

STATES OF ALDERNEY

BILLET D'ETAT FOR WEDNESDAY 17TH MARCH 2010

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 Wednesday 17th March 2010. His Excellency Vice Admiral Sir Fabian Malbon, KBE, Lieutenant–Governor of the Bailiwick of Guernsey will be in attendance. This will be preceded by the People's Meeting, which will be held on Wednesday 10th March 2010 at 7:00 p.m. in the Island Hall.

Mr C. Williams
Vice 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 **The Alderney eGambling Regulations 2009**

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

“The Alderney eGambling Regulations, 2009 (“the 2009 Regulations”) were made by the Alderney Gambling Control Commission on 15th December, 2009 and came into effect on 1st January 2010. Section 27(1) of the Alderney eGambling Ordinance, 2009 (“the 2009 Ordinance”) requires that Regulations made thereunder “shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or the making of new regulations”. The signed copy was due to be brought here in early January but due to the inclement weather conditions at the time it actually reached Alderney too late in the month to be included in the January Billet and there was no meeting in February. It is, therefore, important that they are laid before the States at its March meeting. In accordance with agreed practice the Department of Culture, Media and Sport has been provided with a copy.

A number of changes have been made in the 2009 Regulations. These changes have been made with the aim of making the regulations easier to use and more accessible to those who need to use them. Many regulations remain unchanged save for being re-numbered and re-organised. This exercise has also reduced some of the repetition previously contained in the Alderney eGambling Regulations, 2006. The full length of the 2009 Regulations has been reduced significantly making them less daunting to those who need to use them.

While the broad scope of the regulations remains unchanged, there are certain key changes which it is appropriate to draw attention to.

1. New licence categories

eGambling licences are now split into two categories:

- A Category 1 licence authorises the organisation of gambling operations, namely the registration and verification of players, the contractual relationship with them, and the management of player funds.

- A Category 2 licence authorises the operational management of a gambling platform located within an approved hosting centre.

Annual fees for category 1 licences are linked to reported net gaming yield. These fees are now contained within Schedule 3 of the 2009 Ordinance which was passed at the October States' meeting. This will take effect for category 1 licence renewals after 31st March 2010.

2. The new regulations allow for a seamless player transfer to approved platforms located outside Alderney.

The regulations expand on the new regulated category – a foreign gambling associate which was introduced by the 2009 Ordinance. This is an entity (other than a category 2 eGambling licensee) “to whom a category 1 licensee transfers customers, or allows them to be transferred, for the purpose of that entity effecting gambling transactions with the customer or arranging for those customers to gamble with others”. The Commission is of the view that this structure more adequately reflects, and better serves, the increasingly international and multi-jurisdictional nature of the gaming industry. It also expands the Commission's regulatory reach thereby enhancing player protection.

3. Changes to the format and content of regulatory reports.

The format of regular reports for category 1 and category 2 licensees has been changed. The new report formats are set out in Schedules 17-20 of the regulations and are to be used for all reports covering January 2010 onwards. These forms have been changed as a result of the Commission having learned what information is needed for effective regulation.

4. Anti Money Laundering/Combating the Funding of Terrorism

A number of changes have been made to the AML/CFT regime to ensure that the internationally agreed standards are maintained. The majority of these changes are set out in Schedule 16 although where appropriate others have been added in to the body of the 2009 Regulations. Those items which were previously money laundering offences remain so. These are particularly important given the forthcoming IMF inspection and ensure that the Commission has the tools necessary to fight money laundering and the funding of terrorism.

Other incidental changes include improvements to the application forms as well as streamlining matters such as the regulatory hearing process and enabling the time it takes for applicants to come to market to be reduced by allowing the testing of games and the approval of the Internal Control System to take place whilst the licence application is being considered.

I would be obliged if the Alderney eGambling Regulations 2009 are placed before the States at its March meeting together with an appropriate proposition.

R G Willmott
Chairman”

The States is asked to resolve that “The Alderney eGambling Regulations 2009” not be annulled.

(Note: a copy of the Regulations may be seen in the States Office, Island Hall or on line at www.gamblingcontrol.org/legislation.)

Item III Alderney Commission for Renewable Energy: Appointment of Commissioner

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

“At its meeting held on 10th November 2008 the States approved the appointment of Mr Gordon Fitton as Chairman of the Alderney Commission for Renewable Energy, and Mrs Pamela Dixon and Dr John Antill as Members. Dr Antill initially acted as Chairman, from June 2009, following Mr Fitton’s resignation from that position and was formally appointed by the States as executive Chairman at its meeting on 23rd September 2009 for the remainder of his term as a Commissioner, which expires on 10th November 2013. With the Commission now comprising only two members the Policy and Finance Committee has decided to recommend the appointment of Captain Robert Barton as a further Commissioner and Captain Barton has agreed, subject to States approval, to appointment for a period of two years in the first instance (which may be extended).

The position of Member was advertised locally, in Guernsey and Jersey and in the United Kingdom and interviews were conducted in Alderney. Account was not only taken of the strength of individual experience and qualifications of those interviewed but also of the balance of these, having regard to the expertise of the existing Commissioners, required to meet the needs of the Commission in the immediate and medium term future of the Commission. Captain Barton’s considerable experience in marine matters was considered to provide that balance. It remains open to the States to make a further appointment or appointments as and when this is considered appropriate (up to a maximum of a further two).

The approval of the States to the appointment of Captain Barton as a Member of the Commission is sought in accordance with the provisions of section 6 of the Renewable Energy (Alderney) Law, 2007. I would be obliged if this is placed before the States at its next meeting together with an appropriate proposition.

R G Willmott
Chairman”

The States is asked to approve, on the recommendation of the Policy and Finance Committee and in accordance with section 6 of the Renewable Energy (Alderney) Law, 2007, the appointment for a period of two years of Captain Robert Barton as a Member of the Alderney Commission for Renewable Energy.

Item IV Ile de Raz Causeway: Agreement for Lease

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

“The Ile de Raz (“Raz”) is in private ownership but the causeway to it is owned by the States. The owner of Raz, Mr Jon Kay-Mouat (referred to in relation to the causeway as “the Tenant”, together with Mr Bruno Kay-Mouat), has for many years held a lease in respect of the causeway. That lease, which has run since 1989, will expire shortly. Significant expenditure is required in order to bring the causeway into a good state of repair and so maintain it thereafter. The Tenant has requested either to be allowed to purchase the freehold of the causeway or to be granted a long lease. The Policy and Finance Committee and General Services Committee are of the view that a long lease is more appropriate. However, a lease of the length proposed (99 years) can only be granted by the full States.

It is considered that the causeway should be placed in good repair by the Tenant before the lease is entered into. It is proposed therefore that there be in the first instance an agreement for a lease. Under this agreement works set out in its second Schedule must be carried out by the Tenant as a pre-requisite of the lease being entered into. Thereafter, the lease will provide for the Tenant to keep the causeway in good and substantial repair and condition safe for persons and vehicles using it. The right of the public to cross it on foot is reserved as is the right of vehicular access by the States and for the emergency services. There will, as at present, be a nominal (£1 per annum) rent.

The agreement and the lease to be granted under it have been drafted by the Law Officers.

I would be grateful if this letter is placed before the States when it next meets together with an appropriate proposition.

R G Willmott
Chairman”

The States is asked to resolve that an agreement for a lease, as drafted by the Law Officers and a copy of which has been initialled by way of identification by the President of the States of Alderney, be granted to Mr Jon Kay-Mouat and Mr Bruno Kay-Mouat for a term of 99 years and that the lease in the first Schedule thereto be granted when the terms for its grant have been fulfilled, without further reference to the States.

Item V

The European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) (Amendment) Ordinance, 2010

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

“Amendments to the Data Protection (Bailiwick of Guernsey) Law, 2001 and related data protection legislation were approved by the States of Guernsey at its meeting held on 27 January. The Alderney Policy and Finance Committee had been informed of the proposed changes and noted them at its December meeting. One of the amendments, to give the Data Protection Commissioner a power to serve an information notice on any person who may have information concerning the compliance of another person with the requirements of the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) Ordinance, 2009, and its equivalents in Guernsey and Sark, must be separately made in each island. The Guernsey amendment will come into effect on 1 March and the Sark amendment will be submitted to Chief Pleas in Sark for approval in April. I attach a copy of the proposed Alderney amendment. Members will recall that the Ordinance which it amends was approved in October.

I attach a copy of the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) (Amendment) Ordinance, 2010 and would be grateful if the Ordinance is placed before the States when it next meets together with an appropriate proposition.”

R G Willmott
Chairman”

The States is asked to approve “The European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) (Amendment) Ordinance, 2010”.

Item VI **Amendment to Rules of Procedure – cost of transcripts and recordings of States Meetings and Billet D'Etat**

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

“As you are aware the meeting of the full States of Alderney is digitally recorded each month. The Greffier has received requests from the public for copies of transcripts or audio recordings of the meeting to be made available; however it has become apparent that the present Rules of Procedure do not make provision for either producing or charging for such transcripts/recordings.

The Policy and Finance Committee considered this matter at a recent meeting, and agreed that audio recordings or typed transcripts could be made available to the public, at an appropriate cost. It is therefore proposed that the Rules of Procedure are amended in order to make provision for this, and that responsibility for setting the charge be delegated to the Policy and Finance Committee, and reviewed on a regular basis.

Whilst amending the Rules of Procedure to reflect the above it has also been agreed that the cost of the Billet should be delegated to the Policy and Finance Committee, and reviewed on a regular basis, as opposed to requiring full States approval.

I therefore attach a copy of the Rules of Procedure, with rule number 6 amended to reflect the above proposed changes.

I would be grateful if you could place this matter before the States with appropriate proposition.

R G Willmott
Chairman”

The States is asked to approve the amended Rules of Procedure as attached.

Item VII **The Housing (Exemptions) (N0.1) (Alderney) Ordinance, 2010**

The following letter has been received from Mr Sargent, Chairman of the Building and Development Control Committee.

“Mr Peter Claude Arnold wishes to construct a new one-bedroom dwelling on the site of an outbuilding in the grounds of Pottery House, Les Mouriaux. 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. 1) (Alderney) Ordinance, 2010.

The Building and Development Control Committee has promoted this Ordinance, because it considers that the proposed dwelling will enable the applicant to downsize to a purpose-built, single storey, level-access residence, well-situated for an elderly person. The eco-friendly development with sedum roof and solar heating is an imaginative piece of infilling which is non-speculative and proportionate to the site. I attach a site plan to demonstrate the proposed location.

Members will note that exemption will apply only in relation to Mr Arnold'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.1) (Alderney) Ordinance, 2010 is placed before the States when it next meets together with an appropriate proposition.

G Sargent
Chairman”

The States is asked to approve “The Housing (Exemptions) (No. 1) (Alderney) Ordinance, 2010”.

Item VIII The Control of Trade in Endangered Species (Enabling Provisions) (Bailiwick of Guernsey) Law, 2010.

The following letter has been received from the President:-

“Please find enclosed a letter from the Bailiff dated 15th February 2010 seeking approval of the above law.

I would therefore be obliged if you would debate this matter at your meeting 17th March 2010 and give your approval as set out in the letter.

Sir Norman Browse
President”

(Note: A copy of the Projet de Loi is available for viewing at the States General Office and the library.)

The States is asked to approve “The Control of Trade in Endangered Species (Enabling Provisions) (Bailiwick of Guernsey) Law, 2010”.

Item IX Questions and Reports