



BILLET D'ETAT FOR 22-06-2009

Date: 5th June, 2009

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 Monday 22nd June 2009. This will be preceded by the People's Meeting, which will be held on Wednesday 10th June 2009 at 7:00 p.m. in the Island Hall.

Sir Norman Browse
President

Item I Proposed Increase in Water Rates

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

In 2006 the States agreed to increase Water Rates by 10% as a contribution towards rising costs. This increase followed a period of many years when annual increases did not cover the increase in expenditure, thus the Boards cash reserves were steadily depleted. The cash reserves are intended to pay for capital works but since no major projects were planned, the depletion was allowed to continue.

Therefore in 2006, the States advised that this level of increase would be insufficient to eliminate the deficit on the revenue account and that further annual increases of a similar order would be necessary in future years. As predicted, in 2007 and 2008 increases of approximately 10% were also agreed and implemented.

In December 2008, legislation was enacted to change the way non-metered rates were calculated so that the new Tax on Real Property values, which replaced the old method based on Rateable Value, could be used. The aim of this was not to increase the overall amount collected from water rates at that time and therefore the difference to individual accounts was, in the majority of cases, minimal.

Having reviewed the forecast of expenditure for 2009 my Committee is proposing an increase of 10% again this year, to come into effect from the quarter commencing 25th June 2009, which will be reflected in the September Water Rate accounts as rates are charged in arrears. This increase will still be insufficient to return the revenue account to a break-even position. However it is felt that during the current financial climate any increase above this amount would be difficult for those on limited incomes. Thus the now limited cash reserves will continue to be depleted in order to support the revenue account. The operating deficit for 2008 stood at £32,773 with a further budgeted deficit for 2009 of £28,200 (as per budget report dated October 2008). However with increases in the operating costs resulting from capital

expenditure on new equipment to upgrade the system, staff training etc, the 2009 deficit is likely to be in excess of this amount.

It should be noted however that even with the proposed increase, Water Rates in Alderney remain considerably lower than those charged in Guernsey. For example a property with a TRP value of 194 currently pays £106.47 per quarter in Guernsey compared with £58.20 in Alderney.

As previously reported to the States, substantial capital investment is required in order to improve the Boards infrastructure and to ensure that the islands water supply can be maintained at an acceptable standard. Phase 1 of the capital investment program, relating to the installation of the raw water rising main, and associated pumping stations has almost reached completion, with Phase 2, relating to water filtration, expected to be presented to the States later in 2009, or early 2010.

A draft Ordinance entitled The States Water Supply (Rates of Charge) (Alderney) Ordinance 2009 is attached, which if approved will bring the revised rates into effect from the quarter commencing 25th June 2009.

I would be grateful if you would place this matter before the States of Alderney with appropriate propositions.

W Walden
Chairman

The States is asked to approve The States Water Supply (Rates of Charge) (Alderney) Ordinance 2009.

Item II Matters for which Ordinances may provide: Section 46 of the Government of Alderney Law, 2004

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

Section 46(1) of the Government of Alderney Law, 2004 (the Law) provides: The States may make Ordinances for the good rule and government of, and for the prevention and suppression of nuisances in, the whole or any part of Alderney, including the territorial waters adjacent thereto. Taken by itself this would appear to give a general power to legislate locally. However, sub-section (2) goes on to provide: Without limitation, an Ordinance under this section may make provision for any of the matters specified in Schedule 2. The matters set out in Schedule 2 include such things as the control and regulation of the sale or supply of intoxicating liquor. Thus, an Ordinance such as the Alderney Liquor Licensing Ordinance, 1966 may, without limitation, be enacted and amended and no sanction additional to that given by the Law is required. Sub-section (2) appears to have been interpreted as preventing the States exercising its general power to make Ordinances other than in relation to matters set out in Schedule 2 unless a Projet de Loi is first sanctioned by Her Majesty in Council allowing it to do so. Thus, an Ordinance such as the Dangerous Weapons (Alderney) Ordinance, 1965 is made under the authority of a Law sanctioned by Her Majesty in Council the Dangerous Weapons (Alderney) Law, 1965. It is not obvious why the States, without limitation, should have the power to legislate for the grant and renewal of liquor licences but not for the grant and renewal of weapons certificates.

The Policy and Finance Committee has resolved to debate in the States whether to seek the repeal of section 46(2) so that the apparent restriction of its law making powers in matters other than those set out in Schedule 2 to the Law is removed.

I will be obliged if this letter is placed before the States at its next Meeting together with an appropriate proposition.

R G Willmott
Chairman

The States is asked to resolve that the repeal of section 46(2) of the Government of Alderney Law, 2004 (the Law), be included in the amendments to the Law being drafted by the Law Officers.

Item III The Licensing of Vessels (Alderney) Law, 2009

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

Under the provisions of the Alderney and Sark (Licensing of Vessels) Law, 1951, His Excellency the Lieutenant-Governor has responsibility for the licensing of vessels carrying passengers or cargo between Alderney, Guernsey and Sark. The effect of this is that were there to be any legal challenge to the exercise of this responsibility His Excellency would be the respondent in any litigation. It is considered more appropriate for this responsibility to be exercised, as far as Alderney is concerned, by the Policy and Finance Committee of the States of Alderney.

The Licensing of Vessels (Alderney) Law, 2009 will, if approved, repeal the 1951 Law as far as Alderney is concerned and give this licensing function to the Policy and Finance Committee. I attach a copy.

I will be obliged if the Licensing of Vessels (Alderney) Law, 2009 is placed before the States at its next Meeting together with an appropriate proposition.

R G Willmott
Chairman

The States is asked to resolve to approve the Projet de Loi entitled The Licensing of Vessels (Alderney) Law, 2009 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 Inter Island Freight Shipping Agreement

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

In January 2003 the States of Alderney entered into a seven year agreement with Alderney Shipping Company Limited for the operation of a freight carrying service between Guernsey and Alderney. Members will be aware that at present, by reason of the provisions of the Alderney and Sark (Licensing of Vessels) Law, 1951, the ship or ships by means of which the service is provided must be licensed by His Excellency the Lieutenant-Governor. Another item on this Billet, the Licensing of Vessels (Alderney)

Law, 2009, seeks to transfer this function to the States of Alderney Policy and Finance Committee.

The present agreement with Alderney Shipping Company Limited, which will expire at the end of the year, provides, at clause 8(2): If the States shall desire that this Agreement shall continue to have effect after the expiration of the said term of seven years, the States shall give the Company notice in writing of such desire not less than six months before the expiration of such term, whereupon this Agreement, other than this subclause, shall continue to have effect for a further term of twelve months. The General Services Committee is in the process of reviewing the Islands needs and the terms upon which this service should be provided but, in the first instance, is asking the States to exercise the option to extend the present agreement by twelve months while this review is completed.

I will be obliged if this letter is placed before the States at its next Meeting together with an appropriate proposition.

W Walden
Chairman

The States is asked to resolve that the Agreement made on 1 January 2003 between the States of Alderney and Alderney Shipping Company Limited for the provision of an inter-island freight service between Guernsey and Alderney shall continue to have effect for a further term of twelve months from the expiration of the present term as provided in clause 8(2) of the Agreement and that the Chief Executive be instructed to give the required notice.

Item V The Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009

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

The Renewable Energy (Alderney) Law, 2007 (the Law), contains a number of provisions which make reference to a specified committee of the States for such purposes as, for example, receiving annual reports of the Commission and approving investment of its funds. Section 28 of the Law provides that specified means specified by or under an Ordinance. The Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009 will, if approved, specify the Policy and Finance Committee for the purposes of the Law.

I attach a copy of the Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009 and will be obliged if it is placed before the States at its next Meeting together with an appropriate proposition.

R G Willmott
Chairman

The States is asked to resolve to approve The Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009.

Item VI The Housing (Exemptions) (No.1) (Alderney) Ordinance, 2009

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

Mr Mark Richard Chadney and Mrs Rosa Chadney wish to subdivide their property, Flat 1, Ferndale Estate, into two separate dwellings. 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.1) (Alderney) Ordinance, 2009.

Members will note that exemption will apply only in relation to Mr & Mrs Chadneys application for planning permission to subdivide the property 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.1) (Alderney) Ordinance, 2009 is 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.1) (Alderney) Ordinance, 2009.

Item VII The Housing (Exemptions) (No.2) (Alderney) Ordinance, 2009

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

Mr Steven Syer wishes to regularise the change of use of part of the premises known as the Harbour Lights Hotel, for which works were carried out in the 1980s to change the use of three storage units to three dwellings for residential use. 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.2) (Alderney) Ordinance, 2009.

Members will note that exemption will apply only in relation to Mr Syers application for planning permission for change of use of that part of the premises which will comprise accommodation 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.

If approved the Ordinance will regularise the conversion of the three storage units into three dwellings subject to the condition that at least one of the dwellings referred to is to be made available for letting as residential accommodation to persons ordinarily resident in Alderney for a period of seven years from the commencement of the Ordinance and continuing thereafter unless the prior written consent of the Committee allows otherwise

I would be grateful if the Housing (Exemptions) (No.2) (Alderney) Ordinance, 2009 is 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.2) (Alderney) Ordinance, 2009.

Item VIII The Housing (Exemptions) (No.3) (Alderney) Ordinance, 2009

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

Mr Jonathan Kirkwood Moxey, Mrs Caroline Yates and Mr David Moxey wish to subdivide their property, Les Jumeaux, Route de Crabby into two separate dwellings. 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.3) (Alderney) Ordinance, 2009.

Members will note that exemption will apply only in relation to the applicants application for planning permission to subdivide the property 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.3) (Alderney) Ordinance, 2009 is 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.3) (Alderney) Ordinance, 2009.

Item IX The Evidence in Civil Proceedings (Guernsey and Alderney) Law, 2009

The following letter has been received from Sir Norman Browse, President States of Alderney:

At the last meeting of the States in April, Members decided by a 6 to 4 majority not to approve The Evidence in Civil Proceedings (Guernsey and Alderney) Law, 2009. The main reason for the decision was the removal in the revised law of an Henry VIII clause which Members considered should be retained to maintain Alderneys independence.

The rejection of this law has caused considerable concern amongst the judiciary. The Bailiff expressed his concerns as follows:

You will recollect that the rules of evidence in criminal cases were modernised in a 2004 Law and another permissive law was put in place to permit further reforms of the rules of criminal evidence by Ordinance.

The proposal to reform civil evidence dates back to a States Resolution in February 2000 and in that Policy Letter it was made clear that our civil evidence rules date back to a Law of 1865 and cry out for modernisation, particularly in light of changes made in England by Acts in 1968, 1972 and 1975.

A point of crucial significance was made in the further Report to the States (Billet DEtat IX of 2006 commencing on page 86) that the current strict rules of civil evidence are cumbersome and cause proceedings to be much lengthier than they need. Over lengthy proceedings tie up an overstretched judiciary, court clerks, ushers and litigants and increase the cost of justice to the detriment of the public purse and litigants (see para 7 of the Report to the States.)

I was concerned when Sark did not see fit to pass a Bailiwick Law that the rules of civil evidence in Sark would differ from the evidence rules to be put in place in Guernsey and Alderney. I am now acutely concerned that we may end up with different civil evidence rules in all three jurisdictions.

I would hope that the States of Alderney might see fit to revisit its decision.

It is clear that Alderney must come up to date with the regulation of evidence in civil proceedings and I should point out that the Henry VIII clause that was removed from the previous version applied specifically to Guernsey not Alderney.

I have put this on the Billet to give Members the opportunity of reviewing and perhaps reconsidering their previous decision.

Note: The April 2009 Billet contained all the details of this law.

Sir Norman Browse
President

The States is asked to review and reconsider their previous decision regarding the approval of The Evidence in Civil Proceedings (Guernsey and Alderney) Law, 2009.
Item X The Charities and Non Profit Organisations (Enabling Provisions) (Guernsey and Alderney) Law, 2009

The following letter has been received from the President, States of Alderney:-

Please find enclosed a letter from the Bailiff, dated 1st June 2009 seeking approval of the above law.

I would therefore be obliged if you would debate this matter at your meeting on 22nd June 2009 and give your approval as set out in the letter.

President
States of Alderney

The States is asked to approve of The Charities and Non Profit Organisations (Enabling Provisions) (Guernsey and Alderney) Law, 2009.

(Note: A copy of the Projet de Loi may be seen in the States Office, Island Hall and the Library.)

Item XI Questions and Reports

Issued 5th June 2009
