



OFFICIAL REPORT

OF THE

STATES OF THE

ISLAND OF ALDERNEY

HANSARD

The Court House, Alderney, Wednesday, 11th November 2020

*All published Official Reports can be found on the
official States of Alderney website www.alderney.gov.gg*

Volume 8, No. 8

Present:

Mr William Tate, President

Members

Mr Bill Abel
Ms Annie Burgess
Mr James Dent
Mr Kevin Gentle
Mr Christian Harris
Mr Louis Jean
Mr Graham McKinley OBE
Mr Steve Roberts
Mr Alexander Snowdon

The Greffier of the Court

Ms Sarah Kelly

Business transacted

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States of Alderney

*The States met at 5.30 p.m. in the presence of
Lieutenant G T Workman RN (Rtd) representing
His Excellency The Lieutenant-Governor of the Bailiwick of Guernsey.*

[THE PRESIDENT *in the Chair*]

PRAYERS

The Greffier

ROLL CALL

The Greffier

Requête procedure followed during last States Meeting– Statement by the President

The President: Before I ask the Greffier to deal with the Billet, I would like to make an apology.

At last month's States Meeting, you may recall that there was a requête which was on the Billet for discussion and there was an application by Mr Gentle, who was one of the four States
5 Members who signed that requête to withdraw it. There was a debate and at the conclusion of the debate, Mr Gentle made his closing remarks and at that point, I offered certain opinions around issues of process. We then moved to a vote and the vote was that the requête should be withdrawn.

The error I made was that section 44 of the Government of Alderney Law 2004 allows for the
10 President to be involved in a debate, but that should be *before* the summing-up of the person who proposed the requête, so that being the case, I should have interjected earlier and having not done so, it was an error on my part.

But I hope in the circumstances, the observations that I made did not influence in any way the outcome of that debate and for that, as I say, I do apologise.

Convenor's Report of the People's Meeting held on 4th November 2020

15 **The President:** Can we move firstly, Mr Dent, to the Convenor's Report, please?

Mr Dent: Thank you, Mr President.

Yes, I confirm that I was the Convenor. I was assisted by the Temporary CEO and the Acting
20 Head of Finance. There were seven States Members present, excluding myself. Your good self as President was present. There was the Minute Secretary. There were 19 members of the public and three members of the press.

The President: Thank you, Mr Dent.

Billet d'État for Wednesday, 11th November 2020

I. The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.7) Regulations, 2020 – Not annulled

Item I.

The States of Alderney is asked not to annul "The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.7) Regulations, 2020".

25 **The President:** Madam Greffier, can we move on please and now deal with Item I on this evening's Billet.

The Greffier: Sir, Item I is The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.7) Regulations, 2020. The States is asked not to annul those Regulations.

30 **The President:** Mr Dent, you are going to propose this Item?

Mr Dent: Mr President, would you care for the Convenor's Report before that?

35 **The President:** Yes, I am sorry, yes, please do.

Mr Dent: There was only one comment. It was clarified that the Emergency Powers Regulations are valid until they expire or are annulled.

Thank you.

40 **The President:** Thank you. You can remain on your feet.

Mr Dent: Thank you.

45 Mr President, we dealt with Regulations No. 6 in our October Meeting These Regulations No. 7 came into effect on 3rd October and expired on 2nd November. Nonetheless as on previous occasions, it is incumbent on us not to annul.

The main themes were, as in all the more recent sets of regulations, screening, assessment and powers to detain. The provisions now also created criminal offences and conferred powers of enforcement on police officers. There was an expansion of definition for self-isolation and there are also powers given to the Medical Officer of Health to vary and revoke restrictions.

50 Other themes were mental health, and health and safety. There were some regulations relating to the Guernsey election and allowing the GFSC to hold oral hearings remotely.

For those interested, there were 48 pages.

55 **The President:** Thank you very much indeed.
Mr Snowdon, I think you are seconding this one.

Mr Snowdon: I am happy to second this. I have got nothing to add but I reserve my right to speak, in case.

Thank you.

60

The President: Would any Member wish to speak on this Item? Mr McKinley.

Mr McKinley: Thank you, sir.

65 Mr President, fellow States Members, I just have one question to deal with checking on arrival at the Airport here. There was some time ago a suggestion that there would be some facility at the airport for passengers arriving indirectly from the UK or elsewhere, and that there may even be a cost for that – the cost was over £100 per person.

70 Could Mr Dent please explain whether that facility *is* going to be in place, and, if so, if the cost is going to start at £100-plus per person; or is that cost going to be covered as part of the transferred services, by the Health & Social Care Committee in Guernsey?

The President: I am not necessarily sure that is relevant to the Proposition itself, Mr McKinley, but Mr Dent has an opportunity of responding. I think it is a matter for him, but no doubt he could deal with that matter privately, if you wanted to pursue it.

75 **Mr McKinley:** I would just like to know the answer ...

The President: Mr Abel, I think you would –

Mr Abel: Yes, Mr President, fellow States Members.

80 I just wanted to ask a question around whether a simpler process could be adopted around this ‘not to annul’, because it obviously takes quite a lot of time and paperwork.

I realise it is a *process* that we follow. There have certainly been a lot of these over the last few months; plus, I suspect with Brexit coming up, there will be a lot more ‘not to annul’ type pieces of paper coming through to us. I do not know whether there is a simpler, less tedious, less time-consuming process that can be adopted.

85 Thank you, Mr President.

The President: I think that is again a matter that Mr Dent might wish to deal with later. Mr Roberts.

90

Mr Roberts: Thank you, sir.

First of all, Mr McKinley actually asked the question that I was going to ask. I think it is actually related to the Covid emergency. However, you have ruled the way you have, sir.

95 But I would just like to congratulate Mr Dent for the part he has played on our behalf on the CCA. At an unprecedented time in our history he has been part of the team that still protects Alderney and its people from Covid-19. We may not be out of the woods yet, even with vaccines on the horizon. However, Mr Dent will have had to make some difficult decisions on our behalf, and I would like to thank him for taking his part in that.

100 Thank you.

Several Members: Hear, hear.

The President: Mr Snowdon, do you wish to ...?

105 **Mr Snowdon:** I think Mr Dent can handle the questions, so I will leave it to Mr Dent. Thank you.

The President: Does anybody else have a contribution to make? Mr Dent.

110

Mr Dent: If I can deal with Mr Abel first, regarding a simpler process, the honest answer is that the process is laid down to some extent in the CCA Law. I think the CCA Law, to be fair, was never designed for the type of emergency that we face at the moment. I think it was thought that there

115 would be short, sharp shocks. The fact that we have an ongoing thing for six, seven or eight months
was not in the minds of people when they drafted the Law. So without changing the Law, it would
be very difficult to make it a simpler process from that stand.

As regards the 'not to annul', that is very much a safeguard within our own system. In most
other instances, it makes sure that regulations come before us, and we get time to consider them.
120 In the case of the CCA regulations, I do admit that it does seem rather tedious that we go through
this process every month, but hopefully it has become a bit of a ritual, but it is an important one I
think that we should continue for as long as the crisis lasts.

Thank you to my colleague for his kind comments.

Testing at the Airport: I think I must agree with the President that this is about the Regulations
and the Regulations *per se* do not go into this, but in order to answer his question, yes, testing at
125 the Airport was considered, but the process now for an arrival, were there to be an arrival, I think
it would be a small aircraft of general aviation, is that the person could go to their place of self-
isolation, and there would be an arrangement whereby someone would come and test you at that
place. Having people stand by at the Airport with our very small numbers is a bit difficult.

As regards the cost, I think that matter was settled some time ago. There is no cost at the
130 moment. Obviously the situation can change, but the cost at the moment is free. That was decided
a number of months ago.

Thank you.

135 **Mr McKinley:** Thank you.

The President: Perhaps we will just formally take a vote on that, Madam Greffier, if we may.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Abel	None	None
Ms Burgess		
Mr Dent		
Mr Gentle		
Mr Harris		
Mr Jean		
Mr McKinley		
Mr Roberts		
Mr Snowdon		

The President: Could move now, please, Madam Greffier to Item II.

II. The States of Alderney Election Procedure (Amendment) Ordinance, 2020 – Approved

Item II.

The States of Alderney is asked:

To approve The States of Alderney Election Procedure (Amendment) Ordinance, 2020.

140 **The Greffier:** Item II, sir, is The States of Alderney Election Procedure (Amendment) Ordinance,
2020, and the States is asked to approve that Ordinance.

The President: Any observations from the People's Meeting, Mr Dent?

145 **Mr Dent:** Indeed there were. It was clarified that the amendment does not define 'ordinarily resident', which is open to interpretation and that the Clerk of the States is the Chief Executive.

It was also noted that guidance can be obtained if requested by prospective candidates.

A member of the public also requested that the States takes a more holistic view with regard to residency.

150 **The President:** Thank you. And you are now going to go on to propose it.

Mr Dent: Mr President, yes.

Further to the recent events at the by-election, the Lieutenant Governor asked the Law Officers to advise the States of Alderney on the options for providing greater clarity in respect of the term 'ordinarily resident' in the context of the 1987 Elections Procedure Ordinance. The Law Officers have consequently provided the draft amendment that is before us tonight.

155 This, if passed, would require a declaration by the candidate as to his or her eligibility and will make them and those proposing them better aware of the need for certain criteria to be met. The change will also assist the Returning Officer who is required to satisfy him or herself that the nominated person is eligible for election.

160 I understand that separately the Law Officers have offered some suggestions on the guidance that could be issued in respect of the term 'ordinarily resident'. Mr President, colleagues, I am sure that many of you will agree with me that the change will provide neither complete clarity nor will end potential challenges, but having said this, it puts some onus on candidates for election to consider for themselves their eligibility, and it reduces some of the difficulties that our Returning Officer may face when having to determine such eligibility.

Long-term, it may be appropriate, of course, to consider more definite rules, and in the meantime, I commend the Ordinance to the Chamber tonight. I hope that you will agree to it so that it may be in force for our upcoming elections.

170 Thank you.

The President: Thank you, Mr Dent.

Mr Gentle, I think you are going to second this Item.

175 **Mr Gentle:** I am, sir, thank you.

Sir, colleagues, back in January 2012, the then Chair of Policy and Finance submitted a paper to P&F arguing that the 273 days of the enforcement time was too restrictive when looking at 'ordinarily resident'. It was suggested at the time that it could be 90 days, or six months and one day, or any other number of days. What appears to have happened back in 2012 was that when it was repealed from the Government of Alderney Law in March 2012, it was seemingly not followed up by the provision of a suitable replacement as had been intended, and it has therefore fallen to the Returning Officer to interpret the term 'ordinarily resident' throughout.

180 Policy and Finance will have to consider later this year or early next year, whether it wishes the States of Alderney to switch back to having a proper definition, and I would suggest that they do.

185 I do support this. Thank you.

The President: Thank you, Mr Gentle.

Would any Member wish to speak on this matter? Mr Abel.

190 **Mr Abel:** Mr President, States Members, if I may, the Ordinance obviously deals with the paperwork around the nomination form. I do not actually believe that it answers the question that the Lieutenant Governor put to the Law Officers in Guernsey, clarifying the definition of 'ordinarily resident', Mr President, and I believe that question still remains unanswered.

Thank you.

195 **The President:** Mr Dent, do you wish to respond?

Mr Dent: I will respond very briefly in saying that I agree with Mr Abel, and I think I made that point during my speech myself.

Thank you.

200

The President: Thank you.

For the sake of completeness, Madam Greffier, we will take a vote on this one.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Abel	None	None
Ms Burgess		
Mr Dent		
Mr Gentle		
Mr Harris		
Mr Jean		
Mr McKinley		
Mr Roberts		
Mr Snowdon		

The Greffier: Thank you. That is carried, sir.

205 **The President:** Could we then move on, please, to Item III.

III Questions and Reports – None

The Greffier: Item III, Questions and Reports, sir. I have not received any in the due time.

The President: I do not think there were any observations at the People's Meeting.

210 **Mr Dent:** Mr President, there were no comments.

The President: Thank you very much indeed.

That is the end of the Meeting. I will ask the Greffier if she would please close the Meeting this evening.

PRAYERS

The Greffier

The Assembly adjourned at 5.47 p.m.