.3 It is therefore recommended that primary legislation should be introduced to enable the Policy & Resources Committee to give effect to EU and UN sanctions by regulations on a Bailiwick- wide basis, subject to any modifications that may be required either to

facilitate effective implementation domestically or to ensure compliance with international obligations such as the FATF standards. It is further recommended that the legislation should provide for a possible future amendment to give direct effect on a Bailiwick-wide basis to UK measures implementing UN sanctions, in the event that the States of Deliberation consider it expedient to do this following related legislative developments in the UK.

2. Background

- 2.1 The Bailiwick is obliged as a matter of international law to give effect to UN sanctions measures under the UN Charter, which was extended to the Bailiwick upon the United Kingdom's ratification in 1945. Until the 1990s, sanctions were implemented in the Bailiwick (as in the other Crown Dependencies and the Overseas Territories) by Orders in Council applicable to the Bailiwick as a whole under Section 1 of the United Nations Act 1946; and the swift introduction of an Order in Council, either to implement a new sanctions regime or to amend an existing one, was difficult to achieve in practice. Therefore, a new approach developed in the late 1990s, by when the EU had begun to give effect to UN sanctions within the EU and in addition to impose its own autonomous sanctions. This involved the Bailiwick implementing all EU sanctions measures by Ordinances under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994 ("EU Implementation Law") that gave direct effect to the relevant measures within Guernsey, Alderney and Sark respectively. This process enabled the swift implementation of UN sanctions as well as of autonomous EU sanctions.
- 2.2 This is now the way in which all sanctions measures are implemented in the Bailiwick, apart from a small number of longstanding Orders in Council under the United Nations Act which remain in force and one other more recent exception in relation to certain UN sanctions concerning terrorism which are implemented by the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 ("Terrorist Asset Freezing Law"). This is primary Bailiwick-wide legislation which imposes targeted financial sanctions on persons designated by the Policy and Resources Committee, by the EU or by HM Treasury under the UK's Terrorist Asset Freezing etc. Act 2010.
- 2.3 International developments in recent years such as events in the wake of the so-called "Arab Spring", weapons proliferation in Iran and North Korea and the rise of terrorist organisations such as ISIL have led to sanctions being enacted at an unprecedented level, with a corresponding need to enact much more sanctions legislation within the Bailiwick than was previously the case. It is this unprecedented level of work that has highlighted the benefits of modifying the current process in the respects set out below.

3 Proposals for change

3.1 Bailiwick-wide legislation

3.1.1 Historically, sanctions measures were implemented on a Bailiwick-wide basis because, as indicated above, Orders in Council under the United Nations Act were applied across the Bailiwick as a whole, in the same way as other measures with an international aspect such as those enacted to comply with conventions or to extend UK immigration legislation. A Bailiwick-wide approach was also taken more recently in the Terrorist Asset Freezing Law. The current system of enacting separate measures for Guernsey, Alderney and Sark for other sanctions is not the result of any policy decision that the three islands should implement sanctions independently of one another. Rather, it is a consequence of the fact that the EU Implementation Law provides the only legal basis for Bailiwick secondary rather than primary legislation to implement sanctions and it requires separate Ordinances for each of Guernsey, Alderney and Sark for all measures made under it (nevertheless the Policy and Resources Committee is the designated competent authority under the Ordinances for all three islands).

3.1.2 Although the authorities in the islands work closely together to minimise any delays in introducing the necessary legislation, the overall process is cumbersome, and it would clearly be desirable to return to the approach of enacting sanctions measures on a Bailiwick-wide basis, but without being obliged to have recourse to the legislative process in the UK. Although this could be achieved by amending the EU Implementation Law, it would be preferable to introduce new primary legislation specifically relating to sanctions, as such legislation would enable the further matters referred to below to be addressed at the same time. It would also be preferable for the legislation to provide for EU sanctions to be implemented by regulations made by the Policy & Resources Committee, rather than by Ordinances made by the States. The process for the former is much quicker, and the use of regulations would be in line with the current approach in the UK, where HM Treasury may make regulations to give effect to those aspects of EU sanctions measures that are not automatically effective domestically, as well as with the position in Jersey, where legislation was introduced in 2014 to enable sanctions to be implemented by Ministerial Order.

3.2 Implementation of UN Sanctions

3.2.1 It is a requirement of UN sanctions measures that countries implement them without delay. This obligation is binding on the Bailiwick under the UN Charter and is also a requirement of the FATF standards in relation to UN sanctions concerning terrorist financing and the financing of weapons proliferation. Reliance on the EU Implementation Law to implement UN sanctions means that there could be a gap in the sanctions framework in the period before the EU enacts legislation to give effect to a new sanctions regime introduced by the UN or to amendments made by the UN to an existing regime. The potential for this to happen has been increased following a decision of the European Court of Justice, which has led to enhanced processes the EU must follow before mirroring sanctions imposed by the UN. Although the time taken by the EU to implement UN measures is still usually of fairly short duration, a delay of any length may increase the risk of asset flight and could in some circumstances also constitute a technical breach of the UN measures and the FATF standards. This point

was made in the recent Moneyval report on the Bailiwick's compliance with the FATF standards.

- 3.2.2 All jurisdictions that meet their UN and FATF obligations by implementing EU measures face this issue. As a consequence, many of these jurisdictions are looking at addressing it or have introduced domestic legislation to do so. This includes the UK, which before the recent referendum vote to leave the EU was in the process of introducing legislation enabling UN measures to be given domestic effect by regulations on an interim basis, pending the enactment of corresponding EU measures. Although it is not yet clear how the UK will now proceed in the light of the referendum result, the advantages of implementing UN measures solely on an interim basis in this way are unchanged. There would not be two parallel and overlapping regimes in place, which would otherwise be the case given that there would still be a need to implement EU measures in order to give effect to autonomous EU sanctions, and in addition, relying on EU rather than UN measures on an indefinite basis may be more compatible with human rights and similar obligations because, unlike the UN, the EU has a legal process in place for challenging a listing that is available to affected parties.
- 3.2.3 For Bailiwick purposes, it is recommended that new sanctions legislation should include a power for the Policy & Resources Committee to make interim or final regulations to implement UN measures; and empower the States of Deliberation to amend the legislation by Ordinance so as to give direct effect in the Bailiwick to interim listings under UK legislation in a similar way to the approach taken under the Terrorist Asset Freezing Law, in the event that this is judged to be a better way forward for the Bailiwick when the final UK position is known. The amending power should also be wide enough to permit amendments reflecting any future changes that may be made to the UK sanctions framework as a result of the decision to leave the EU.
- 3.2.4 These provisions, together with a permissive extent clause in the UK legislation in the event that it proceeds enabling the extension of interim designations made under it to the Bailiwick by Order in Council, would mean that all options remain open to the Bailiwick authorities pending the finalising of the UK position, without the need for further primary legislation.

3.3 Other measures

- 3.3.1 To facilitate effective implementation of the sanctions framework, the legislation should make provision for related measures such as powers to obtain and share information. In addition, it should permit the introduction of a mechanism to address potential situations where sensitive or closed source, i.e. secret, material is relevant to a decision in respect of sanctions. Such a mechanism, which is likely to be required in exceptional circumstances only, would allow a competent authority within the Bailiwick to rely on a certificate from a UK Secretary of State in respect of sensitive or closed source material in the interests of national security without the need to view that underlying material. Provision should also be made for any necessary

consequential amendments to existing legislation (which may include its repeal and replacement), to ensure consistency across the framework as a whole.

4. Consultation

- 4.1 The Law Officers have been consulted and raise no legal objection to the proposals in this policy letter.

5 Alderney

- 5.1 The Policy & Resources Committee has consulted with the Policy and Finance Committee of the States of Alderney. The committee supports the proposals in this policy letter.

6 Sark

- 6.1 The Policy & Resources Committee has consulted with the Policy and Performance Committee of the Chief Pleas of Sark. The committee supports the proposals in this policy letter.

7 Resources

- 7.1 The Policy & Resources Committee does not consider there to be any significant resource implications associated with the implementation of these proposals. HM Procureur advises that she does not expect the introduction of this legislation will place any significant additional burden on the resources of St James Chamber or the Royal Court and, in the longer term, it is likely to reduce the burden on drafting and other resources involved in enacting secondary legislation as it will remove the need for separate enactments for Guernsey, Alderney and Sark.

8 Recommendations

- 8.1 The States are asked to decide whether they are of the opinion:-
- (i) to agree to the introduction of a Bailiwick-wide Law for the implementation of sanctions;
 - (ii) to the introduction of regulation-making powers for the Policy & Resources Committee to enable the implementation of EU and UN sanctions measures across the Bailiwick as a whole;
 - (iii) to agree to the introduction of measures to permit the future direct implementation of UK sanctions measures in Bailiwick law;
 - (iv) to approve the enactment of related measures including powers to obtain and share information; permitting reliance on a certificate from a UK Secretary of State in

respect of sensitive or closed source material in the interests of national security; and
any necessary consequential amendments; and

- (v) to direct the preparation of such legislation as may be necessary to give effect to the foregoing.

9 Propositions

- 9.1 In accordance with Rule 4(4) of The Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions accompanying this policy letter are supported unanimously by the Policy & Resources Committee.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

A H Brouard
J P Le Tocq
T J Stephens

**IN THE STATES OF THE ISLAND OF GUERNSEY
ON THE 7th DAY OF JUNE, 2017**

**The States resolved as follows concerning Billet d'État No XI
dated 19th May, 2017**

**ELECTION OF A MEMBER OF THE LADIES' COLLEGE BOARD OF GOVERNORS
P. 2017/47**

I: To elect Advocate Caroline Chan as a member of the Ladies' College Board of Governors to replace Advocate B. P. G. Morgan whose term of office expired on 31st May 2017, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

No. 20 of 2017

THE LIQUOR LICENCE (FEES) REGULATIONS, 2017

In pursuance of Section 99(3) of the Liquor Licensing Ordinance, 2006, the Liquor Licence (Fees) Regulations, 2017, made by the Committee for Home Affairs on 12th April 2017, was laid before the States.

No. 21 of 2017

THE WEIGHTS AND MEASURES (FEES) REGULATIONS, 2017

In pursuance of Section 8(5), 61 and 62 of the Weights and Measures (Guernsey and Alderney) Law 1991, the Weights and Measures (Fees) Regulations 2017, made by the Committee for Home Affairs on 12th April 2017, was laid before the States.

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

REGULAR STATEMENTS BY COMMITTEE PRESIDENTS

P.2017/44

II: After consideration of the attached policy letter:-

1. To amend the Rules of Procedure of the States of Deliberation and their Committees with immediate effect as follows:

insert at the end of Rule 1(1) the following sentence:

"With effect from the 1st September, 2018 the policy letter referred to above shall also include proposals setting out the Committee or Committees whose President or Presidents will be obliged to make statements, and for the States of Alderney statement to be made by one of the Alderney Representatives, under the provisions of Rules 10(4)

and (5) at each ordinary Meeting during the said period."

and insert before the "." at the end of Rule 10(1) the following text:

“;

Provided that the Member has supplied the Presiding Officer with the text of the statement in advance”

and delete the proviso at the end of Rule 10 and replace it with the following new Rules:

“10(4) In addition to the right to make a statement set out in paragraph (3) above, the President of the Policy & Resources Committee and the President of each Principal Committee shall be obliged twice every twelve months and the President of the following other Committees of the States, namely the Development & Planning Authority, Overseas Aid & Development Commission, Scrutiny Management Committee, States’ Assembly & Constitution Committee, States’ Trading Supervisory Board, and Transport Licensing Authority, and the nominated Alderney Representative on behalf of the States of Alderney, shall be obliged once every twelve months (or in the case of the absence of a Committee President, the Vice President of the Committee or in the case of the absence of the nominated Alderney Representative, the other Alderney Representative) to make a statement setting out his or her Committee's, or in the case of the nominated Alderney Representative the States of Alderney's, recent activities, forthcoming work and the like at an ordinary Meeting.

10(5) Any statement made under the provisions of paragraph (4) shall not exceed 10 minutes in duration. In respect of statements made under the provisions of paragraph (4) only, after the statement has been made, the Presiding Officer shall allow a period not exceeding 20 minutes (which period may be extended at the discretion of the Presiding Officer) for questions to be asked on any matter within the mandate of the Committee, or in the case of any statement made on behalf of the States of Alderney any matter for which the States of Alderney has responsibility, except any topic which is part of another item of business at the Meeting in question;

Provided that:

the Member to whom questions are addressed may decline to answer a question if, in his or her opinion, any answer given might be inaccurate or misleading. Each individual question shall not exceed one minute in duration and the answer thereto shall not exceed one and a half minutes in duration.

10(6) For the purpose of paragraph (4) above the "nominated Alderney Representative" means the Alderney Representative nominated for the

purpose of Rule 10 by the States of Alderney.

and insert after Schedule 1 to the Rules an additional Schedule as follows:

“Schedule 1a

Rota of statements by Presidents of Committees of the States and the nominated Alderney Representative.

2017

States Meeting	Committee/s / States of Alderney to make Statement
6 September	Policy & Resources Committee
27 September	Committee <i>for</i> Economic Development and Development & Planning Authority
18 October	Committee <i>for</i> Education, Sport & Culture
7 November (Budget)	n/a
8 November	Committee <i>for</i> Home Affairs and Overseas Aid & Development Commission
29 November	Committee <i>for the</i> Environment & Infrastructure
13 December	Committee <i>for</i> Health & Social Care

2018

States Meeting	Committee/s / States of Alderney to make Statement
17 January	Committee <i>for</i> Employment & Social Security
7 February	Scrutiny Management Committee and States' Assembly & Constitution Committee
28 February	Policy & Resources Committee and the States of Alderney
21 March	Committee <i>for</i> Economic Development
18 April	Committee <i>for</i> Education, Sport & Culture and States' Trading Supervisory Board
16 May	Committee <i>for the</i> Environment & Infrastructure
5 June (P&R Plan Phase 2)	n/a
6 June	Committee <i>for</i> Employment & Social Security and Transport Licensing Authority
26 June (Accounts)	n/a
27 June	Committee <i>for</i> Health & Social Care
18 July	Committee <i>for</i> Home Affairs

”

And

To agree in respect of the twelve-month period beginning on the 1st September, 2017 that such statements shall be made by the Presidents and, in the case of the

States of Alderney, the nominated Alderney Representative according to the rota set out in Schedule 1a to the Rules. In respect of any States' Meeting after the 1st September, 2018 the States' Assembly & Constitution Committee shall propose the rota in accordance with the provisions of Rule 1(1).

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

DOUZAINE REPRESENTATIVES IN THE STATES OF ELECTION P.2017/45

III: After consideration of the attached policy letter, that the allocation of Douzaine Representatives in the States of Election shall be changed with immediate effect so that St Peter Port has ten Douzaine Representatives and St Saviour has one Douzaine Representative.

POLICY & RESOURCES COMMITTEE

IMPLEMENTATION OF INTERNATIONAL SANCTIONS MEASURES P.2017/38

IV: After consideration of the Policy Letter dated 28 March 2017 of the Policy & Resources Committee:-

- (i) to agree to the introduction of a Bailiwick-wide Law for the implementation of sanctions:
- (ii) to the introduction of regulation-making powers for the Policy & Resources Committee to enable the implementation of EU and UN sanctions measures across the Bailiwick as a whole;
- (iii) to agree to the introduction of measures to permit the future direct implementation of UK sanctions measures in Bailiwick law;
- (iv) to approve the enactment of related measures including powers to obtain and share information; permitting reliance on a certificate from a UK Secretary of State in respect of sensitive or closed source material in the interests of national security; and any necessary consequential amendments; and
- (v) to direct the preparation of such legislation as may be necessary to give effect to the foregoing.

POLICY & RESOURCES COMMITTEE

WIRE TRANSFER LEGISLATION P.2017/42

V: After consideration of the Policy Letter dated 18th April, 2017, of the Policy & Resources Committee:-

1. To agree that an Ordinance should be enacted under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994 to implement Regulation (EU) 2015/847 in Guernsey, subject to appropriate adaptations, exceptions and modifications, and to repeal the Transfer of Funds (Guernsey) Ordinance, 2007; and
2. To direct the Law Officers to prepare such legislation as may be necessary to give effect to the above, including any necessary or expedient supplemental and consequential provision.

POLICY & RESOURCES COMMITTEE

A REGULATORY FRAMEWORK FOR PENSION SCHEMES AND THEIR PROVIDERS P.2017/43

VI: After consideration of the Policy Letter dated 25th April 2017, of the Policy & Resources Committee:-

1. To agree in principle to the enactment of a Projet de Loi to create the necessary legal foundation for the establishment of a new regulatory framework for pension schemes and their providers; and
2. To direct the Policy & Resource Committee to present to the States a further report outlining the detailed requirements of such legislation within a period of 12 months from the date of the States' decision.
3. To agree to the enactment of Ordinance under the Income Tax Law (Guernsey) Law, 1975 making relevant amendments to that legislation to provide for the approval of further pension schemes and the ability for the Director of Income Tax to require consistent reporting of information concerning those schemes.

S.M.D. ROSS

HER MAJESTY'S DEPUTY GREFFIER