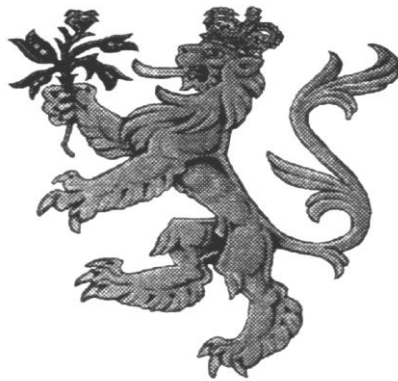


STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 13TH JUNE 2018

Price: £2.25

STATES OF ALDERNEY

BILLET D'ETAT

FOR WEDNESDAY 13TH JUNE 2018

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 13th June 2018. This will be preceded by the People's Meeting, which will be held on Wednesday 6th June 2018 at 7:00 pm in the Island Hall.

W Stuart Trought
President

Item I **Audited Accounts 2017**

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

"In accordance with Section 61 (5) of The Government of Alderney Law 2004, as amended, together with the mandate of the Policy and Finance Committee, I attach the accounts of the States of Alderney and the States of Alderney Water Board together with the Policy & Finance Committee Chairmans report, and the Auditors' Reports thereon, in respect of the year ended 31st December 2017.

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

James Dent, Chairman"

The States of Alderney is asked to approve:-

(a) The States of Alderney 2017 Accounts

and

(b) The States of Alderney Water Board 2017 Financial Statements

Item II **The Gambling (Alderney) (Amendment) (No.2) Law, 2018**

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

"At the January meeting of the States of Alderney the States approved the Projet de Loi entitled "The Gambling (Alderney) (Amendment) Law, 2018" and to request the Bailiff to present a most humble petition to Her Majesty in Council for Her Royal

Sanction thereto. The Law was a very minor part of a recent suite of legislation amending and updating Alderney's eGambling legislative framework.

Law Officers have since identified an issue with the Gambling (Alderney) (Amendment) Law, 2018 ("the Law") that needs to be addressed before it goes to the Ministry of Justice and thereafter to the Privy Council for Royal Sanction.

The Law makes two amendments to the Gambling (Alderney) Law, 1999, one of which is to insert the Alderney Gambling Control Commission itself into the list of persons at Section 4 who are not liable in civil proceedings in respect of things done in discharge of a function of the Commission under the 1999 Law (or an Ordinance under that Law).

The issue is that the provision, as amended, does not state expressly that this does not prevent an award of damages being made under section 6(1) of the Human Rights Law, which provides that it is unlawful for a public authority to act in a way which is incompatible with a Convention Right. There is an argument that a provision such as Section 4 will always be construed consistently with the Human Rights Law, and that such express provision is therefore not necessary; but for some time officials at the Ministry of Justice have taken the view that express provision needs to be made for them to be satisfied that such a limitation of liability is Human Rights compliant. Unfortunately this was overlooked when the Law was drafted. The simplest way to deal with the matter is for the States of Alderney to approve a further (No.2) Amendment Law inserting the express provision.

This matter has been drawn to the attention of the Commission, who has approved the legislative amendment.

I would be grateful if you would place 'The Gambling (Alderney) (Amendment) (No.2) Law, 2018' 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 Projet de Loi entitled "The Gambling (Alderney) (Amendment) (No.2) Law, 2018" and to request the Bailiff to present a most humble petition to Her Majesty in Council for Her Royal Sanction thereto.

Item III **Same-Sex Marriage Legislation**

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

"The Same-Sex Marriage (Alderney) Law, 2017 received Royal Assent on 13th December 2017. In order to enact this legislation it is necessary for the States of Alderney to approve a commencement Ordinance and also an implementation Ordinance, the latter making consequential and miscellaneous amendments to existing Alderney-applicable legislation and contrary provision where appropriate.

Commencement Ordinance

The Same-Sex Marriage (Alderney) Law, 2017 (Commencement) Ordinance, 2018 has been drafted under the provisions of section 15 of the Same-Sex Marriage (Alderney) Law, 2017 to enable The Same-Sex Marriage (Alderney) Law, 2017 to come into force on 14th June, 2018.

The Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018

This Ordinance is made under the provisions of sections 5(2) and 12 of the Same-Sex Marriage (Alderney) Law, 2017. Section 1 of the Law enacts the general principle (“equivalence”) that the law of Alderney whether statutory or customary, shall have the same effect in relation to the marriage of same-sex couples as it does in relation to the marriage of opposite-sex couples, and all existing Alderney legislation will be interpreted in this way unless contrary provision is made. Section 5 enables the States by Ordinance to make contrary provision dis-applying the application of the general principle of equivalence in relation to existing legislative provisions. Section 12 of the Law also gives the States powers by Ordinance to make consequential and miscellaneous amendments to any enactment for the purpose of implementing the Law and also to make provision facilitating equality of all married persons, whether same-sex or opposite-sex, and also of unmarried cohabiting couples of whatever gender.

Section 1 of the Ordinance gives effect to Schedule 1 which makes consequential and miscellaneous amendments to various enactments. The majority of the amendments are consequential and arise from the introduction of the possibility that the parties to a marriage might be of the same-sex (e.g. terminology such as “husband and wife” amended to read “spouses”). Other miscellaneous amendments adjust the position as between husbands and wives (e.g. in the Immigration Rules, it is presently a ground for deportation of a wife if her husband is deported, but not visa versa – the substitution of “spouse” for “wife” remedies this anomaly as well as extending that provision to same-sex married couples, in line with UK Rules).

A further category of amendments extends various provisions relating to cohabiting couples to same-sex cohabiting couples (e.g. the extension of the provisions in the Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964, which extends the domestic violence provision to same-sex couples and dis-applies the separation provisions).

Section 2 of the Ordinance gives effect to Schedule 2 which makes “contrary provision” dis-applying the general principle of equivalence. Some legislative provisions historically only apply to husbands and wives and have no application in modern times (e.g. Married Women’s Property Law, 1928; The Husband and Wife (Joint Accounts) (Alderney) Law, 1966) these have been amended to provide for same-sex spouses and are included in the ordinance.

The Separation, Maintenance and Affiliation Proceedings (Alderney) (Amendment) Law, 2018

Unlike the comparable provision in Guernsey, the Alderney legislation, (Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964, (specifically Part II)) retains a distinction between the grounds upon which a married woman may apply for a separation order and the grounds upon which a married man may so apply. This provision does not translate easily to apply to same-sex marriages and could be regarded as outdated and discriminatory. To dis-apply this Part of the Law to same-sex marriages would mean that Alderney would have no provision for separation orders to be made and maintenance to be awarded, in respect of same-sex couples in the Court of Alderney, and the only option for couples wishing to legally separate would be to go to the Royal Court Matrimonial Causes Division. This was considered as unsatisfactory by the Committee.

The Policy and Finance Committee at its meeting in January approved enacting replacement provision for Part II of the 1964 Law by adopting the relevant provisions of the Guernsey Law (Domestic Proceedings and Magistrate’s Court (Guernsey) Law, 1988) which would give the same grounds for separation to both spouses and therefore avoid the possibility of discrimination. ‘The Separation, Maintenance and Affiliation (Alderney) (Amendment) Law, 2018’ has been drafted by Law Officers Chambers to include the relevant provisions from the Guernsey Law.

I would be grateful if you would place 'The Same-Sex Marriage (Alderney) Law, 2017 (Commencement) Ordinance, 2018'; 'The Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018'; and 'The Separation, Maintenance and Affiliation Proceedings (Alderney) (Amendment) Law, 2018' before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman"

The States of Alderney is asked to approve:

- i. "The Same-Sex Marriage (Alderney) Law, 2017 (Commencement) Ordinance, 2018";**
- ii. "The Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018"; and**
- iii. The Projet de Loi entitled "The Separation, Maintenance and Affiliation Proceedings (Alderney) (Amendment) Law, 2018" and to request the Bailiff to present a most humble petition to Her Majesty in Council for Her Royal Sanction thereto.**

Item IV Venezuelan Sanctions

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

"In response to the continuing deterioration of democracy, the rule of law and human rights in Venezuela, the EU has enacted Council Regulation (EU) 2017/2063. This imposes a range of restrictive measures including an embargo on exporting arms, surveillance equipment or equipment that could be used for domestic repression to Venezuela, as well as prohibitions on providing related technical or financial assistance. The measures also include targeted financial sanctions applicable to designated individuals believed to be responsible for serious human rights violations or acts of repression against civil society and the democratic opposition in Venezuela, or for action, policies or activity damaging to democracy or the rule of law in Venezuela. Currently, no designations have been made.

At the request of the Policy and Finance Committee, the draft Ordinance 'The Venezuelan (Restrictive Measures) (Alderney) Ordinance, 2018' has been prepared for consideration by the States. The Committee recommends that the States enacts the Ordinance in order to ensure that Alderney continues to give effect to its international obligations in this area.

I would be grateful if you would place 'The Venezuelan (Restrictive Measures) (Alderney) Ordinance, 2018' 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 Venezuelan (Restrictive Measures) (Alderney) Ordinance, 2018"

Item V **Cannabis**

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

“At its February meeting, Policy and Finance resolved to seek a future debate without resolution in the States centred on the current legal status of cannabis. It was felt that there:

- could be commercial opportunities for growing and producing THC-free cannabis derivatives, for medicinal purposes;*
- might be cause to revise the penalties for possession and/or dealing; and*
- might be cause for decriminalisation of possession*

The Bailiwick of Guernsey currently classifies Cannabis as a Class B drug which means possession can and sometimes does lead to a prison sentence. In cases where persons are caught with small quantities they are generally given a criminal record and a fine of £400-500; when a person is caught with larger (personal use) quantities or cultivating for personal use they often receive a prison sentence; and anyone caught with drugs can have their bank accounts frozen and closed.

Currently just over one-third of Guernsey prison population is there because of drug convictions, a large number of these are cannabis related. Many people now believe that the criminalisation of drug use is not effective in preventing addiction¹ and that it is better to move to treating drug addiction as a health issue².

Elsewhere in the World, many jurisdictions have now fully or partially legalised possession for personal use and a number of jurisdictions permit cultivation for personal or medicinal use. Use for medicinal purposes is for example now legal in 29 of the 50 US States, in Canada, the Czech Republic and Israel.

The legal and medicinal use of all cannabis varieties with a maximum limit of THC (usually 0.2% or 1%) has now in fact even more widespread and there is, consequently, a demand by the producers for secure property on which to cultivate and process crops. The growing and processing of such plants on Alderney and under licence has been suggested.

States members are consequently being asked to indicate their views on all matters related to the production, consumption, licensing and criminalisation of cannabis. It is hoped that this might stimulate a wider public debate in all these matters and particularly of the economic potential from a liberalisation of some aspects of the current legal framework.

¹ *In Guernsey according to the Guernsey Drug Strategy Campaign, 2016 Survey, 65%*

² *In Guernsey according to the Guernsey Drug Strategy Campaign, 2016 Survey, 76%*

James Dent, Chairman”

Item VI **Air Pollution Survey**

The following letter was received from Mrs Paris, Chairman of the General Services Committee:-

“There was a rather disappointing level of response to this survey. Far fewer responded than to the traffic survey and with answers across a very wide spectrum of opinion. Whilst 66% of respondents felt that air pollution is not a problem on Alderney, a steady, more than 50%, expressed concerns about specific types of air pollution, and 75% commented on vehicle emissions.

Responses varied from "all diesel cars, Lorries etc. should be banned" to "breathe easy, air quality is excellent".

Perhaps the problem is not so clearly manifest here. It may be that, as some contributors pointed out, air pollution is shifted off island by our windy weather. Frankly, we do not know and it is hardly a neighbourly act in any event.

World-wide, air pollution is an acknowledged problem and governments are taking action - the UK is currently talking about banning all petrol and diesel cars by 2040. There are many scholarly studies of the effects of air pollution on health. These are well summarised in the House of Commons Air Quality report published in March 2018.

Poor air quality has been classified as the largest environmental risk to health in the UK and was described as a Public Health Emergency by the World Health Organisation. The total burden of outdoor air pollution has been estimated to be equal to 40,000 early deaths each year although this figure is currently under review.

Whilst poor air quality is harmful to everyone, some people suffer more. Children and older people are particularly vulnerable, as are people with pre-existent health conditions including asthma, chronic obstructive pulmonary disease and coronary artery disease. There is also evidence that long term exposure to outdoor air pollution can affect the normal growth of lung function during childhood, exacerbate the effects of respiratory infections and is implicated in dementia and other neurodegenerative diseases.

In the survey issues were raised with regard to bonfires, wood burning stoves, the Dorniers and oil fired boilers. There were also some out of date points with regard to States activities. To put some minds to rest - all our black bag waste is taken off island for disposal, none is burned. The only burning at the Impot is done within the new curtain burner.

One of the outliers in the survey was that 75% of respondents felt that vehicle emissions cause air pollution. This was expressed in concerns about the age and maintenance of vehicles that many are unnecessarily large and one that came up time and again was that stationary vehicles should not be left with their engines running. This may be especially relevant where babies in buggies and small children are at the same height as exhaust pipes as they pass such parked vehicles.

Policies to encourage electric vehicles and penalise the future import of diesel, larger and older vehicles were suggested. In fact the GSC are already looking at changing import tariffs to encourage movement towards the purchase of smaller and more efficient vehicles.

As a small island it would be feasible for Alderney to limit its carbon footprint impact. New technology such as electric vehicles would be highly suited to us, as well as delivering health benefits.

Whilst the survey indicated very little appetite for legislation there is an awareness of harm to health and the environment which the States needs to encourage.

Air pollution is a real issue and there is a growing awareness of how dangerous and insidious it can be. Research is now needed to establish what problems, if any, we do have. We will then be able to make further decisions on policy that are informed by factual evidence.

This evidence would be very relevant to shaping both energy policies and traffic policies too. A holistic approach both in terms of meeting our wider environmental responsibilities in relation to the reduction of carbon dioxide and other greenhouse gas emissions and for the health of our population. It is important for both the environmental and economic attractiveness of Alderney.

I would be grateful if you would put this paper before the States of Alderney for debate without resolution.

Norma Paris, Chairman"

Item VII **Proposed Amendment to Rules of Procedure – States Meetings**

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

"Rule 17 of the Rules of Procedure for States Meetings currently sets out a procedure whereby any States Member may put a question concerning States' business to the Chairman of any States Committee. The Rules of Procedure do not allow States Members to ask questions of the Alderney Representatives in the Guernsey States of Deliberation.

The business conducted by our Alderney Representatives in the Guernsey States of Deliberation is now becoming increasingly important. It is particularly important given our dependency on Guernsey for (i) transferred services; (ii) financial support to our transport services; and (iii) much of our Brexit negotiations. It is also important that we are able to obtain the best possible understanding of States of Guernsey business.

It is consequently important that the States of Alderney provides procedural arrangements for questioning our representatives on the Guernsey States of Deliberation. However, such representatives must be able to decline to answer any question where to do so would involve a breach of their duties of confidentiality or otherwise arising by virtue of their membership of the Guernsey 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 resolve in exercise of their powers to prescribe rules of procedure applicable to meetings of the States under section 45(1) of the Government of Alderney Law, 2004, that the following amendments are made to the States of Alderney Rules of Procedure, as amended (*additional words, shown in bold italics, are added to Rule 17 (1) :-*

17 (1) At any States meeting a Member may put a question concerning States' business to the Chairman of any States Committee ***or to one or more of the Alderney Representatives in the Guernsey States of Deliberation*** for a verbal reply provided that he has given notice thereof in writing, at least seven days prior to the date of the meeting, to the President and to the Chairman of the Committee ***or Alderney Representative*** to whom the question is to be put.

(2) No discussion shall arise out of a question put under this Rule.

(3) Where a question has been put to a Chairman of a Committee ***or to an Alderney Representative*** under this Rule, the President may allow a supplementary question to be put by any member if it arises from the reply to the original question; but the Chairman of the Committee concerned ***or Alderney Representative*** may decline to answer if, in his opinion any answer given by him might be inaccurate or misleading

(4) A member may at least fourteen days prior to the meeting, place a question on any subject in accordance with this Rule for Written Reply by addressing the same to the Chairman of the States Committee concerned ***or to one or more of the Alderney Representatives in the Guernsey States of Deliberation*** and by furnishing a copy thereof to the President.

(5) Where a question is placed in accordance with paragraph (4) of this Rule, the Chairman of the States Committee concerned **or Alderney Representative** shall, subject to paragraph 7 of this Rule, furnish a written reply thereto by addressing the same to the Member who placed the question and he shall furnish a copy of the reply to the President, who shall cause a copy of the question and of the reply thereto to be printed in the Deliberations of the meeting at which the question was put.

(6) The placing of a question in accordance with paragraph (4) of this Rule or the receipt of a reply thereto shall not preclude the Member who placed the question or any other member from addressing a question on the same subject at any meeting in accordance with paragraph (1) of this Rule.

(7) The President may, on the grounds of public interest, rule that a Question placed in accordance with this Rule shall not be answered by the Chairman of the States Committee concerned **or Alderney Representative** or that the Question need not be answered by him.

(8) An Alderney Representative may decline to answer a question, whether verbal, written or supplementary, put to him under this Rule if, in his opinion, he is precluded from so doing by any provision of a code of conduct to which he is subject by virtue of section 20F of the Reform (Guernsey) Law, 1948 or by any other duty attaching to his position as an Alderney Representative, including (for the avoidance of doubt) his membership of any Committee of the States of Deliberation of the Island of Guernsey.

(9) In this Rule, "Alderney Representative" means a member elected in accordance with section 3(a) or (b) of the States of Guernsey (Representation of Alderney) Law, 1978 as a representative or alternative representative of Alderney in the States of Deliberation of the Island of Guernsey.

Item VIII **Questions and Reports**

The following questions were received, for verbal response:-

1. Question from Mr Birmingham for the Chairman of General Services Committee:-

“The Glacis at Fort Grosnez is an area of major importance to the island, currently containing vital infrastructure in the form of the transport fuel compound, the recycling centre and the harbour maintenance shed. It also represents a significant development opportunity for the island in respect of the possible siting of renewable energy technology to help with the islands long term energy security and the availability of waste heat from the power station upgrade for use as a business incubator to seed new economic opportunities which could create jobs and income to the SOA in the form of rates.

In the light of this, shouldn't the rapid erosion of the western glaze into Crabby Bay be of considerable concern to the States, not least due to the significant safety threat that it poses to the transport fuels compound and as States landlord will General Services be urgently looking at coastal defence solutions as a priority to stabilise the area and allocate funds within the upcoming 2019 capital works budget in order that work could commence as quickly as possible to mitigate the erosion problem before the situation deteriorates any further?”

Issued: 1st June 2018