

STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 16TH NOVEMBER 2011

Price: £1.85

STATES OF ALDERNEY

BILLET D'ETAT FOR WEDNESDAY 16TH NOVEMBER 2011

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 16th November 2011. This will be preceded by the People's Meeting, which will be held on Wednesday 9th November 2011 at 7:00 p.m. in the Island Hall.

W Stuart Trought
President

Item I Public Holidays – Queen's Diamond Jubilee

The following letter has been received by Mr Beaman, Chairman of the Policy and Finance Committee:-

"Public Holidays in England and Wales will be changed in 2012 to mark the Queen's Diamond Jubilee. For 2012 the Spring Bank Holiday which falls at the end of May will be moved' to the alternative date of 4th June, and there will be an additional public holiday on Tuesday 5th June to create, with the preceding weekend, a four day break.

It is therefore proposed that to commemorate the Queen's Diamond Jubilee there should be the same public holidays in Alderney (and likewise in Guernsey) as in England and Wales. The Law Officer Chambers have been consulted and the attached ordinance "The Public Holidays (Alderney) (Queen's Diamond Jubilee)) Ordinance, 2011, has been prepared.

I would be obliged if The Public Holidays (Alderney) (Queen's Diamond Jubilee) Ordinance, 2011 could be placed before the States at its next meeting together with an appropriate proposition.

John Beaman
Chairman"

The States is asked to approve "The Public Holidays (Alderney) (Queen's Diamond Jubilee) Ordinance, 2011.

Item II Libya (Restrictive Measures) (Alderney) (Amendment) Ordinance, 2011

The following letter has been received from Mr Beaman, Chairman of the Policy and Finance Committee:-

"On 26th February 2011, in view of the seriousness of the situation in Libya a Resolution was made by UN Security Council (UNSCR 1970 (2011)) and subsequently a decision was made by the European Council to introduce restrictive measures against persons responsible for the violent crackdown on the civil population in Libya on 15th February 2011 and thereafter. The EU implemented Council Regulation 204/2011 on 2nd March 2011 which instigated an arms embargo, a ban on internal repression equipment, as well as restrictions on the admission and freezing of funds and economic resources of certain persons and entities involved in serious human rights abuses against persons in Libya, including by being involved in attacks, in violation of international law, on civilian populations and facilities. The EU Regulation implements and builds upon the

UNSR 1970 and 1973. Alderney adopted this regulation through the Libya (Restrictive Measures) (Alderney) Ordinance, 2011 on 20th April 2011.

On 16th September 2011, the United Nations Security Council adopted Resolution 2009 (2011) on Libya, which amongst other matters, modified the UN asset-freezing measures. On 28th September 2011 the Council of the European Union adopted Council Regulation (EU) No.965/2011, which amends Regulation (EU) 204/2011, which entered into force on 29th September 2011. The Regulation modifies the asset freeze in respect of the following entities:

- Central Bank of Libya;*
- Libyan Arab Foreign Bank (aka Libyan Foreign Bank);*
- Libyan Investment Authority; and*
- Libyan African Investment Portfolio*

so that only funds, other financial assets and economic resources belonging to, owned, held or controlled, directly or indirectly by those entities as of 16th September 2011 that were held outside Libya on that date shall remain frozen. In addition, the Regulation removes the prohibition on making funds or economic resources available, directly or indirectly, to or for the benefit of the four entities. I attach a copy of The Libya (Restrictive Measures) (Alderney) (Amendment) Ordinance, 2011 for approval.

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

*John Beaman
Chairman”*

The States is asked to approve “The Libya (Restrictive Measures) (Alderney) (Amendment) Ordinance, 2011”

Item III Renewable Energy (Alderney) (Amendment) Law, 2011

The following letter has been received from Mr Beaman, Chairman of the Policy and Finance Committee:-

“In September 2009 the States of Alderney consulted on amendments to the Renewable (Energy) (Alderney) Law, 2007. Since that date it has been decided to make further amendments to the Law in particular to ensure that the Law is consistent with the provisions of renewable energy legislation which has since been drafted since in Guernsey and Sark. This seems desirable as tidal power operators are likely to operate across the Bailiwick.

The original amendments that were consulted upon in 2009 are summarised as follows:

- 1. To give to the States of Alderney powers to provide by Ordinance for -*
 - a. Restrictions on the exercise of rights of navigation - extinguishment, suspension or imposition of restrictions on rights of navigation in the vicinity of tidal turbines; these powers would be exercisable to ensure the safety of shipping and tidal turbines or to ensure that tidal turbines and support platforms etc. did not result in a danger to navigation for ships etc,*
 - b. **Safety Zones** - the creation of safety zones around tidal turbines and support platforms etc. to ensure the safety of the turbines and shipping etc.*

The provisions described in paragraph 1 only give powers to the States of

Alderney to make an Ordinance so that no such provisions would apply until any Ordinance is made by the States under those powers.

2. **Extension of Alderney health and safety legislation** - Extend Alderney health and safety legislation to work carried on in relation to tidal turbines and other renewable energy systems in Alderney territorial waters.

4. **Additional powers of entry and enforcement** – To give the States of Alderney power by Ordinance to provide for the Alderney Renewable Energy Commission (“ACRE”) to have additional powers of entry and enforcement powers, in particular powers to issue notices to tidal power operators where there is a breach of a licence or where tidal turbines are causing harm to the environment or human health or interference with shipping, fishing or other lawful activities carried on at sea; such notices may require the tidal power operator to take steps to meet a licence condition or to protect the environment or human health or prevent interference with other uses of the sea. This would include requiring remedial action where harm to the environment or human health or interference with shipping, fishing etc. had been caused by tidal power operations. There is also provision for ACRE to issue a notice prohibiting an activity from being carried out for a limited period where there is serious harm to the environment/human health or serious interference with other uses of the sea.

There has been some adjustment to the above provisions since 2009 on points of detail. This includes amendments to the steps that ACRE can require an operator to take under a remediation notice and clarification of the remedial steps that ACRE can itself take where someone is operating a tidal turbine other than in accordance with the conditions of a licence.

The proposed new amendments are amendments primarily to ensure consistency with new renewable energy legislation in Guernsey and Sark which has been made since 2009. Amendments on substantive points include the following and mostly relate to Ordinance making powers only, so that any substantive provision can only be made by a further Ordinance of the States.

1. **Decommissioning** - The amendments clarify that decommissioning of a tidal turbine or other renewable energy system is an activity requiring a licence and that conditions may be imposed on an operator licence in relation to decommissioning including requiring prior approval of a decommissioning programme.

2. **More detailed powers for the States to make Ordinance in relation to licensing of tidal turbines etc.** - For clarity, the powers of the States to make Ordinances under section 2, in particular in relation to a licensing system, are spelt out in more detail rather than in general terms. This includes –
 - a. express provision being made for the submission of environmental statements and decommissioning programmes by applicants for a licence;
 - b. express provision for consultation of certain persons prior to the grant of a licence including the Health and Social Security Department in Guernsey who have responsibility for regulation of deposits at sea (which would include tidal turbines) under the Food and Environment Protection Act 1985 which applies in the whole Bailiwick.

3. **Fees** - the power to charge fees for applications etc. under the Law has been amalgamated in one place and now includes provision to charge for the reasonable costs of ACRE in administering and enforcing the legislation, including annual licence fees. This only provides a power and a further Ordinance of the States or regulations of ACRE would be required to create new fees.

4. **Matters ACRE has to take into account in carrying out its functions** - there have been some adjustments to the detail of these provisions including

a new requirement for ACRE to have regard to what appears to be in the best interests of Alderney.

5. **Delegation of ACRE functions** - *there is a new power to allow ACRE to delegate functions to another public body. This would allow, for instance, the consideration of environmental and human health effects to be carried out by those with relevant expertise, such as environmental health officers, but the functions would remain those of ACRE and would be carried out in its name.*

I would be grateful if the “Renewable Energy (Alderney) (Amendment) Law, 2011”, could be placed before the States at its next meeting together with an appropriate proposition.

*John Beaman
Chairman”*

The States is asked to approve the Projet de Loi entitled the “Renewable Energy (Alderney) (Amendment) Law, 2011” and to request the President to seek the Sanction of Her Most Excellent Majesty in Council for it to have the force of Law in the Island of Alderney.

Item IV Alderney Land Use Plan Review

The following letter has been received from Mr Sargent, Chairman of the Building and Development Control Committee:-

“In accordance with Section 25 of the Building & Development Control (Alderney) Law, 2002 (“The Law”), as amended, the Building and Development Control Committee (“The Committee”) is required to review the Land Use Plan (“LUP”) at least once every five years. The LUP was last reviewed in 2006.

Between October 2010 and March 2011, the Committee held a series of extra meetings to review the LUP in accordance with section 25 of the Law. As a result of these meetings, the Committee proposed 15 alterations to the LUP.

In accordance with Section 26(1), the President of the States appointed an Inspector to hold a Planning Inquiry to consider the proposed alterations. The person appointed was Mr Anthony Whitehead, Dip TP, MRTPI. In accordance with Section 26(2) the Committee published a Notice in the Alderney Official Gazette specifying the proposed alterations to the LUP, and the place where and the times at which the alterations could be inspected. A copy of the Notice is attached.

Representations were received in respect of each of the proposed alterations. In accordance with Section 27(3)(b), notice of each of the representations was published in the Alderney Official Gazette, exhibited on the notice board outside the Courthouse and made available for inspection in the States Office.

The Inquiry was held on the 4th & 5th May 2011. 20 members of the public attended on 4th May and 13 on the 5th May.

In accordance with Section 28, the Inspector prepared a report containing his recommendations on the proposals for alteration to the LUP and submitted that Report to the Committee. In accordance with Section 29, the Report of the Inspector was laid before the States on 20th July 2011. The proposals for alterations to the LUP were also laid before the States on 20th July 2011. At that meeting, the President of the States accepted an amendment for the Committee’s proposals for alterations to the LUP be withdrawn and to be submitted at a subsequent meeting of the States of Alderney.

The Committee now presents full details of the proposed alterations to the LUP for approval by the States.

I would be obliged if you could place this matter before the States at its next meeting with an appropriate proposition.

Geoffrey Sargent
Chairman”

The States is asked to approve the alterations to the Land Use Plan, as proposed by the Building and Development Control Committee.

Item V The Housing (Exemptions) (No 2) (Alderney) Ordinance, 2011

The following letter has been received from Mr Sargent, Chairman of the Building and Development Control Committee:-

“Sundial Holdings Limited wishes to construct a new doctor’s surgery with a one bedroom flat above, on part of AY2266, land at Le Val. This will require an ordinance exempting them from the provisions of section 33 of the Building and Development Control (Alderney) Law, 2002. I attach, for this purpose, the proposed Housing (Exemptions) (No.2) (Alderney) Ordinance, 2011.

The Ordinance is conditioned so that the dwelling can only be used in conjunction with the operation of any business run from the existing premises, and cannot be transferred separately from the existing premises.

I would be grateful if the Housing (Exemptions) (No.2) (Alderney) Ordinance, 2011 could be placed before the States when it next meets together with an appropriate proposition.

G Sargent
Chairman”

The States is asked to approve “The Housing (Exemptions) (No.2) (Alderney) Ordinance, 2011”.

Item VI The Housing (Exemptions) (No 3) (Alderney) Ordinance, 2011

The following letter has been received from Mr Sargent, Chairman of the Building and Development Control Committee:-

“Mr R Wyke wishes to convert the premises known as ‘Lorem’, 17 Braye Road, Alderney, GY9 3XJ from a single dwelling into 3 separate dwellings, comprising two 2 bedroom apartments and one 1 bedroom dwelling. This will require an ordinance exempting him from the provisions of section 33 of the Building and Development Control (Alderney) Law, 2002. I attach, for this purpose, the proposed Housing (Exemptions) (No. 3) (Alderney) Ordinance, 2011.

I would be grateful if the Housing (Exemptions) (No. 3) (Alderney) Ordinance, 2011 could be placed before the States when it next meets together with an appropriate proposition.

G Sargent
Chairman”

The States is asked to approve “The Housing (Exemptions) (No. 3) (Alderney) Ordinance, 2011”.

Item VII **The Housing (Exemptions) (No 4) (Alderney) Ordinance, 2011**

The following letter has been received from Mr Sargent, Chairman of the Building and Development Control Committee:-

“Ravenswood Ltd wishes to convert the premises known as ‘Bear’s Corner’, Coin des Ecailles, St Anne, Alderney, GY9 3TX from a single dwelling into 2 separate dwellings, comprising one 3 bedroom dwelling and one 1 bedroom dwelling. This will require an ordinance exempting them from the provisions of section 33 of the Building and Development Control (Alderney) Law, 2002. I attach, for this purpose, the proposed Housing (Exemptions) (No. 4) (Alderney) Ordinance, 2011.

I would be grateful if the Housing (Exemptions) (No. 4) (Alderney) Ordinance, 2011 could be placed before the States when it next meets together with an appropriate proposition.

*G Sargent
Chairman”*

The States is asked to approve “The Housing (Exemptions) (No. 4) (Alderney) Ordinance, 2011”.

Item VIII **Questions and Reports**

Issued: Friday 4th November 2011