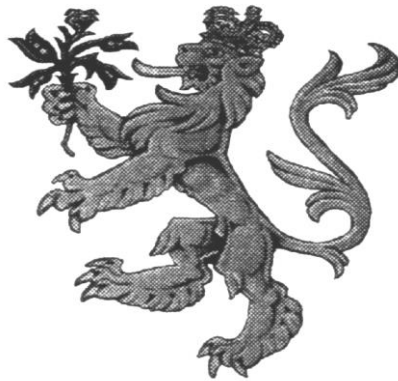


STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 18TH OCTOBER 2017

Price: £2.20

STATES OF ALDERNEY

BILLET D'ETAT

FOR WEDNESDAY 18TH OCTOBER 2017

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 18th October 2017. This will be preceded by the People's Meeting, which will be held on Wednesday 11th October 2017 at 7:00 pm in the Island Hall.

W Stuart Trought
President

Item I The Beneficial Ownership (Alderney) (Definition) (Amendment) Regulations, 2017

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

"The States of Alderney at its meeting on 13th September resolved not to annul the Beneficial Ownership (Alderney) (Definition) Regulations, 2017.

It has since come to light that there was an error in the definition of "recognised stock exchange" in that the Guernsey Stock exchange had changed its name. These regulations rectify that error.

The Beneficial Ownership (Alderney) (Definition) (Amendment) Regulations, 2017 were made by the Policy and Finance Committee on 12th September 2017 and came into operation on the 13th September 2017.

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 not to annul "The Beneficial Ownership (Alderney) (Definition) (Amendment) Regulations, 2017".

Item II **Electronic Transactions (Cheque Imaging) (Alderney) Ordinance, 2017**

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

*“The Bills of Exchange (Bailiwick of Guernsey) Law, 1958 (**‘the 1958 Law’**) is based closely on the Bills of Exchange Act, 1882 (**‘the 1882 Act’**) which governs the use of Bills of Exchange in the United Kingdom. The 1882 Act has recently been amended to facilitate the use of electronic images in the presentment of cheques, in place of the physical delivery of cheques themselves.*

*Bailiwick of Guernsey banks clear cheques through the UK cheque clearing system, which is operated by the Cheque and Credit Clearing Company (**‘the C&CCC’**) which is presently developing a new all electronic cheque clearing system which is expected to go live in October 2017.*

*Following preliminary discussions with the Association of Guernsey Banks (**‘the AGB’**), the C&CCC and the lawyer dealing with this matter at HM Treasury, the Committee for Economic Development (**‘the Committee’**) is of the view that it is appropriate for legislation to be enacted effecting amendments to the 1958 Law and making necessary supplemental provision, in order to ensure that there is no doubt about the presentment of electronic images of cheques to banks in the Bailiwick for payment in place of physical cheques, once the current paper based clearing system is phased out. The Committee also believes that this will ensure that banks in the Bailiwick may roll out new and innovative services that may be offered to customers of their parent entities in the UK, for example the ability to pay an image of a cheque through an online banking app rather than paying the physical cheque in to the branch.*

In terms of implementation of electronic cheque clearing in the UK, we have been advised that there is no official published timetable. The C&CCC is working with the banking industry in the UK to design the new clearing system and we have been advised that HM Treasury has not yet commenced work on the secondary legislation that will underpin the new system. Unofficially, however, we understand that the C&CCC are working with industry towards an implementation date of October 2017 to begin clearing cheques electronically.

*The Law Officers have advised that the necessary amendments to the 1958 Law can be made through the enactment of Ordinances under each of the Electronic Transactions Laws (together referred to as **‘the ETLs’**) that exist in each of the islands of the Bailiwick, namely the Electronic Transactions (Guernsey) Law, 2000; the Electronic Transactions (Alderney) Law, 2001 and the Electronic Transactions (Sark) Law 2001. The Electronic Transactions (Cheque Imaging) (Alderney) Ordinance, 2017 has been drafted by Law Officers Chambers for your consideration.*

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 “The Electronic Transactions (Cheque Imaging) (Alderney) Ordinance, 2017”.

Item III **The Same-Sex Marriage (Alderney) Law, 2017**

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

"The main purpose of this Law is to enable same-sex couples to get married, either in a civil ceremony or, provided that the religious organisation concerned is in agreement, on religious premises or according to religious rites.

Section 1

Section 1 provides that same-sex marriage is lawful and that marriage has the same effect in relation to same-sex couples as it does in relation to opposite-sex couples and the law of Alderney should be interpreted accordingly. This means, for example, that same-sex marriage "slots in" to the present provisions relating to formalities for the formation of marriage, separation and divorce etc, subject to any contrary provision.

Section 2

Section 2 deals with the interpretation of existing legislation i.e. legislation approved by the States (or regulations or orders made) before the commencement of this Law. Such legislation will be construed as applying to same-sex relationships (which includes married persons, couples living together as if they were married, divorced or widowed persons etc) unless a contrary provision (which may appear in the Law itself or in an Ordinance made under the Law) is made.

Section 3

In future legislation, i.e. approved or made after the date of commencement, the gender-specific expressions such as husband, wife, widow and widower will retain their gender-specific meanings - so that for example a husband will mean a man married to a woman or a man married to a man.

Section 4

Provides for recognition of overseas same-sex marriages provided they are in all other respects valid for the purposes of recognition under Alderney law.

Section 5

Provides that the general principle is subject to any contrary provision made in the Law or in an Ordinance.

Section 6

The general principle does not affect Measures or Canons of the Church of England or other ecclesiastical law and the rule of Canon law that marriage is the union of one man and one woman is deemed not to be in contravention of any rule of Alderney law.

Section 7

The Church of England is expressly prohibited from marrying same-sex couples and any duty which a Church of England clergyman might have to marry parishioners does not apply to same-sex couples. This is in line with the UK legislation and is necessary because Canon Law provides that marriage can only be between a man and woman and so it would be necessary for the Church to put a Measure before Parliament in order to enable the Church to solemnise same-sex marriages in England and Wales. It should be noted that these provisions has been discussed with the Dean who has consulted with the Church of England legal officer who is content.

Sections 8 and 9

No other religious organisation, nor any person, may be compelled to marry a same-sex couple in a place of worship or according to religious rites. However, the relevant governing authority of a religious organisation may "opt-in" to solemnising same-sex marriages.

Section 10

The criminal law of bigamy will apply to same-sex couples by virtue of the general principle in section 1. However, this section clarifies that it is not lawful for a same-sex couple to marry if one of them is already married or in a civil partnership.

Section 11

The law as to prohibited degrees for opposite-sex couples is contained in a 1936 Law which forbids marriage between a man and specified female relatives. It was therefore considered sensible to include in this projet a stand-alone provision for same-sex marriages which nevertheless reflects the forbidden degrees of relationship laid down for opposite-sex marriage in the 1936 Law.

Section 12

Empowers the States to make Ordinances making provision for amendments to existing legislation consequential upon the application of the general principle of this projet, and also to make miscellaneous amendments in order to establish equality between same-sex and opposite-sex marriages where it is considered appropriate. An Ordinance will be drafted and presented in due course with a view to its being approved by the States and brought into force at the same time as commencement of the Law.

Schedule

The Schedule makes provision for some particularly significant limitations on the equivalence of all marriages –

- *Paragraph 1 provides that in private legal instruments such as wills, contracts and documents establishing (for example) charitable purposes executed before the date of commencement, a reference to a person who is married (etc) will not be interpreted so as to include same-sex relationships - the general principle in section 1 will however apply to all such instruments executed on or after that date unless a contrary provision is expressed*
- *Paragraphs 2 to 10 amend the Matrimonial Causes Law 1939 in two respects -*
 - (a) *it gives the Royal Court jurisdiction in relation to divorce, nullity of marriage or presumption of death in relation to a same-sex married couple who have married in Alderney and whose place of domicile or usual residence (which normally governs jurisdiction in such matters) does not permit same-sex marriage and therefore will not entertain such proceedings, and*
 - (b) *it provides, in relation to the facts to be proved to establish grounds for divorce, that adultery can only take place between a man and a woman. This follows the England and Wales position (upon which Alderney matrimonial law is based) and is due to the difficulty of establishing a definition of adultery in terms of same-sex relationships (the definition for opposite-sex adultery has been developed over many years of case law). The effect is that adultery can only be cited as a ground for divorce in the context of a same-sex marriage if it is with a member of the opposite sex, although sexual misconduct with a member of the same sex could be used in order to found a petition based on unreasonable behaviour.*

I would be grateful if you could 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 “The Same-Sex Marriage (Alderney) Law, 2017” and to request the President to seek the Sanction of Her Most Excellent Majesty in Council for it to have force of Law in the Island of Alderney.

Item IV **Budgets for 2018 and Revised Budgets 2017**

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

“Under Section 58 of the Government of Alderney Law the Policy & Finance Committee is required to publish the proposed budgets for 2018 and report on the budgets for 2017.

The attached Budget Report provides a full explanation relating to the States of Alderney and the States of Alderney Water Board budgets, together with the Ordinances required for the proposed rate changes to come into effect.

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

James Dent, Chairman”

The States is asked, after consideration of the Budget Report :-

- 1. To accept the States of Alderney Revenue and Capital Budgets for 2018**
- 2. To accept the States of Alderney Water Board Revenue and Capital Budgets for 2018**
- 3. To approve The Occupier’s Rate (Level for 2018) Ordinance, 2017**
- 4. To approve The States Water Supply (Rates of Charge) (Alderney) Ordinance, 2017**

Item V **Traffic Survey**

The following report was received from Mrs Paris, Chairman of the General Services Committee for debate without resolution:-

“Report from the General Services Committee - Town Centre Traffic Survey

There has been considerable public debate recently about various aspects of traffic management on Alderney. Whilst in the course of discussing a medium term Roads and Traffic Strategy GSC decided to produce a short Town Centre Traffic Survey to help us to gauge the levels of concern. The questions in the survey were chosen to reflect the issues that were being brought forward to GSC by the public.

Given current economic constraints it was decided to produce the survey in-house and to distribute it to every household by including it with the quarterly water board invoices at the end of June. The cost of production and distribution was therefore minimal. The forms were to be returned to either the Island Hall or the Visitor Information Centre in Victoria Street.

Nearly 500 responses were received, which is a very satisfactory level of engagement from the public and I would like to take this opportunity to thank everyone who took the time to respond.

A summary of all the responses can be found on the States website, but this report will mainly address the issues where there was a large majority in favour of action. The responses on questions concerning introducing time limits on more car parks, providing residents' parking spaces, having more disabled spaces, building a smooth crossing in Victoria Street and providing specific places for parking bikes

were all fairly evenly split. Whilst these issues do deserve further consideration they will not be regarded as urgent.

The issues which the GSC see as their first priority to address do mainly concern Victoria Street.

As we are all aware, Victoria Street is narrow and often crowded with vehicles. It can be difficult to find parking spaces and difficult to negotiate past parked cars without vehicles using the pavement or pedestrians having to use the road. It is a fine balance to ensure that, as one of our main shopping areas, it is easily accessible but also remains a safe and pleasant environment in which to shop and conduct business.

The responses to the survey reflected these issues. There was a general desire for more parking in or near Victoria Street but some 81% of those who responded felt that parking on the pavement should be discouraged. However, as a general rule, there was no appetite to see Victoria Street closed to traffic at any particular times, except during Alderney Week, when some 84% would be in favour.

To make more parking spaces in Victoria Street would be difficult, given the physical constraints, but GSC are looking at options for more parking nearby. The committee want to conduct further consultation with shop owners and businesses in Victoria Street with a view to discussing a trial closure of Victoria Street for some agreed hours during Alderney Week 2018.

The survey showed a definite desire (68%) for better enforcement of our current parking regulations and, indeed, other regulations such as speed limits and weight restrictions were also mentioned. Whilst 45% felt that the length of time one can park in Victoria Street should remain at one hour (36% favoured 45 minutes, 19% favoured 20 minutes) better enforcement of this regulation would make more parking available in Victoria Street as cars would have to move on more quickly.

The issue of enforcement of our current regulations is not something that GSC can tackle alone. It also requires the cooperation of our police team. Whilst acknowledging how busy they are, we are in dialogue with them to see what can be done in the way of education combined with enforcement to assist in maintaining a better balance between vehicular and pedestrian needs in the town centre.

With the amount of public engagement and concern that has been illustrated by the response to this survey the GSC hope that we can move forward quickly to achieve these objectives.”

Item VI **Questions and Reports**

The attached Reports were received from Mr Dent, Chairman of the Policy & Finance Committee:-

- (a) Royal Connaught Residential Home Limited – Financial Statements 2016
- (b) Alderney Commission for Renewable Energy – Financial Statements 2016

Issued: 6th October 2017