



BILLET D'ETAT FOR 21-10-2009

Date: 20th October, 2009

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 5:30pm on Wednesday 21st October 2009. This will be preceded by the People's Meeting, which will be held on Wednesday 14th October 2009 at 7:00 p.m. in the Island Hall.

C. Williams

Vice President

Item 1 Budgets for 2010 and Expected Outturn 2009

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

As required by section 58 of the Government of Alderney Law, I enclose the budget estimates of income and expenditure for 2010 and the expected outturn for 2009.

The main aim of the annual budget is to ensure that adequate funds are available to meet the revenue costs of the various public services and the capital expenditure requirements. The Law requires the States to consider the budgets and directs that thereafter they should be forwarded to the States of Guernsey.

The States receives an annual revenue cash allocation from the States of Guernsey, which, together with the States own income, makes it necessary to prioritise the areas of public services that can be provided from the finite resources available. Annual budgets provide a framework, they do not bind the States to spend in any particular area and nor do they preclude the States from choosing to vary the levels and standards of service it provides. Nonetheless, the figures given in the budget are clear indicators of expected income and expenditure in the various sectors.

In preparation of the annual budgets, Committees have had to consider: -

- a) Is the service necessary and appropriate in the present economic situation?
- b) Is there an alternative, more efficient, way of providing the service?
- c) Are charges and fees adequate? When were they last reviewed?

Revenue Account - Expected Outturn 2009

Under the financial procedures, the revenue cash allocation from Guernsey for 2009 was set at £1,570,000, leaving a balance of £40,000 to be met from Alderneys accumulated unspent balances. Accumulated unspent balances at 1st January 2009 amounted to £233,800. The probable outturn is predicting a variation in this position to £156,785. This is mainly due to an additional expenditure of £76,000 allocated to Sewage and Sanitation budget in order to carry out surveys and improvements to the existing sewerage system at various locations throughout the Island, coupled with a reduction in income of £40,000.

Revenue Account - Budget Estimates for 2010

The Treasury and Resources Department of the States of Guernsey has set the revenue cash allocation for the year 2010 at £1,600,000. In addition a submission was made to Treasury & Resources under the States Strategic Plan for £150,000 additional funding in respect of States properties in order to redress the net loss of annual rental income which will be experienced on the formation of the Alderney Housing Association. In the past the difference between rental income from States housing and expenditure on properties has assisted in balancing the shortfall in revenue income. A result is the decline in the quality and condition of States housing. It is planned that in future, once the Alderney Housing Association has been formed, that all rents will be used for the purpose of improving and expanding the Islands housing stock which will leave the gap in States revenues of £150k mentioned above. Unfortunately the submission to Guernsey to fund this gap was not considered a high priority item in the list of essential service developments recommended by the Policy Council, however it has been agreed that the annual £200,000 capital allocation received from Guernsey can be transferred to revenue if required, in order to cover this initiative, and other areas of increased expenditure. This welcome move will allow Alderney a greater degree of flexibility in managing the budget, and is therefore favourably considered.

Taking account of this increase in allocation it is forecast that £76,600 will still need to be taken from the accumulated balances in order to balance the budget in 2010. Ongoing reviews of expenditure and income will aim to reduce this shortfall further, however, some of our major items of income, for example the numismatic royalties, philatelic income, bank interest etc, depend almost entirely on factors outside our control. The current credit crunch is likely to have a further adverse effect on this source, as is already apparent in 2009.

The major income streams of Income Tax, Document Duty, Impôt Duties and Fuel Duty arising in Alderney are collected by the States of Guernsey and help finance Education, Health and Social Services etc [The Transferred Services] together with the revenue cash allocation. As a result of the zero ten tax regime that came into effect from 1st January 2008, all Guernsey Government Departments spending has now been limited to increases of RPI or less. Alderney will not be immune from these limitations and for that reason we will need to find alternative ways of balancing income and expenditure, and work is already in hand to review the States operations.

Harbour Budget A review of the Harbour operations has been instigated and a sub-group formed which has identified initial savings of £20,000 in 2010, with a view to further savings being made in 2011, and eventual elimination of the Harbour deficit. The deficit is significantly reduced by the amendment to the basis of charging in relation to cargo vessels carrying hydrocarbons, which is also due to be discussed in the States this month.

Occupiers Rates - Occupiers Rates only account for about 15% of local revenue, with the largest part (73%) of the balance being funded via Guernsey by way of receipts from Income and other taxes. With costs continuing to rise, an increase in occupiers rates in the region of 2.7% (RPIX) will be necessary in 2010. The matter of the introduction of a payment of a different rate, by those nonresidents who do not pay tax to Guernsey, has been under discussion for some time with Law Officers and with the Income Tax authorities. In view of the new make up of the States it is likely that proposals for a residents rebate will be brought to the States for a decision in the near future. If carried the matter would then be passed to the Law Officers for final drafting.

Salaries, Wages and Pensions - In the budgets of each department the costs of salaries, wages, employers pension and Social Insurance contributions are combined into the heading of Staff. The budget for Policy & Finance Committee administration staff costs, together with supplies and services have been increased for 2010 due to the costs associated with the recruitment of a new Chief Executive Officer.

We have been advised not to allow for any increase in salaries and wages in respect of the 2010 pay award.

The Trustees of the States pension fund have recently received the results of a triennial review of the fund. In common with most final salary pension funds the review indicates an urgent need to address the long term structural deficit in the fund. The Trustees are continuing to meet with their advisers with a view to placing proposals before Policy and Finance Committee and Guernseys Treasury and Resources Committee who have been made aware of the issue.

Refuse Collection, Separation and Disposal The 2010 budget for waste disposal has once again been limited to £500,000, with additional headings included in order to illustrate the cost of household collection and Impot together with the cost of operating the recycling centre. All aspects of waste disposal continue to be reviewed with small capital investments being made to improve operational efficiency and contain costs despite the department having 2 employees on long term sick leave.

Capital Account 2009 & 2010

Capital income and expenditure, as with the revenue account, has been subject to a small cash allocation from Guernsey. As explained earlier in the report this allocation is now available to subsidise the revenue account. With effect from 2004 the monies raised from Congé and other property transfer duties are retained by Alderney as capital income. The slump in the housing market in the UK has had a knock on effect in Alderney, as receipts from Congé in 2009 continue to reduce compared to previous years, and it is difficult to forecast any improvement in 2010. The figures contained on pages 10 and 11 reflect the actual and budgeted amounts charged to the accounts in each year for capital projects and do not include the opening balances of funds available.

An up to date summary of the States capital income and expenditure forecast, and the annual balances on the capital allocation account, for the next four years is attached as Annexe 1 for information purposes. This differs in some respects from the figures included within the attached Budgets. The reason for this is that the Budgets are prepared to a timescale that requires preliminary approval by Treasury and Resources in September in order that they can be incorporated within the Guernsey Budgets in November. The difference is also explained by the fact that the four year summary is based on stating the opening balance of funds available and charging to the capital account the full cost of each project when voted by the States. Due to the time required to actually complete projects the amounts charged in the accounts will

differ from the four year balances shown on the capital allocation account. The summary will require further adjustment and prioritisation once the financial consequences of the CQ phase 3 deliberations, discussed below, have been finalised.

It is now policy that AGCC surpluses should be used to fund items on Alderneys capital programme. It is anticipated that annual surpluses amounting to approx £2 million will be available from AGCC reserves, which, together with income from Conge and some property sales, will be used to finance the majority of the capital programme.

This Budget deals only with the period up to the end of 2010, but capital spending requirements for social housing, sewer installations and water filtration plant etc amount to a further estimated expenditure in excess of £11 million over the next five years.

It is important to recognise that the approval by the States of the overall Capital Budgets does not mean that any individual project can proceed without further approval under the financial procedures. The Capital Budgets are therefore to be seen as an indication of probable projects, rather than a firm schedule.

By the end of 2009 the Commercial Quay phases 1 and 2 [the latter appearing elsewhere in this Billet] will be completed and the new quay will be operational following curing of the concrete over Christmas. This leaves the issue of phase 3, the Upper Berth West Wall. An extensive survey by Halcrow confirms that, given its age, the Upper Berth quay face is in good condition. However, it may be possible that there has been some settlement of the fill behind the quay facing which in turn may be due to loss of fill through the wall facing. Halcrow therefore recommend that maintenance work be carried out [drilling, grouting and patching] along the frontage prior to construction of the final deck slab.

Water Board

The estimates for the Water Board show an operating deficit on the Revenue account of £11,840 in 2009. This is an improvement over the past two years, directly brought about by recent increases in charges, together with income from contract work enabled by efficiencies made following the purchase of a second vehicle.

In 2010 the deficit on the revenue account is predicted at £47,700, which is mainly attributable to depreciation and increase in fuel and electricity costs associated with the capital projects. The 2010 income allows for a further increase in rates which will be necessary to meet the increasing operating costs.

As the Water Board has no capital funds of its own available for the projected improvements to the water treatment plant and distribution system it has been agreed that these should be financed by capital grants from the States of Alderney. The first phase, the new transfer main and collection points between Bonne Terre and Battery Quarry, costing £349,000 is nearing completion. This has been funded from the capital allocation. The next phase consisting of centralised filtration and storage facilities will be forwarded to the States for debate in due course.

These budgets have been considered and approved by Guernseys Treasury and Resources Department, and will appear in summary format as part of the Guernsey budget later this year.

I would be grateful if you would lay this matter before the States with appropriate propositions.

R.G.Willmott

Chairman

The States is asked, after consideration of the Budget Reports -

to accept the Revenue Budgets for 2010

to accept the Capital Budgets for 2010

to accept the Water Board Budget for 2010.

Item II Commercial Quay Phase 2

The following letter has been received from Mr Walden, Chairman of the General Services Committee:-

When the Lower Berth contract (Commercial Quay phase 1) was awarded to Geomarine it was envisaged that some elements of the quay surface connecting the new quay to the Upper Berth would be paved. As the phase 1 project has progressed a number of unforeseen events have occurred which have needed to be accommodated. In order to manage the integrity of the original project it was also considered that the paving work might be dealt with separately at the end of the contract as funds allowed. However, digging trenches in the Upper Berth surface for the installation of services has revealed a very weak sub-structure unlikely to take the load of Harbour cargo operations using a flexible block surfacing meaning that it is essential that this work is not delayed. This has required alternative arrangements being put in place to those envisaged at the outset.

To bring the Upper Berth deck area shown in the attached diagram to a condition and life expectancy comparable to the new quay, the existing aged fragile surface must be removed and replaced by a reinforced high performance concrete slab suitable for modern and future harbour operations.

As Geomarine are already mobilised on the site, it has been possible to negotiate a satisfactory fixed price based on the Commercial Quay phase 1 tender rates, so that risk to the States in undertaking the works in terms of value and quality of work are minimised.

Seeking tenders from local contractors was not considered a viable option because of the mobilisation costs and time associated with bringing the necessary heavy plant to the island. There is also the requirement to have established materials quality control procedures in place, testing equipment and trained personnel in order to reasonably guarantee the performance of the structure proposed. These issues could be dealt with over time but the phase 2 project needs to commence as soon as possible so that the new quay phase 1 and slab phase 2 are completed before Christmas and ready for operations at the beginning of January 2010.

As has already been announced a survey of the upper berth west wall has indicated that it would be wise to carry out some remedial work at this stage. Although Halcrow has confirmed that it is in order to continue to use the berth in its current state the Commercial Quay Project Board take the view that it would be sensible to start this (Upper Berth West Wall phase 3) as soon as possible. The completion of phases 1 and 2 will release the areas of the existing Upper Berth to enable work on phase 3 to start. This has been thoroughly surveyed by Halcrow and the recommendations for the remedial work contained in their final report are being studied and proposals for phase 3 will be brought forward as soon as possible.

With access to the new Commercial Quay resolved there will be an opportunity to tender for the Upper Berth remedial works, which will include a new quay deck that will provide the island with a modern harbour facility for the foreseeable future.

This matter was approved by the Policy and Finance Committee at its meeting held on 28th September.

Guernsey Treasury and Resources Department has been appraised of the importance of this transition slab and have agreed that it is a replacement for the existing deck and thus can be approved directly by Treasury & Resources, subject to States of Guernsey project procedures, but will not require a full States Report for the States of Deliberation which would delay the award of these vital works.

I would therefore be grateful if you could place this matter before the States at its October meeting together with appropriate propositions.

W. Walden
Chairman

The States is therefore asked to resolve, after consideration of the above report from the Chairman of the General Services Committee, to:-

- 1. Approve Phase 2 of the Commercial Quay Project as outlined in the above report.**
- 2. Award the contract to Geomarine for a fixed price of £241,815 under an ICE Minor Works contract as modified by the States of Guernsey.**
- 3. Approve additional costs of £25,000 to cover the provision of engineering drawings and associated contract documentation and the provision of site supervision.**
- 4. Approve a contingency sum of £8,000.**
- 5. Vote the Capital sum of £274,815 to cover the overall cost of the project.**

Item III Proposed Increase in Harbour Dues & Mooring Charges for 2010

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

The General Services Committee has recently carried out its annual review of fees and charges at the harbour and recommends that due to the current economic climate, the majority of fees and dues are retained at 2009 levels. The two exceptions relating cargo vessels, and visitor mooring fees are detailed below. The proposed amendments are effective from 1st January 2010.

1. Harbour Dues and Fees

It is proposed that all harbour dues and fees are retained at 2009 levels with the exception of cargo vessels carrying hydrocarbon oils or gas in bulk. It is proposed that the method of charging is amended from being based on the Gross Registered Tonnage (GRT) of the ship to a landing charge based on the tonnage of hydrocarbons discharged at the port. This is in line with the other Channel Islands. This idea has been considered in the past, however following the amendment to the 1984 Law we are now in a position to introduce a similar system to that imposed in Guernsey & Jersey, whereby the GRT charge is reduced to

nil, and replaced by a charge of £15 per metric tonne of fuel discharged/loaded.

It is considered that this proposal conforms to the user pays principle. One compelling reason for the refurbishment of the Commercial Quay was the introduction of larger hydrocarbon tankers. The proposed additional revenue has been included in the 2010 budget, and will assist in reducing the harbour deficit.

2. Mooring Charges

The Committee is recommending that the charge for local mooring fees, for both the inner and outer harbour, remain at 2009 rates. Likewise charges relating to anchorage and boat storage.

However the Committee believes that there is scope to increase visitor mooring fees and it is therefore proposed to increase these by £1 per mooring to £15, per 24 hours, as detailed in the schedule to the Ordinance.

3. Pilotage Fees and Dues

The Committee is recommending that all Pilotage Dues and Fees are retained at 2009 levels.

The Policy & Finance Committee agrees with these proposals and recommends their acceptance.

The two Statutory Instruments required to bring the new fees into force have been drafted and are enclosed herewith. They are as follows: -

Statutory Instrument No 3 of 2009 relating to Harbour Dues and Fees

Statutory Instrument No 4 of 2009 relating to Mooring Charges

I would be grateful if you would place these Statutory Instruments before the States with appropriate propositions.

R. G. Willmott
Chairman

The States is asked to approve:-

1. Statutory Instrument No 3 of 2009

2. Statutory Instrument No 4 of 2009

Item IV The European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) Ordinance, 2009

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

The purpose of this Ordinance is to implement in respect of Alderney certain provisions concerning the processing of personal data and the protection of privacy in all forms of electronic communications, in particular e-mail, unsolicited phone and fax calls and SMS messaging, with the intent that standards of protection within Alderney meet or are consistent with the standards provided for by the Directive.

Similar regulations have already been enacted in Guernsey and Sark, though through an oversight were not enacted in Alderney, although approved at the Policy and Finance Committee meeting of 29th January 2008.

I would be grateful if the European Communities (Implementation of Council Directive on the Privacy and Electronic Communications) (Alderney) Ordinance, 2009 could be placed before the States at its next meeting together with an appropriate proposition, to rectify this error.

R. G. Willmott
Chairman

The States is asked to approve The European Communities (Implementation of Council Directive on the Privacy and Electronic Communications) (Alderney) Ordinance, 2009.

(Note: A copy of the above Ordinance can be seen at the States General Office, Island Hall and the Library)

Item V Housing Exemption Ordinance

The following letter has been received from Mrs E Bennett, Chairman of the Building and Development Control Committee:-

Miss Alexandra Fiske Harrison wishes to construct a new dwelling on land registered as entry number AY1603. This will require an ordinance exempting her 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.5) (Alderney) Ordinance, 2009.

Members will note that exemption will apply only in relation to Miss Harrison's application for planning permission to construct a new dwelling and that this permission does not count towards the number of C permits for the time being prescribed for purposes of section 15 of the 2002 Law.

I would be grateful if the Housing (Exemptions) (No.5) (Alderney) Ordinance, 2009 could be placed before the States when it next meets together with an appropriate resolution.

E. Bennett
Chairman

The States is asked to approve The Housing (Exemptions) (No.5) (Alderney) Ordinance, 2009.

Item VI The Alderney eGambling Ordinance 2009

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

To adapt to changes in the eGambling industry the Alderney Gambling Control Commission has devised a new licensing model (NLM) which seeks to regulate the different elements of internet gambling activity. This model has been discussed with and well received by the industry and commentators alike.

In order to implement this model a number of changes to the Alderney eGambling Ordinance, 2006 are required. In addition the Commission consider that this represents a useful time to tidy up the Ordinance following its evolution since 2006. Logistically this is best accomplished by repealing the existing Ordinance and replacing it with the Alderney eGambling Ordinance, 2009. This has two main benefits; firstly it poses fewer drafting issues and secondly it makes it easier for those who work with the Ordinance on a day to day basis to be presented with a new document rather than having to go through the old Ordinance line by line to seek out the changes.

Section 1 continues to set out the circumstances under which eGambling will be lawful introducing the concept of the different categories of eGambling licence as well as the foreign gambling associate certificate (FGAC). To be lawful eGambling must be either organized or promoted by the holder of a Category 1 (Cat1) eGambling licence, effected by the holder of a Category 2 (Cat2) eGambling licence or a FGAC and must not involve a young person. The significant change is the introduction of two types of licence which are effectively B2C (Business to Customer) and B2B (Business to Business). The Cat2 licence is for those operators effecting the gambling transaction on Alderney and the FGAC is for those effecting the gambling transaction elsewhere in the world as the Commission can only licence activity on Alderney. The Cat1 licensee is the company that transacts with the customer or player and the Cat2 licensee or FGAC holder effects the gambling transaction. This split accords with the way the industry is fragmenting into companies that transact with the players and companies that provide the games but have no interest in having a relationship with the player. In addition there are now two types of associate certificate, the FGAC holder who provides games and the Core Services Associate Certificate holder who provides essential services to licensees and FGACs. In addition the Commission will no longer require the premises from which licensees and FGACs operate to hold a hosting certificate but will instead seek to ensure that the premises are safe and secure. Hosting certificates will remain but will be voluntary and will not attract a fee and those operators placing their equipment in premises which have the benefit of a hosting certificate will automatically satisfy the Commission with regard to safety and security. Removal of the requirement to have a hosting certificate ensures local hosting is not disadvantaged by foreign hosts who would not necessarily be certified. A Cat2 licensee will have their RNG (random number generator) or game server within the Bailiwick and a FGAC holder can locate their RNG overseas and provide a seamless gaming experience to the customer of a Cat1 licensee. Cat1 licensees may also send their players overseas to other games providers but may only do so if they inform the player that they are leaving the safety and security of the jurisdiction of Alderney.

Section 3 continues to set out the circumstances where operations may take place outside of Alderney but revises the conditions to reflect the changes made in section 1.

Section 4 now permits applications for licenses and certificates to be made by promoters of companies which will help to reduce the time taken for an operator to enter the market increasing the attraction of Alderney as a pro-business jurisdiction.

Section 8 continues to deal with the fees payable with a major change being that the fees have now been placed in a Schedule to the Ordinance. At such time in the future as the States may choose to revisit the level of fees and make changes, the only thing that would require change is the Schedule instead of having to make changes to the actual text of the Ordinance. This section also gives the Commission the ability to look at the way licensees structure their affairs to ensure that the variable fees payable by Cat1 licensees are not abused by transfer pricing initiatives.

Section 14 extends the requirement to have an internal control system onto FGAC holders. This is the first time that holders of associate certificates will be subject to the same robust examination of their systems and processes as licensees but is essential for ensuring the integrity of their operations to protect Alderneys reputation given that these certificate holders are now eligible to effect gambling transactions. The Commission is however altering its approach to Temporary eGambling licensees. To be a Temporary eGambling licensee in Alderney the company concerned must be licensed in another jurisdiction and the Commission will, instead of requiring an ICS, seek satisfaction that whilst it operates under its Alderney licence it provides a safe, secure and fair system for the conduct of eGambling.

As before Section 15 deals with the testing of gambling equipment save for it extends the requirements for testing to FGAC holders.

Section 16 remains as before but thereafter the sections have been re-numbered to provide a standard sequence rather than maintaining the use of 16A and 16B etc that arose from various amendment Ordinances.

Section 18 allows Cat2 licensees to hold a FGAC. This will facilitate the development of networks and allow greater flexibility for operators to balance their loads worldwide. This is a valuable asset for Alderney.

Section 30 is the interpretation section and new definitions have been added for Cat1 and Cat2 licensees, the FGAC and net gaming yield as well as defining other terms to tidy up verbiage elsewhere in the Ordinance.

Schedule 2 sets out the transitional provisions and authorises the Commission to enter into individual bespoke transition plans with licensees and certificate holders who are affected by these changes. As each plan is individual it can be tailored to the needs of each licensee without the problems that could arise from the imposition of a one size fits all approach again demonstrating Alderneys flexibility and business friendly approach.

Schedule 3 as mentioned earlier contains the various fees payable. Cat1 licensees will pay fees on a sliding scale based on their net gaming yield with the fees ranging from £35,000 to £140,000 in four bands. At each banding the licence fee remains competitive with equivalent jurisdictions. There is a fixed fee for a Cat2 licence of £35,000; the same fee applies for a FGAC. Some Cat1 licensees will also require a Cat2 licence and the transition plans will facilitate this changeover. The fee for a core service associate certificate remains unchanged. There is however a new annual fee of £10,000 for a Temporary eGambling licence but the daily fee of £200 that was payable for use of the Restricted use eGambling licence will no longer apply.

I would be grateful if the Alderney eGambling Ordinance 2009 could be placed before the States at its next meeting together with an appropriate proposition.

R. G. Willmott
Chairman

The States is asked to approve The Alderney eGambling Ordinance, 2009

(Note: A copy of the above Ordinance can be seen at the States General Office, Island Hall and the Library)

Item VII Questions and Reports

Issued: 9th October 2009

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