

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

THE ALDERNEY PROPERTY TAX (ENABLING PROVISIONS) LAW, 2020

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Alderney Property Tax (Enabling Provisions) Law, 2020", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

This proposition has 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.

EXPLANATORY MEMORANDUM

The Alderney Property Tax (Enabling Provisions) Law, 2020, which is closely based on the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005, empowers the States of Alderney by Ordinance to make provision in relation to the taxation of real property in Alderney. The new tax will be called "Alderney property tax".

Alderney property tax will be based (so far as assessment, liability, administration and collection are concerned) on Guernsey's current taxation of real property regime ("TRP"), which will continue to have effect in Alderney but will from the 1st January, 2021 be levied at a zero rate. Alderney property tax will also replace Alderney occupiers' rate, currently levied by Alderney Ordinance under the Alderney (Application of Legislation) Law, 1948.

Section 1 empowers the States of Alderney by Ordinance to make such provision as they think fit in relation to the taxation of real property in Alderney; defines "Alderney property tax" and "real property"; and lists the specific matters in relation to which an Ordinance under the Law may make provision.

Examples are the rates of, and the allowances, discounts and deductions in respect of, Alderney property tax; the times at which, the periods in respect of which, and the manner in which, Alderney property tax is payable; the classes, descriptions and categories of real property subject to Alderney property tax; the persons liable to pay Alderney property tax, and the persons excepted or exempted from liability; and

appeals in relation to the calculation, assessment and levying of Alderney property tax and the valuation, measurement, assessment and categorisation of real property.

Section 2 contains the standard general provisions and powers as to the making, amendment and repeal of Ordinances.

Section 3 lists specific enactments which may be amended by an Ordinance, including the Alderney (Application of Legislation) Law, 1948 and any enactment which refers to Alderney occupiers' rate and TRP.

Sections 4 and 5 deal respectively with interpretation and citation.

PROJET DE LOI

ENTITLED

The Alderney Property Tax (Enabling Provisions) Law, 2020

THE STATES, in pursuance of their Resolution of the 28th February, 2019^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey and Alderney.

Power to make Ordinances as to taxation of real property.

1. (1) The States of Alderney may by Ordinance make such provision as they think fit in relation to the taxation of real property in Alderney.

(2) In this Law -

"**Alderney property tax**" means any tax levied in respect of real property in Alderney under an Ordinance made under this Law,

"**real property**" means -

(a) land, buildings and other property in Alderney constituting immovable property under the law of

^a Article VIII of Billet d'État No. III of 2019.

Alderney, and

- (b) any other class or description of property in Alderney prescribed by Ordinance of the States of Alderney.

(3) Without prejudice to the generality of subsection (1), an Ordinance under this Law may make provision as to the following matters -

- (a) the rates of, and the allowances, discounts and deductions in respect of, Alderney property tax,
- (b) the times at which, the periods in respect of which, and the manner in which, Alderney property tax is payable,
- (c) the classes, descriptions and categories of real property subject to Alderney property tax,
- (d) the persons liable to pay Alderney property tax, and the persons excepted or exempted from liability,
- (e) the basis on which and the manner in which -
 - (i) real property is to be valued, measured and assessed for the purposes of Alderney property tax, and
 - (ii) Alderney property tax is to be calculated, assessed and levied,

- (f) the rate of Alderney property tax in respect of any class, description or category of real property,
- (g) the imposition of an enhanced rate or default rate of Alderney property tax in the event of non-compliance with any prescribed requirement,
- (h) the administration, payment, collection and recovery of Alderney property tax and the enforcement of liabilities to pay it,
- (i) the levying of interest and penalties in the event of the non-payment of Alderney property tax,
- (j) powers of entry for the purpose of valuing, measuring, assessing and categorising real property,
- (k) the preparation and maintenance of records and registers of real property in Alderney (which may, without limitation, be in addition to or in replacement of the Cadastre), and the funding of the costs of preparation and maintenance,
- (l) the information to be entered on those records and registers,
- (m) the public inspection and evidencing of those records and registers and the information in them,

- (n) the exchange between committees of the States of Alderney and the States of Guernsey and other public authorities of the Islands of information in respect of Alderney property tax and real property in Alderney,
- (o) the making of declarations and notifications, and the obtaining and exchanging of information, in respect of
 - (i) real property and the class, description or category into which any real property falls, and
 - (ii) the persons who own, or have any other prescribed interest in, real property, including (without limitation), where those persons are bodies corporate, the ownership and control of the bodies corporate and the shareholdings in them,
- (p) the confidentiality of information,
- (q) the making of assessments to Alderney property tax and the preparation of statements of account,
- (r) appeals in relation to the calculation, assessment and levying of Alderney property tax and the valuation, measurement, assessment and categorisation of real property, including the forum and grounds of such appeals and the parties thereto,

- (s) the establishment of a tribunal to deal with such appeals and a panel of persons from whom the members of the tribunal are to be drawn,
- (t) the jurisdiction and powers of the courts of Alderney, and the constitution and procedure of those courts, in relation to such appeals,
- (u) the imposition of time limits and other restrictions subject to which -
 - (i) any claim for the payment or repayment of Alderney property tax, and
 - (ii) any other proceedings in respect of the administration and enforcement of Alderney property tax,must be made or instituted,
- (v) the cancellation of liability to any description of tax or charge due under an enactment repealed, amended, modified or disapplied by an Ordinance under this Law,
- (w) anti-avoidance measures,
- (x) the charging or securing on real property of claims for unpaid Alderney property tax and penalties and interest in respect thereof, the priority to be given to

such claims, and the payment of such claims in preference to other debts and claims,

- (y) the service of notices,
- (z) the meaning of the expressions "Alderney property tax", "real property" and "the taxation of real property" in this Law.

General provisions as to Ordinances.

2. (1) An Ordinance under this Law -

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
- (b) may contain such consequential, incidental, supplementary, savings, transitional and other ancillary provisions as the States of Alderney think fit.

(2) Any power conferred by this Law to make an Ordinance may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any prescribed conditions,
- (iv) different provision for different classes, descriptions and categories of real property.

(3) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may make provision in relation to the creation, summary trial and punishment of offences in respect of contraventions of the Ordinance and as to the creation of new duties, obligations, liabilities, remedies, penalties, sanctions and other consequences (but subject to the provisions of subsection (4)),
- (b) may make provision for the purpose of dealing with matters arising out of or related to the taxation of real property,

- (c) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
 - (d) may empower any committee, and any other body (including, without limitation, the Court of Alderney), to make rules or regulations, whether as to matters in relation to which an Ordinance can be made under this Law or otherwise,
 - (e) may empower the States of Alderney to pass resolutions specifying or prescribing matters described in paragraph (d),
 - (f) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by *Projet de Loi* (including, without limitation, provision repealing, replacing, amending, extending, adapting, modifying or disapplying any enactment or rule of law, including customary or common law), but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.
- (4) No Ordinance of the States of Alderney under this Law -
- (a) may specify a penalty in respect of an offence triable summarily which exceeds -

- (i) the maximum penalty specified by the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007 in respect of a corresponding offence when tried summarily in Guernsey, or
- (ii) the limits of jurisdiction for the time being imposed on the Court of Alderney by section 13 of the Government of Alderney Law, 2004,

whichever is greater, or

- (b) shall increase the limits of jurisdiction for the time being imposed upon the Court of Alderney by section 13 of the Government of Alderney Law, 2004.

Specific enactments which may be amended, etc.

3. Without prejudice to the generality of the powers conferred by this Law, an Ordinance under this Law may repeal, replace, amend, adapt, modify or disapply any of the following enactments so far as they have effect in Alderney -

- (a) the Cadastre Law, 1947^b,
- (b) the Alderney (Application of Legislation) Law, 1948^c,

^b Ordres en Conseil Vol. XIII, pp. 78 and 381; there are amendments not material to this Law.

^c Ordres en Conseil Vol. XIII, p. 448; there are amendments not material to this Law.

- (c) the Preferred Debts (Guernsey) Law, 1983^d,
- (d) the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005^e,
- (e) any enactment made under any of the above Laws,
- (f) any enactment which refers to occupiers' rate, taxation of real property, annual rental value, rateable value and tax on rateable values (or any other tax or charge under an enactment repealed, replaced, amended, adapted, modified or disapplied by an Ordinance under this Law), and
- (g) this Law.

Interpretation.

4. In this Law, unless the context requires otherwise –

"**Alderney**" means the Island of Alderney,

"**Alderney property tax**" : see section 1(2),

"**Cadastre**" means the valuation carried out and maintained under the

^d Ordres en Conseil Vol. XXVIII, p. 184; there are amendments not material to this Law.

^e Order in Council No. X of 2006.

provisions of section 4 of the Alderney (Application of Legislation) Law, 1948,

"enactment" means any Law, Ordinance or subordinate legislation enacted (in each case) in the Islands,

"information" includes data, however recorded,

"Islands" means the Islands of Guernsey and Alderney,

"prescribed" means prescribed by an Ordinance, rule or regulation under this Law,

"real property" : see section 1(2).

Citation.

5. This Law may be cited as the Alderney Property Tax (Enabling Provisions) Law, 2020.