



BILLET D'ETAT FOR 20-07-2005

Date: 19th July, 2005

STATES OF ALDERNEY

BILLET D'ETAT FOR 20th July, 2005

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 5.30p.m. on Wednesday, 20 July, 2005. This will be preceded by the People's Meeting which will be held on Wednesday, 13th July, at 7.00p.m. in the Island Hall.

Sir Norman Browse

President

Item I Gambling Legislation

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

You will be aware that, for technical reasons, it became necessary to approach the States of Guernsey for changes to be made in Guernsey legislation so that Alderney licensees could locate some gaming equipment at premises in Guernsey. They will still be licensed and regulated by the Alderney Gambling Control Commission but the location of equipment in Guernsey will enable them to utilise far greater amounts of bandwidth, which is an essential factor in remaining competitive as the industry develops. There will also be some financial savings. The Guernsey States of Deliberation resolved in May to direct the preparation of legislation to give effect to this and it will be submitted for enactment at its meeting on 27th July, 2005. It is essential that Alderney also takes action to ensure that appropriation legislation comes into effect here.

The Gambling (Interactive Gaming) (Amendment) (Alderney) Ordinance, 2005 and The Gambling (Electronic Betting) (Amendment) (Alderney) Ordinance, 2005 have been drafted by the Law Officers. Under the present two principal Alderney gambling Ordinances, an Alderney licensee may not make use of premises outside of Alderney except in exceptional, temporary circumstances. These Ordinances must be amended to give effect to the proposal that premises in Guernsey be used for Alderney licensees' operations. Although a wide-ranging review of the existing legislation has been undertaken, and other proposals will be brought forward in due course, this aspect is so pressing that it is being brought forward

now as a priority, although the opportunity has been taken to make at least some of the other changes contemplated by the review. Save for some terminology and a small number of necessarily distinctive features, the two pieces of legislation to be amended are structured in an identical way. It follows that the amendments are much the same. With this in mind, the commentary on the first, which follows, applies equally to the second.

Clause 1(3) makes it clear that an interactive gaming licensee will not be committing an offence under the 1999 law if it utilises premises in Guernsey that have been approved by the Commission. In support of this, clause 1(13) allows an existing licensee to make application to modify its premises approval to include premises in Guernsey. New licence applications are dealt with in clause 1(4).

All the current licensees are Alderney companies. Clause 1(6) makes it a requirement that a licensee be a company rather than simply an individual who is resident here. This not only reflects what is already the position in practice but seems appropriate in view of the scale and nature of the industry.

The opportunity is also taken clause 1(7) to remove the requirement for a corporate licensee to have a natural person resident in Alderney as its nominee. The reality is that there is no need to have a person physically present here and it is an unnecessary burden on licensees.

Other changes are that licences will now run until surrendered or revoked rather than, as at present, being time limited, please see clauses 1(11) and (14); and that the annual licence fee will be reduced to £70,000 (clause 1(12)), reflecting the introduction of a charging basis for inspections and other work. Overall income is expected to remain unaffected but the cost burden on licensees will be more equitably distributed.

It is proposed, in due course, to combine the two licensing regimes into a single one, under a single Ordinance. At least one licensee was licensed with this prospect in mind. At this stage, and as an interim measure, it is provided (clause 1(12) and inserted section 17(2)) that if a company holds one type of licence it will be exempt from having to pay the annual fee when it obtains the second licence.

There are some changes in the key personnel licensing regime, so as to ensure that a person holding a key personnel licence will not lose such status in moving to join a different interactive gaming licensee; also, to overcome the problem of a time lag between appointment and determination of an application (see clause 1(18) and clauses 1(19) - (24)).

The present (unrealistic) audit report deadline is extended (clause 1(26)).

There are consequential amendments relating to interpretation and arrangement of sections.

I shall be obliged if the above Ordinances be placed before the States with appropriate propositions.

P F Walter

Chairman

The States are asked to approve by resolution The Gambling (Interactive Gaming) (Amendment) (Alderney) Ordinance, 2005.

The States are asked to approve by resolution The Gambling (Electronic Betting) (Amendment) (Alderney) Ordinance, 2005.

Item II Income Tax

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

I attach a copy of The Income Tax (Guernsey) (Amendment) Law, 2005, which was approved by the Guernsey States of Deliberation at its meeting on 29 June, 2005. You will note from its preamble that, subject to the sanction of Her Majesty, it is expressed to have the force of law in Alderney. To the extent that the draft law deals with the administration of income tax under the Law of 1975, the States of Deliberation is able to legislate directly for Alderney by virtue of section 2 of The Alderney (Application of Legislation) Law, 1948. A date will be set for the Law to come into force once the sanction of Her Majesty has been obtained. It is necessary to have everything in place to give effect to it by 1 January, 2006, in order to meet our international obligations concerning information in relation to tax.

To the extent that the Law deals with any approved international agreement within the meaning of section 75C of the Law of 1975, as opposed to the administration of income tax, it must be doubted the States of Deliberation can legislate directly for Alderney under the authority of the 1948 Law. Section 75C deals with the provision of information to a competent authority of a requesting state pursuant to an approved international agreement. It is not about the levying of income tax within this jurisdiction. In order to ensure that the whole of the Law has the force of law in Alderney, and thus meet our international obligations, some action will therefore have to be taken by the States of Alderney. The appropriate course is to pass a resolution approving the Law for application, in its entirety, in Alderney and to petition Her Majesty in Council accordingly.

I shall be obliged if you will place this before the States at its next meeting with an appropriate proposition.

P F Walter

Chairman

The States is asked to approve the Projet de Loi entitled "The Income Tax (Guernsey) (Amendment) Law, 2005" and to authorise the President to present a most humble petition to Her Majesty in Council praying that to the extent that that Law would not otherwise have the force of law in Alderney in accordance with the provisions of Section 2 of "The Alderney (Application of Legislation) Law, 1948" it shall, have the force of law in Alderney.

Item III Questions and Reports

Issued: Friday, 8th July, 2005