

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

STATES OF ALDERNEY – EXCISE DUTY ON MOTOR FUEL AND DOCUMENT DUTY

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'States of Alderney – Excise Duty on Motor Fuel and Document Duty' dated 30 June, 2020, they are of the opinion:-

1. To approve 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. To approve The Customs and Excise (General Provisions) (Amendment) Ordinance, 2020.
3. To approve The Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

STATES OF ALDERNEY – EXCISE DUTY ON MOTOR FUEL AND DOCUMENT DUTY

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

30 June, 2020

Dear Sir

1. Executive Summary

1.1 This policy letter is recommending approval of the necessary Guernsey Ordinances 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. 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.

2. Background

2.1. In February 2016 (Billet d'État III, 2016), the States considered a policy letter from the Policy Council titled "*The Review of the Financial Relationship between Guernsey and Alderney*" and, agreed in principle, that the financial arrangements 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 (including the harbour, drainage (foul and surface water), roads, coastal defence, water and electricity), from all other levies, rates, taxes,

permit fees, rents, duties and other income collected from sources based in Alderney (such as tax on real property, occupiers' rates, import duties and excise duties, fees in lieu of Congé, document duty, numismatic and philatelic profits, and company registration fees.

2.2. The 2017 Budget Report (Billet d'État XXVI, 2016) included:

“As the first stage in introducing the modified financial arrangements, the Policy & Resources Committee is intending, subject to the formal approval of the States of Alderney, to propose in the 2018 Budget Report that, with effect from 2018:

- *The Tax on Real Property (TRP) rates in respect of Alderney buildings will be set at £zero. The 2017 budget for this income is £800,000;*
- *The excise duty on Motor Fuel imports into Alderney will be set at £zero. The 2017 budget for this income is £350,000;*
- *The document duty on conveyances of Alderney property which is paid to General Revenue is paid to the States of Alderney. The 2017 budget for this income is £350,000;*
- *A commensurate reduction is made to the recommended 2018 Cash Limit for the States of Alderney. The estimated reduction is £1.5million which would reduce the Cash Limit to £330,000 per annum.*

2.3. In February 2019, (Billet d'État III, 2019), the States agreed a request from The States of Alderney Policy and Finance Committee to prepare the necessary Guernsey legislation for the implementation of a new single Property Tax in Alderney. This legislation comprised an enabling provisions Law, the *“Alderney Property Tax (Enabling Provisions) Law, 2020”*, now approved by the States of Deliberation and now awaiting approval by the States of Alderney at their July meeting, which will empower the States of Alderney to enact the necessary underlying Ordinances implementing a single Alderney Property Tax, replacing the tax on real property and occupiers' rate regimes currently in force in that island. The necessary draft Ordinance is currently with the States of Alderney for review and it is hoped that both these items of legislation will be in force for 2021.

2.4. The States of Alderney Policy & Finance Committee has now requested the Policy & Resources Committee to submit a policy letter recommending approval of the necessary Ordinances 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.

3. Proposals

- 3.1 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.
- 3.2 In order for the States of Alderney to set the rates of document duty on conveyances and other relevant documents in respect of Alderney real property, 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.
- 3.3 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).
- 3.4 This proposal will provide the States of Alderney with greater freedom and flexibility to set tax and duty rates at such levels as they determine will best raise the funds necessary to provide their public services. If there is a decrease in the level of revenues received by the States of Alderney, 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.
- 3.5 The Bailiff has granted permission¹ for the policy letter and draft legislation to be considered by the States at the same meeting.

¹ In accordance with paragraph 5.2.1 of Directive No. 1 of 2016 (entitled The Submission of Propositions to the States) issued by HM Greffier on 20 May 2016

4. Compliance with Rule 4

- 4.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 4.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 4.3 In accordance with Rule 4(3), the Propositions are not requesting the States to approve funding.
- 4.4 In accordance with Rule 4(4), it is confirmed that the propositions above have the unanimous support of the Committee.
- 4.5 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee to advise the States and to develop policies relating to fiscal policy and the financial resources of the States, and relations with the other islands of the Bailiwick.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

A H Brouard
J P Le Tocq
T J Stephens

The Customs and Excise (General Provisions)

(Amendment) Ordinance, 2020

THE STATES, in pursuance of their Resolution of the ****, 2020², and in exercise of the powers conferred on them by sections 23J and 23K of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972³ and all other powers enabling them in that behalf, hereby order:-

Amendment of Customs and Excise Law.

1. The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 is further amended as follows.

2. In section 6 after “for the account of the General Revenue” insert “except to the extent that the Policy and Resources Committee directs payment elsewhere (for example, to the account of States of Alderney)”.

3. In section 7(6) after “for the account of the General Revenue” insert “except to the extent that the Policy and Resources Committee directs forfeiture otherwise (for example, for the account of the States of Alderney)”.

² Article ** of Billet d'État No. ** of 2020.

³ Ordres en Conseil Vol. XXIII, p. 573; sections 23J and 23K were inserted by No. X of 2004; there are other amendments not material to this Ordinance.

4. In section 16(2) after “for the account of the General Revenue” insert “except to the extent that the Policy and Resources Committee directs payment elsewhere (for example, for the account of the States of Alderney)”.

5. In section 17(2) after “to the account of the General Revenue” insert “except to the extent that the Policy and Resources Committee directs payment elsewhere (for example, to the account of the States of Alderney)”.

6. After section 23B(3) insert the following subsection -

“(4) Without prejudice to the powers conferred on the Policy and Resources Committee by subsections (1) and (2) and on the States of Deliberation by subsection (3), the States of Alderney may, subject to the provisions of any order or Ordinance made under those subsections and in force in Alderney, by Ordinance amend the Fourth Schedule as it has effect in Alderney by adding any class or description of goods to it or by removing or varying any class or description of goods specified in it.”.

7. After section 23C(3) insert the following subsection -

“(4) Without prejudice to the powers conferred on the Policy and Resources Committee by subsections (1) and (2) and on the States of Deliberation by subsection (3), the States of Alderney may, subject to the provisions of any order or Ordinance made under those subsections and in force

in Alderney, by Ordinance amend the Fourth Schedule as it has effect in Alderney by specifying or varying the rates of excise duty chargeable on any class or description of goods specified therein.”.

8. In section 63 after “to the account of the General Revenue” insert “except to the extent that the Policy and Resources Committee directs them to be credited elsewhere (for example, to the account of the States of Alderney)”.

Citation and commencement.

9. This Ordinance may be cited as the Customs and Excise (General Provisions) (Amendment) Ordinance, 2020.

Commencement.

10. This Ordinance shall come into force on the [1st September, 2020].

The Alderney (Application of Legislation)

(Document Duty) (Amendment)

Ordinance, 2020

THE STATES, in pursuance of their Resolution of the ****, 2020⁴, and in exercise of the powers conferred on them by section 2 of the Alderney (Application of Legislation) Law, 1948⁵ and all other powers enabling them in that behalf, hereby order:-

Document Duty Law of 1973 and Ordinance of 2003 to continue to have effect in Alderney.

1. The Document Duty (Guernsey) Law, 1973⁶ and the Document Duty Ordinance, 2003⁷ shall continue to have effect in the Island of Alderney subject to the exceptions, adaptations and modifications set out in sections 2 and 3.

⁴ Article ** of Billet d'État No. ** of 2020.

⁵ Ordres en Conseil Vol. XIII, p. 448; there are amendments not material to this Law.

⁶ Ordres en Conseil Vol. XXIV, p. 74; there are amendments not material to this Law.

⁷ Ordinance No. VI of 2003; there are amendments not material to this Law.

Modification of Document Duty Law of 1973.

2. As respects the application of the Document Duty (Guernsey) Law, 1973 in Alderney -

- (a) in sections 1(1), 5 and 6(1) and (2) for “the States” wherever appearing substitute “the States of Alderney”,
- (b) in sections 1 and 5 for "Her Majesty's Greffier" substitute “the Greffier (within the meaning of the Government of Alderney Law, 2004)”,
- (c) in section 7(1) –
 - (i) the reference to "the Cadastre" is to the valuation carried out and maintained under the provisions of section 4 of the Alderney (Application of Legislation) Law, 1948,
 - (ii) in the definition of “this Island” for “Guernsey” substitute “Alderney”,
 - (iii) in the definition of “prescribed” for “the States” substitute “the States of Alderney”,

(iv) after the definition of “rate” insert the following definition

-

““the Records of this Island” include the Register of Companies within the meaning of the Companies (Alderney) Law, 1994 and the Alderney Land Register kept under the Alderney Land and Property, etc. Law, 1949,” and

(v) the definition of “the States” is repealed.

Modification of Ordinance of 2003.

3. As respects the application of the Document Duty Ordinance, 2003 in Alderney, section 7 does not apply.

Saving for existing Ordinances.

4. Subject to sections 1, 2 and 3 and the exceptions, adaptations and modifications effected thereby, any Ordinance enacted by the States of Deliberation under sections 1(1) and 6(1) and (2) of the Document Duty (Guernsey) Law, 1973 and in force immediately before the commencement of this Ordinance shall continue to have effect in the Island of Alderney -

- (a) as it had effect therein immediately before the commencement of this Ordinance in all respects as if it were an Ordinance of the States of Alderney,

- (b) until repealed or amended by Ordinance of the States of Alderney made under those sections as they have effect in the Island of Alderney.

Citation.

5. This Ordinance may be cited as the Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020.