

ORDER IN COUNCIL

**XX
2012**

ratifying a Projet de Loi

ENTITLED

The Fees (Alderney) Law, 2011

(Registered on the Records of the Island of Guernsey
on the 5th November, 2012.)



2012

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

5th day of November, 2012 before John Russell Finch, Esquire, Judge of the Royal Court; present:- Susan Mowbray, Barbara Jean Bartie, David Osmond Le Conte, Stephen Murray Jones, Esquires, Claire Helen Le Pelley, Terry George Snell, David Percy Langley Hodgetts LVO, Esquires, Margaret Ann Spaargaren, Terry John Ferbrache, Esquire, Jurats.

Judge Finch having this day placed before the Court an Order of Her Majesty in Council dated 17th October, 2012 approving and ratifying a Projet de Loi entitled “The Fees (Alderney) Law, 2011”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:

1. That the said Order be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order be sent by Her Majesty’s Greffier to the Greffier of the Court of Alderney for registration on the records of that Island.



At the Court at Buckingham Palace

THE 17th DAY OF OCTOBER 2012

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Alderney:

“That, at a meeting of the States of Alderney on 21st September 2011 the States approved a *Projet de Loi* entitled the Fees (Alderney) Law, 2011 and requested the President to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Fees (Alderney) Law, 2011 and to order that it shall have force of law in the Island of Alderney.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Island of Alderney; and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Fees (Alderney) Law, 2011

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 28th September, 2011, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

Powers to prescribe fees etc.

1. (1) Where an enactment provides for a fee to be prescribed in accordance with this Law, the States may prescribe by Ordinance the fee to be charged from time to time.

(2) For the avoidance of doubt, subsection (1) includes a fee prescribed by operation of section 8(6).

(3) Where an enactment provides for payment of a fee by Ordinance of the States, the States may also make such other provision as they consider expedient, by Ordinance under this subsection, in relation to the payment or recovery of such a fee.

(4) The power under subsection (1) includes, for the avoidance of doubt, a power to express or calculate the fee in any way including by expressing it as a percentage or rate or calculating it by use of a percentage, rate or formula.

(5) The power under subsection (3) includes, without limitation,

a power to provide -

- (a) for partial or total reimbursement of a fee in specified circumstances, and
- (b) for the charging of a penalty or interest upon late payment of a fee,

and the making of any consequential amendment or repeal of any enactment in relation to the same.

Amendments to provide for fees to be prescribed by Ordinance under this Law.

2. The enactments set out in Part I of the Schedule are amended as set out in that Part to provide for fees to be prescribed in accordance with this Law.

Fees which may be prescribed under this Law.

3. Part II of the Schedule has effect to set out a list of the enactments providing for fees to be prescribed in accordance with this Law.

Effect of non-payment of fee.

4. (1) Where a fee is payable to the States or any other person in accordance with an enactment, the States or that other person is not obliged to consider any application or other matter or do any other thing, in respect of which that fee is payable, until that fee is paid in full.

(2) For the avoidance of doubt, in subsection (1) any reference to "the States" includes a reference to any committee of the States.

Other powers not affected.

5. The provisions of this Law are in addition to and not in derogation from any power arising otherwise than under this Law to enact enactments in relation to fees.

Power to amend the Schedule and Ordinances under the Law.

6. (1) The States may by Ordinance amend the Schedule by -
 - (a) providing for further amendments to an enactment to provide for fees to be prescribed in accordance with this Law,
 - (b) adding or removing any enactment from Part II, or
 - (c) amending or repealing any entry in it.
- (2) Ordinances under this Law -
 - (a) may be amended or repealed by a subsequent Ordinance hereunder, and
 - (b) may contain such consequential, incidental, supplemental, savings and transitional provision as may appear to the States to be necessary or expedient.
- (3) Any power conferred by this Law to make an Ordinance may be exercised -
 - (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or

classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised -

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes, and

(iii) any such provision either unconditionally or subject to any conditions specified in the Ordinance.

Interpretation.

7. (1) In this Law, unless the context otherwise requires -

"committee of the States" means a committee of the States appointed under section 49(1) of the Government of Alderney Law, 2004^a,

"enactment" means any Law, Ordinance or subordinate legislation,

"fee" means any fee, sum or charge (however expressed),

^a Order in Council No. III of 2005 as amended by Order in Council No. XXII of 2010.

"**States**" means the States of Alderney,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect, and

"**the 1989 Law**" means the Fees (Alderney) Law, 1989^b.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Law.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Repeals and savings.

8. (1) The 1989 Law and the Fees (Alderney) (Amendment) Law, 2003^d are repealed.

(2) The Tourist (Alderney) Law (Fees) Ordinance, 1983^e is repealed.

(3) Paragraphs (o) to (q) of section 1 of the Alderney Road

^b Ordres en Conseil Vol. XXXI, p. 396 as amended by Order in Council Nos. XII and XXI of 2003.

^c Ordres en Conseil Vol. XIII, p. 355.

^d Order in Council No. XXI of 2003.

Traffic and Public Highways (Amendment) Ordinance, 1981^f are repealed.

(4) The Dangerous Weapons (Amendment) (Alderney) Ordinance, 1985^g is repealed.

(5) Despite the repeal of the 1989 Law, any Ordinance made under it which is in force at the date this Law comes into force shall continue to have effect and shall be deemed to be made under section 1 of this Law.

(6) A reference, however expressed, in any enactment to the 1989 Law or any provision of that Law shall be construed, unless the contrary intention appears, as a reference to this Law, or as the case may be, the corresponding provision of this Law.

(7) A document which refers, expressly or by implication, to the 1989 Law or any provision of the 1989 Law shall be construed, so far as necessary for preserving its effect, as so referring to this Law or, as the case may be, the corresponding provision of this Law.

(8) Any reference in an enactment or document to any provision of this Law shall be construed, so far as the context permits, in relation to the times at which, circumstances in which and purposes for which a corresponding provision of the 1989 Law had effect, as including a reference to that corresponding provision.

^e Alderney Ordinance No. I of 1983.

^f Alderney Ordinance No. V of 1981.

^g Alderney Ordinance No. I of 1985.

Citation.

9. This Law may be cited as the Fees (Alderney) Law, 2011.

Commencement.

10. This Law shall come into force on the day appointed by Ordinance of the States; and different dates may be appointed for different provisions and for different purposes.

S. M. SIMMONDS,
Her Majesty's Deputy Greffier.

SCHEDULE

Sections 2 and 3

PART I AMENDMENTS

Amendment to the Licensing of Passenger Boats (Alderney) Ordinance, 1954.

1. For section 6 of the Licensing of Passenger Boats (Alderney) Ordinance, 1954^h substitute -

" 6. Upon the grant of a boat licence or a boatman's licence, such fee as may be prescribed by the States of Alderney by Ordinance in accordance with the Fees (Alderney) Law, 2011 is payable to the States of Alderney. ".

Amendment to enactments concerning dangerous weapons.

2. (1) In section 2(1) (ordinances) of the Dangerous Weapons (Alderney) Law, 1965ⁱ, after paragraph (b) insert the following paragraph -

"(ba) for fees or charges to be paid on the making of an application or the granting of a licence, certificate or permit under this Law;".

(2) In section 8 (fees in respect of weapons certificates) of the

^h Alderney Ordinance No. V of 1954 as amended by Alderney Ordinance No. IV of 1973, No. II of 1990 and No. IV of 1993.

ⁱ Ordres en Conseil Vol. XX, p. 35 as amended by Ordres en Conseil Vol. XXXI p. 306.

Dangerous Weapons (Alderney) Ordinance, 1965^j for all the words before the proviso substitute -

"There shall be payable to the States of Alderney on the grant or renewal of a weapons certificate such fee as the States of Alderney may prescribe by Ordinance in accordance with the Fees (Alderney) Law, 2011.".

Amendment to the Employment Permits (Alderney) Law, 1975.

3. In section 2 (application for employment permit) of the Employment Permits (Alderney) Law, 1975^k for the words "shall be" to the end substitute -

"shall be in such form and accompanied by -

- (a) such information as the Committee may from time to time require, and
- (b) such sums as the States may prescribe by Ordinance in accordance with the Fees (Alderney) Law, 2011.".

Amendment to the Alderney Road Traffic and Public Highways Ordinance, 1966.

4. In section 15 (fees in respect of grant of licences) of the Alderney Road Traffic and Public Highways Ordinance, 1966^l for the words "a fee" to the

^j Alderney Ordinance No. II of 1965 as amended by Alderney Ordinance No. I of 1985, No. V of 1990, No. V of 1992, No. XII of 1993 and No. XI of 2009.

^k Ordres en Conseil Vol. XXV, p. 31 as amended by Ordres en Conseil Vol. XXVII, p. 339 and Vol. XXXI, p. 306 and Alderney Ordinance No. II of 1997.

^l Alderney Ordinance No. III of 1966 as amended by Ordres en Conseil Vol. XXXI p. 306, Alderney Ordinance No. V of 1981, No. VI of 1986, No. I of 1988, Nos. III and VI of 1992, No. VIII of 1995, No. II of 1997 and No. II of 2006.

end substitute -

"such fee as the States of Alderney may prescribe by Ordinance in accordance with the Fees (Alderney) Law, 2011.".

Amendment to the Hired Vehicles (Alderney) Ordinance, 1972.

5. For section 2(4) (fees for applications under subsection (2)) of the Hired Vehicles (Alderney) Ordinance, 1972^m substitute -

" (4) There shall be payable to the States of Alderney in respect of both -

(a) an application under the provisions of subsection (2), and

(b) an inspection required to be carried out under the provisions of subsection (3),

of this section, such fee for such application and for such inspection as the States of Alderney may prescribe in accordance with the Fees (Alderney) Law, 2011.".

Amendment to the Alderney (Liquor Licensing) Ordinance, 1994.

6. In section 14 (fees) of the Alderney (Liquor Licensing) Ordinance,

^m Alderney Ordinance No. II of 1972 as amended by Ordres en Conseil Vol. XXXI p. 306 and Alderney Ordinance No. IV of 1972, No. II of 1997 and No. V of 2011.

1994ⁿ, for the words "such fee" to the end substitute "such fee as the States may prescribe by Ordinance in accordance with the Fees (Alderney) Law, 2011.".

PART II

LIST OF ENACTMENTS PROVIDING FOR FEES TO BE PRESCRIBED IN ACCORDANCE WITH THIS LAW

1. Article IV of the Loi relative au Colportage, 1930^o.
2. Article I(7) of the Import and Export Control (Alderney) Law, 1946^p.
3. Section 6 of the Licensing of Passenger Boats (Alderney) Ordinance, 1954.
4. Section 2(1) of the Hawkers (Amendment) (Alderney) Law, 1963^q.
5. Section 8 of the Dangerous Weapons (Alderney) Ordinance, 1965.
6. Section 15 of the Alderney Road Traffic and Public Highways Ordinance, 1966.
7. Section 2(4) of the Hired Motor Vehicles (Alderney) Ordinance, 1972.
8. Section 2 of the Employment Permits (Alderney) Law, 1975.
9. Section 14 of the Alderney (Liquor Licensing) Ordinance, 1994.

ⁿ Alderney Ordinance No. IV of 1994 as amended by Alderney Ordinance No. II of 1997 and No. III of 1999 and as modified by Alderney Ordinance No. XIII of 1999 and No. XI of 2000.

^o Ordres en Conseil Vol. VIII, p. 444 as amended by Ordres en Conseil Vol. XIX, p. 193, Vol. XXXI, p. 396 and Vol. XXXV, p. 640.

^p Ordres en Conseil Vol. XII, p. 367 as amended by Order in Council No. XXXI, p. 396 and Order in Council No. XIV of 2007.

^q Ordres en Conseil Vol. XIX, p. 193 as amended by Ordres en Conseil Vol. XXXI, p. 396 and Vol. XXXV, p. 640.

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PRICE £3.00

Printed by Image Group, Caslon Court, Pitronnerie Road, St Peter Port, Guernsey GY1 3NE