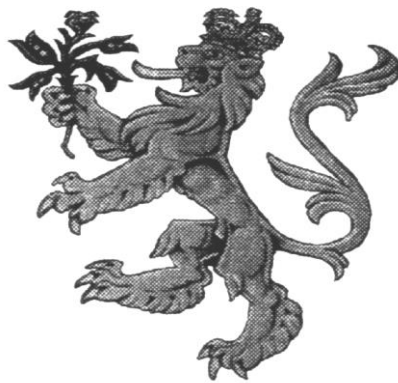


STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 9TH SEPTEMBER 2020

Price: £2.35

BILLET D'ETAT

FOR WEDNESDAY 9TH SEPTEMBER 2020

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 1730hrs on Wednesday 9th September 2020. This will be preceded by the People's Meeting, which will be held on Wednesday 2nd September 2020 at 7:00 pm in the Island Hall.

William Tate
President

Item I **Chief Pleas**

Persons whose names are included on the Register of Voters and who have given due notice will address the States on matters of public interest.

Item II **Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020**

The attached letter dated 3rd June 2020 was received by the President from the Bailiff of Guernsey, Mr Richard J McMahon.

The States of Alderney is asked to give their approval to the Projet de Loi entitled "The Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020".

Item III **The Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020**

The attached letter dated 20th August 2020 was received by the President from the Bailiff of Guernsey, Mr Richard J McMahon.

The States of Alderney is asked to give their approval to the Projet de Loi entitled "The Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020".

Item IV **The Regulation of Fiduciaries, Administration Businesses and Company Directors , etc (Bailiwick of Guernsey) Law, 2020**

The attached letter dated 20th August 2020 was received by the President from the Bailiff of Guernsey, Mr Richard J McMahon.

The States of Alderney is asked to give their approval to the Projet de Loi entitled "The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020".

Item V **The Banking Supervision (Bailiwick of Guernsey) Law, 2020**

The attached letter dated 20th August 2020 was received by the President from the Bailiff of Guernsey, Mr Richard J McMahon.

The States of Alderney is asked to give their approval to the Projet de Loi entitled "The Banking Supervision (Bailiwick of Guernsey) Law, 2020".

Item VI **The Protection of Investors (Bailiwick of Guernsey) Law, 2020**

The attached letter dated 20th August 2020 was received by the President from the Bailiff of Guernsey, Mr Richard J McMahon.

The States of Alderney is asked to give their approval to the Projet de Loi entitled "The Protection of Investors (Bailiwick of Guernsey) Law, 2020".

Item VII **The Alderney eGambling (Amendment) Ordinance, 2020**

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

"At its meeting on the 29th May 2020, the Alderney Gambling Control Commission approved amending the Alderney eGambling Ordinance 2009 and Alderney eGambling Regulations 2009. Under the terms of the MoU between the AGCC, States of Alderney Policy and Finance Committee and States of Guernsey Committee for Home Affairs a copy of the draft Ordinance has been circulated for consideration by the Home Department prior to it being considered by the States of Alderney.

The draft Ordinance is the result of a project by the Bailiwick of Guernsey AML/CFT Working Group to ensure that the AML/CFT legislation of the Bailiwick is compliant with the current FATF 2012 Recommendations.

AML/CFT

The main change is that the AML/CFT provisions are now incorporated into the Ordinance, having been taken out of the Regulations. This was to ensure that the AML/CFT provisions were incorporated in 'law' and not 'regulation' thus being considered and passed by the State of Alderney. The AML/CFT provisions are now contained in a Schedule to the Ordinance and any reference below relates to the paragraph in that Schedule.

The main amendments are as follows:

a. Business Risk Assessments (BRA) (para 1 and 2):

There is a general duty for Category 1 and 2 operators to understand, identify, assess, mitigate, manage and review and monitor AML/CFT risks. They must also carry out a BRA as previously but now must take into account the National Risk Assessment which was published in January 2020 and any amendments thereto.

b. Customer Due Diligence:

To ensure that the FATF language is followed, the Ordinance amends the use of 'adequate' measures to 'reasonable' measures and that the customer relationship must be 'understood' when conducting customer due diligence (para 3(2)).

i. Beneficial Ownership (Sec 2(12)):

In relation to corporate customers, the term 'beneficial owner' has been brought into line with the Beneficial Ownership (Definition) (Alderney) Regulations, 2017 to ensure a consistent approach to the definition. It has also been extended to trusts and foundations.

Where a natural person cannot be identified as a beneficial owner, a senior official should be identified instead, thus allowing for a natural person in control of a corporate customer to undergo customer due diligence.

ii. PEPs (para 4(3)):

Domestic PEPs and those who hold a prominent function in an international organisation, for example, United Nations, are now brought into the definition of a PEP.

PEPs are no longer 'PEPs for life'. A customer need not be classed as a domestic PEP if they were not such prior to this Ordinance being brought into force and 5 years after they ceased to be a domestic PEP once the Category 1 operator has undertaken an assessment of the relationship and source of funds (para 4 (4 and 5)).

Foreign PEPs and holders of a prominent function of an international organisation may not be treated as a PEP seven years after they ceased to carry out that function once the Category 1 operator has undertaken an assessment of the relationship and source of funds and there is no reason to treat them as PEP, (para 4 (6 and 7)).

These exemptions do not apply to Heads of Government, International Organisations or a person with power to spend significant sums.

c. Enhanced Customer Due Diligence (para 4)

The EDD provisions have been bolstered by the requirement to carry out EDD on a customer from a country which has significant levels of corruption or other criminal activity or any other country deemed appropriate to require EDD. The information required for EDD has also been clarified and examples have been

given at para 4(2)(e)(i): the customer's occupation, volumes of assets and publicly available information.

C1 Associate Certificates

The Alderney eGambling (Amendment) Regulations, 2018 introduced the concept of Category 1 associate certificates and sought to amend the eGambling Regulations to bring that concept into effect. This was passed by the States of Alderney on 11 January 2018. When these Amendment Regulations were sent to the legislative consolidator in Guernsey, it was noticed that a number of sections could not be consolidated due to drafting issues. In order to correct these issues, a number of amendments have been incorporated into the current Amendment Ordinance. These are purely typographical or administrative and do not change the nature of the product in any way.

I would be grateful if this matter is placed before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman”

The States of Alderney is asked to approve The Alderney eGambling (Amendment) Ordinance, 2020.

Committee Meeting Attendees:-

Ms A Burgess
Mr M Dean
Mr J Dent, Chair
Mr D Earl, Deputy
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE
Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent

Secunder: Mr Christian Harris

Item VIII The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.4) Regulations, 2020

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“These Regulations are emergency regulations made by the Civil Contingencies Authority under Part 3 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 ("the Law"). They are made on the occurrence of an emergency, within the meaning of the Law, in the Bailiwick, arising from the urgent need to prevent, control or mitigate the spread of the virus Severe Acute Respiratory Syndrome Coronavirus 2 and the disease caused thereby, COVID-19 (referred to together in these regulations as coronavirus). They are prefaced with a statement by the Civil Contingencies Authority, as required by section 12(2) of the Law. COVID-19 was made a notifiable disease for the purposes of the Public Health Ordinance, 1936 on 10th February 2020.

These Regulations revoke and re-enact (with minor modifications) regulations previously made by the Civil Contingencies Authority in respect of the coronavirus pandemic.

These regulations provide for offences under the Regulations to be assigned matters (within the meaning of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972), including for the purpose schedule 5 to the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003. This means that the provisions of the latter Law relating to the investigation of offences conducted by police officers shall apply to investigations of those offences conducted by customs officers.

These Regulations also revoke provisions relating to schools and the cutting of seaweed, the effect of which has expired.

The Regulations came into force on the 23rd July 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.

I would be grateful if this matter is placed before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman”

The States of Alderney is asked not to annul “The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.4) Regulations, 2020”

Committee Meeting Attendees:-

Ms A Burgess
Mr M Dean
Mr J Dent, Chair
Mr D Earl, Deputy
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE
Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent

Seconder: Mr Christian Harris

Item IX The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.5) Regulations, 2020

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“These Regulations are emergency regulations made by the Civil Contingencies Authority under Part 3 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 (“the Law”). They are made on the occurrence of an emergency, within the meaning of the Law, in the Bailiwick, arising from the urgent need to prevent, control or mitigate

the spread of the virus Severe Acute Respiratory Syndrome Coronavirus 2 and the disease caused thereby, COVID-19 (referred to together in these regulations as coronavirus). They are prefaced with a statement by the Civil Contingencies Authority, as required by section 12(2) of the Law. COVID-19 was made a notifiable disease for the purposes of the Public Health Ordinance, 1936 on 10th February 2020.

These Regulations revoke and re-enact (with minor modifications) regulations previously made by the Civil Contingencies Authority in respect of the coronavirus pandemic.

These Regulations came into force on the 7th August, 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.

Part I - screening, assessment and powers to detain etc.

This Part places a requirement to self-isolate on persons arriving in the Bailiwick, enables the Medical Officer of Health to place restrictions and requirements on other persons who are or who may be infected with coronavirus, and makes provision in respect of related matters, including powers for the Medical Officer of Health to impose screening requirements, to detain people and to keep people in isolation. The provisions also create criminal offences and confer powers of enforcement on police officers, and provide for applications to vary or revoke requirements or restrictions imposed under this part to be made to the Royal Court.

Part II – mental health and health and safety

Schedule 1 to these Regulations sets out the modifications to be made to mental health legislation having effect in the Bailiwick.

Paragraphs 4 to 6 modify the Mental Health (Bailiwick of Guernsey) Law, 2010 ("the Law") to permit an approved medical practitioner (rather than only a second opinion approved doctor) to provide a certificate for the purposes of section 56 and, in doing so, that practitioner will only be required to consult with one person, where the practitioner is of the opinion that is not reasonably practicable or would involve unreasonable delay to comply with the unmodified requirements.

Paragraphs 7 to 8 modify the Mental Health Review Tribunal Procedure Rules, 2012 to provide that the Mental Health Review Tribunal ("the Tribunal") may properly be constituted according to specified criteria.

Regulation 14 allows the Chief Health and Safety Officer ("the Chief Officer") to grant a certificate disapplying the requirements for examination, testing and inspection set out in regulation 14 and Schedule 2 in respect of equipment, occupier's installation or gas appliance and flue (as the case may be) specified in an application. A certificate may only be given where the Chief Officer is of the opinion that the disapplication will not prejudice the safety of any person operating the equipment etc. or any other person likely to be affected by its operation. The certificate may only disapply the relevant requirement for a period of up to 30 days, and may not disapply any other health and safety requirement (and, in particular, the requirement to keep the equipment etc. in a safe condition and good working order).

Part III – miscellaneous and final

Regulation 16 enables the Court of Appeal to conduct its proceedings remotely, and enable a Judge of Appeal to be sworn into office by the Royal Court constituted by the Bailiff sitting alone.

I would be grateful if this matter is placed before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman

The States of Alderney is asked not to annul “The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.5) Regulations, 2020”

Committee Meeting Attendees:-

Ms A Burgess

Mr J Dent, Chair

Mr K Gentle

Mr C Harris

Mr L Jean

Mr G McKinley OBE

Mr S Roberts

Mr A Snowdon

Proposer: Mr James Dent

Seconder: Mr Alex Snowdon

Item X The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.5A) Regulations, 2020

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“These Regulations are emergency regulations made by the Civil Contingencies Authority under Part 3 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 (“the Law”). They are made on the occurrence of an emergency, within the meaning of the Law, in the Bailiwick, arising from the urgent need to prevent, control or mitigate the spread of the virus Severe Acute Respiratory Syndrome Coronavirus 2 and the disease caused thereby, COVID-19 (referred to together in these regulations as coronavirus). They are prefaced with a statement by the Civil Contingencies Authority, as required by section 12(2) of the Law. COVID-19 was made a notifiable disease for the purposes of the Public Health Ordinance, 1936 on 10th February 2020.

These Regulations amend the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 5) Regulations, 2020. They provide for persons arriving in the Bailiwick to be required to answer questions relating to their travel history during the previous 7 days, and to provide travel documents for inspection; and make it a criminal offence to provide false or misleading information in answer to questions put by officers in exercise of their functions under the Regulations. They also provide for a variation by the Civil Contingencies Authority of the requirement to self-isolate for 14 days to include provision making it an offence to fail without reasonable excuse to comply with a condition or restriction relating to that variation.

These Regulations came into force on the 17th August, 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law. They were signed by Deputy Trott, the Vice-President of the Policy & Resources Committee, in his capacity as Chairman of the Civil Contingencies Authority in the absence of the President of the Policy & Resources Committee, in accordance with paragraph 4 of Schedule 1 to the Law.

I would be grateful if this matter is placed before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman”

The States of Alderney is asked not to annul “The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.5A) Regulations, 2020”

Committee Meeting Attendees:-

Ms A Burgess
Mr J Dent, Chair
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE
Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent
Seconder: Mr Alex Snowdon

Item XI **The Government of Alderney (Amendment) Law, 2020**

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“The Government of Alderney (Amendment) Law, 2020 amends the Government of Alderney Law on a permanent basis to add the potential for use of the Emergency Procedures which have been put into operation during the Coronavirus emergency. The draft also provides States Members with Absolute Privilege, which was expressly requested by Members at the June meeting of the Policy and Finance Committee.

Emergency Procedures - Part IV A

A new safeguard has been added into s55A(3) so that the President will need to obtain a Law Officer’s advice before making a determination that it is appropriate for the Part to apply. This additional safeguard is similar to that in place in the Civil Contingencies Law in relation to the making of emergency regulations.

Section 55A(5) and sections 55I(3), 55(K)(3) and 55L(3) allows for certain exceptions to the temporary application of the Part but just for rules, regulations or Ordinances made under the Part so that these will not cease to apply if the President makes a determination that it is appropriate for the Part to cease to apply e.g. if an election date has been deferred by Ordinance that Ordinance will need to apply until that election takes place; if Regulations have changed cross-references to procedural rules in this Part because of general amendments to those Rules, those amendments will still apply;

Section 55L-time or mode of elections- is the Ordinance power allowing for a deferral of the election or an exclusive postal ballot. A safeguard has been provided to ensure the power cannot be abused, by providing that the deferral of an election cannot be

for more than six months. The Policy and Finance Committee therefore retains the flexibility as to the election date and the choice of a deferral or an exclusive postal ballot, as it is difficult to know the position in November and which option would be more appropriate if there were a second corona wave. If there were an exclusive postal ballot, this would reduce physical contact for voters but the current procedures in Schedule 1 would still require/allow certain persons to be present in person e.g. the Chief Executive, the Jurats and candidates;

Section 55L(5)-as a further safeguard, specifies that an Ordinance under this section is subject to the higher States of Alderney quorum rules in s45(3) of the Law.

The interpretation section at s48F has been included for clarification of the terms used in the new Part IIIA on absolute privilege etc. in particular to clarify that publication of proceedings/a summary of a document includes doing so by a broadcast on the television or radio. This is not a change to the policy but is just clarifying the meaning of the terms.

I would be grateful if you would place The Government of Alderney (Amendment) Law, 2020 before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman

The States of Alderney is asked to approve The Government of Alderney (Amendment) Law, 2020 and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

Committee Meeting Attendees:-

Ms A Burgess
Mr M Dean
Mr J Dent, Chair
Mr D Earl, Deputy
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE
Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent

Seconder: Mr Kevin Gentle

Item XII **By Election Dates**

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“Due to the resignation of Mr David Earl, there now exists a casual vacancy among Members of the States of Alderney.

The Government of Alderney Law, 2004 as amended, states under section 28(3) “*If a casual vacancy occurs among the members, the States shall appoint a day not later than 3 months after the vacancy occurs on which there shall be held a by-election,*”

The following arrangements are therefore proposed:

- Nominations to be received during the seven days ending at 4pm on Thursday 24th September 2020
- The Polling day to be Saturday 10th October 2020 and that the Polling room be the Island Hall, Royal Connaught Square.
(The Polling Station will be open between the hours of 9.30am and 6.30pm)

The successful candidate will hold office for the remainder of Mr Earl's term of office which ends on 31st December 2022.

James Dent, Chairman"

The States of Alderney is asked to approve of the arrangements for the By-Election 2020 to be held on Saturday, 10th October 2020.

Committee Meeting Attendees:-

Ms A Burgess
Mr M Dean
Mr J Dent, Chair
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE
Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent

Secunder: Mr Mike Dean

Item XIII Elections 2020

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

"Section 28(2) of the Government of Alderney Law, 2004, as amended, (the Law) states that the States of Alderney shall appoint a day in November, not less than 2 days before the last day, on which an ordinary presidential election shall be held for the purpose of electing a President of the States in place of the President whose term of office expires in that year.

Section 28(1) of the Law states that the States of Alderney shall appoint a day not earlier than 14th November and no later than 14th December on which an ordinary election shall be held for the purpose of electing members of the States in place of the members whose terms of office expire in that year.

The following dates have been identified and are proposed for the Election process outlined above for 2020:

- a. **Presidential Election: Saturday 14th November 2020, Island Hall**
(The Polling Station will be open between the hours of 9.30am. and 6.30pm)

Nominations to be received during the seven day period ending: Wednesday 4th November, 2020 (closing at 4pm);

- b. Ordinary Election: Saturday 28th November 2020, Island Hall**
(The Polling Station will be open between the hours of 9.30am and 6.30pm)

Nominations to be received during the seven day period ending: Wednesday, 18th November, 2020 (closing at 4pm);

- c. Plebiscite Election* : Saturday 12th December 2020, Island Hall**
(The Polling Station will be open between the hours of 09.30am and 6.30pm)

Nominations to be received during the seven day period ending Wednesday, 2nd December 2020.

[* The Plebiscite election is for the purpose of nominating two States of Alderney States Members to be Alderney Representatives in the States of Deliberation.]

The Policy and Finance Committee at its meeting of 25th June 2020, approved the schedule as aforementioned and resolved for this matter to be placed before a meeting of the States of Alderney for formal approval by the full States.

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

James Dent, Chairman"

The States of Alderney is asked to approve that the elections for the year 2020 are as follows:-

- a. The Presidential Election to be held on Saturday 14th November 2020;**
b. The Ordinary Election to be held on Saturday 28th November 2020; and
c. The Plebiscite Election to be held on Saturday 12th December 2020.

Committee Meeting Attendees:-

Ms A Burgess
Mr M Dean
Mr J Dent, Chair
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE
Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent

Seconder: Mr Mike Dean

Item XIV **Code of Conduct Review Panel**

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“The Policy and Finance Committee received at its July meeting a letter from the President with regards appointing temporary members to the Code of Conduct Review Panel. It was noted that in accordance with paragraph 12.4 of the Code of Conduct for States Members the President may appoint temporary members to the panel following consultation with the Chairman of the Policy and Finance Committee. However if the temporary appointments are to become on a permanent basis then the President should make such recommendations to the States of Alderney for approval.

The President advised that the reason for appointing the temporary members is that there are a number of complaints that need to be dealt with in a timely fashion and that he is unable to form a panel from the existing members. It was also noted that the President had recommended to extend the temporary membership of the Panel members on a permanent basis.

The Policy and Finance Committee resolved at its meeting on 30th July 2020 to support a recommendation to the States of Alderney for the appointment of Ms Barbara Benfield and Mr Roy Burke as additional permanent members of the Code of Conduct Review Panel.

I would be grateful if this matter is placed before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman”

The States of Alderney is asked to approve the appointment of Ms Barbara Benfield and Mr Roy Burke as additional permanent members to the Code of Conduct Review Panel.

Committee Meeting Attendees:-

Ms A Burgess
Mr M Dean
Mr J Dent, Chair
Mr D Earl, Deputy
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE
Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent

Seconder: Mr Graham McKinley OBE

Item XV **Homecoming Day**

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“The States of Alderney at its meeting of 21st November, 2005 approved “The Public Holiday (“Homecoming Day”) (Alderney) Ordinance, 2005. The background to this decision was that 15th December, 2005 marked the 60th Anniversary of the homecoming – the arrival by ship of the first islanders to return following the evacuation. The event was marked in a variety of ways, including a special stamp issue and a commemorative stone bearing an inscription. Many were of the view that

the anniversary of this important event should be formally recognised on an annual basis by the declaration of a public holiday.

The Public Holiday ("Homecoming Day") (Alderney) Ordinance, 2005 was drafted by the Law Officers to give effect to this and states that:

1. (1) *Subject to subsection (2) the 15th day of December in each year is a public holiday in Alderney.*

(2) *Where in any year the 15th December falls on a Saturday or a Sunday, that day is not a public holiday, but the Monday first preceding that day is a public holiday.*

At the meeting of the Policy and Finance Committee on 23rd January 2020 the Committee resolved to debate this matter at a meeting of the full States. At the July meeting of the full States there was a debate without resolution on this item. Following this debate and the responses from public consultation it was resolved at the Policy and Finance Committee meeting of 30th July that a resolution providing a clear set of options is put to the States of Alderney for a final decision.

I would be grateful if this matter is placed before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman"

The States of Alderney is asked

- 1 to abolish the Monday holiday if it occurs on a weekend, and confine celebrations and remembrance to the 15th December irrespective of the day of the week this falls on; and if this fails;**
- 2 to confine celebrations to the 15th December irrespective of the day of the week this falls, but continue with the Monday holiday (in this case the Monday will remain a holiday but will not be a day of celebration or remembrance); and if this fails**
- 3 to celebrate and remember always and only on the Monday preceding 15th December; and if this fails**
- 4 to celebrate and remember always and only on the Monday following 15th December.**

Committee Meeting Attendees:-

Ms A Burgess
Mr M Dean
Mr J Dent, Chair
Mr D Earl, Deputy
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE
Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent

Seconder: Ms Annie Burgess

Item XVI **Excise Duty on Motor Fuel and Document Duty 2020**

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“At its meeting in August 2020, the Guernsey States of Deliberation considered the policy letter entitled ‘States of Alderney – Excise Duty on Motor Fuel and Document Duty’ dated 30 June, 2020, and approved the following:

1. The proposals set out in that policy letter to enable the States of Alderney to set the rates of excise duty on Motor Fuel imports into Alderney and the rates of document duty on conveyances and other relevant documents in respect of Alderney real property, which was included in the Review of the Financial Relationship agreed in 2016, with effect from the 1st January, 2021.
2. The Customs and Excise (General Provisions) (Amendment) Ordinance, 2020.
3. The Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020.

These Ordinances will enable the States of Alderney to set the rates of excise duty on Motor Fuel imports into Alderney and the rates of document duty on conveyances in respect of Alderney real property and other relevant documents. This is in accordance with the direction set out in the Review of the Financial Relationship between Guernsey and Alderney which was agreed in 2016.

Background

In February 2016, the States of Alderney and States of Deliberation in Guernsey agreed in principle, that the financial arrangements between both islands be modified such that:

- Guernsey retains responsibility to fund all Transferred Services, and the Social Security Funds, through the pooled income sources of Income Tax and Social Security Contributions;
- The States of Alderney is responsible for funding all other public services in Alderney from all other levies, rates, taxes, permit fees, rents, duties and other income collected from sources based in Alderney.

It was subsequently agreed that the States of Alderney would take responsibility for raising its revenues through i) a new Property Tax; and ii) by setting the rates and retaining the proceeds of fuel duty and document duty.

The enabling legislation to introduce a new Property Tax has recently been agreed.

Proposals

In order for the States of Alderney to set the rates of excise duty on Motor Fuel imports into Alderney, it is proposed that The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 is amended such that:

- The States of Alderney can specify its own fuel duty rate as part of the Fourth Schedule to the above; and
- The revenues attributable to Alderney are credited at the direction of the Policy & Resources Committee to the States of Alderney Accounts instead of General Revenue.

In order for the States of Alderney to set the rates of document duty on conveyances in respect of Alderney real property and other relevant documents, it is proposed that The Document Duty (Guernsey) Law, 1973 as it has effect in Alderney by virtue of the Alderney (Application of Legislation) Law, 1948 and the Document Duty Ordinance, 2003 is amended to allow:

- The States of Alderney to prescribe documents and the rate of duties; and
- The revenues attributable to Alderney to be paid to the Greffier of the Court of Alderney and credited to the States of Alderney Accounts instead of General Revenue.

The States of Guernsey Policy & Resources Committee has also agreed that the States of Alderney can vary the ratio of duty accruing to the States of Guernsey in The Duty on Long Leases (Variation of Rate and Ratio) (Alderney) Ordinance, 2003 and The Duty on Share Transfers (Variation of Rate and Ratio) (Alderney) Ordinance, 2003 so that 100% of the revenues are paid into the States of Alderney revenue account from 2021.

In a similar way to the charging of TRP on Alderney property, the ability would remain for the States of Guernsey to set the rates of excise duty on Motor Fuel and the rates of Document Duty but the intention is that they would be levied at nil in future. These income raising responsibilities and control over revenues will pass to the States of Alderney together with a commensurate reduction in the States of Alderney Cash Limit (which from 2020 is treated as a grant).

This proposal will provide the States of Alderney with greater freedom and flexibility to set tax and duty rates at such levels determined to best raise the funds necessary to provide our public services. If there is a decrease in the level of revenues received, for example as a result of a reduction in rates, the States of Alderney would either have to raise additional income from another source or reduce expenditure.

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

James Dent, Chairman

The States of Alderney is asked to:

- 1. Approve the proposals set out in this letter to enable the States of Alderney to set the rates of excise duty on Motor Fuel imports into Alderney and the rates of document duty on conveyances and other relevant documents in respect of Alderney real property, which was included in the Review of the Financial Relationship agreed in 2016, with effect from the 1st January, 2021.**
- 2. Approve the Customs and Excise (General Provisions) (Amendment) Ordinance, 2020.**
- 3. Approve the Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020.**
- 4. Agree to instruct the Law Officers to make the necessary amendments to The Duty on Long Leases (Variation of Rate and Ratio) (Alderney) Ordinance, 2003 and The Duty on Share Transfers (Variation of Rate and Ratio) (Alderney) Ordinance, 2003 so that 100% of the revenues are paid into the States of Alderney revenue account from 2021.**

Committee Meeting Attendees:-

Ms A Burgess
Mr M Dean
Mr J Dent, Chair
Mr D Earl, Deputy Chair
Mr K Gentle
Mr C Harris
Mr L Jean
Mr G McKinley OBE

Mr S Roberts
Mr A Snowdon

Proposer: Mr James Dent
Seconder: Mr Christian Harris

Item XVII **The Alderney Property Tax Ordinance, 2020**

The following letter was received from Mr James Dent, Chairman of the Policy and Finance Committee:-

“The Alderney Property Tax Ordinance, 2020, which is closely based on the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007, will empower the States of Alderney to make provision in relation to the taxation of real property in Alderney under the The Alderney Property Tax (Enabling Provisions) Law, 2020.

The above enabling legislation has been agreed by the States of Alderney and will become law once it receives Royal sanction and is registered by the Royal Court. The deadline for this is later this year but we must be alert to the risk that the UK Privy Council timetable may slip due to the Covid 19 pandemic.

Once the enabling legislation is approved, this Ordinance will be enacted and the Alderney property tax will commence. This 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 (assuming the law is approved by the end of 2020) 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.

The detailed ordinance includes provision for:

- The Policy and Finance Committee to take responsibility for administration of the Alderney Property Tax Ordinance;
- The States of Alderney to set Alderney Property Tax tariffs in future;
- Alderney Property Tax bills to be based on property measurement in the same way as Taxation on Real Property;
- Policy and Finance to ensure that an accurate property register, and digital map is maintained;
- The Policy and Finance Committee to have powers to add penalties where tax is unpaid; and
- Establishing an Appeals Panel and Tribunal to allow owners to challenge property classification and measurement.

I would be grateful if you would place the The Alderney Property Tax Ordinance, 2020 before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman”

The States of Alderney is asked to approve the text of the Alderney Property Tax Ordinance, 2020 to be enacted once the The Alderney Property Tax (Enabling Provisions) Law, 2020 receives Royal assent.

Committee Meeting Attendees:-

Ms A Burgess

Mr J Dent, Chair

Mr M Dean

Mr D Earl, Deputy

Mr K Gentle

Mr C Harris

Mr L Jean

Mr G McKinley OBE

Mr S Roberts

Mr A Snowdon

Proposer: Mr James Dent

Seconder: Mr Christian Harris

Item XVIII **Questions and Reports**

No Questions or Reports received at time of publication.

Note:- The legislation referred to in this Billet d'Etat may be viewed online at www.GuernseyLegalResources.gg and www.alderney.gov.gg

Issued: Friday 28th August 2020