



ISLAND OF ALDERNEY

ORDINANCE OF THE STATES

**IX
2020**

The Alderney Property Tax Ordinance, 2020

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The Alderney Property Tax Ordinance, 2020

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 8th July, 2020, and in exercise of the powers conferred on them by sections 1, 2 and 3 of the Alderney Property Tax (Enabling Provisions) Law, 2020^a and all other powers enabling them in that behalf, hereby order: –

PART I

ALDERNEY PROPERTY TAX

The tax

Alderney property tax (“APT”) to be levied in respect of real property.

1. (1) A tax to be called Alderney property tax (“APT”) is payable in accordance with the provisions of this Ordinance in respect of real property in the Island of Alderney (“Alderney”).

(2) APT is an annual tax which is chargeable in respect of each calendar year.

APT to be calculated on basis of assessable units.

2. (1) APT is payable in respect of each assessable unit of the real property in question.

(2) In the case of a building, each square metre of the plan area of the building is an assessable unit.

^a Approved by the States of Deliberation on the 22nd May, 2020 and by the States of Alderney on the 8th July, 2020.

(3) Where a building has a mezzanine floor, each square metre of the plan area of that floor is an assessable unit, in addition to the measurement of assessable units set out in subsection (2).

(4) In the case of real property other than a building ("**land**"), each 50 square metres of the plan area of the land is an assessable unit.

Property references and rates of APT.

3. (1) APT in respect of real property falling into a property reference specified in column 1 of Part I of Schedule 1 is chargeable at the rate per assessable unit attributable to that property reference specified in column 3 of Part I of Schedule 1.

(2) Where a calendar year is specified in column 3 of Part I of Schedule 1, the rate specified in that column shall have effect for that calendar year.

(3) The rate of APT attributable to each property reference shall be determined by Ordinance of the States of Alderney ("**the States**").

(4) The States of Alderney Policy and Finance Committee ("**the Committee**") may by regulation insert, amend or delete any entry in any column of Part I of Schedule 1.

(5) Where the Committee has a power to approve whether a property falls into a particular property reference, this includes the power to remove the approval if the relevant requirements of that property reference are not met.

(6) For the avoidance of doubt, nothing in this Ordinance prevents different parts of real property falling into different property references where the

Committee can ascertain and accurately measure those parts.

Exemptions.

4. APT is not payable in respect of any real property specified in Part II of Schedule 1.

Meaning of plan area.

5. (1) Subject to the provisions of regulations under subsection (2), the "plan area" of any real property in Alderney has the following meanings –

- (a) in the case of a building which, wholly or partially, can in the opinion of the Committee be accurately externally measured for the purposes of this Ordinance by reference to the Map, the plan area is (subject to the application of any multiplier, etc, under section 6(3)) the total horizontal plan view area of the building measured to the edge of the roofline,
- (b) in the case of a building which cannot in the opinion of the Committee be accurately externally measured for the purposes of this Ordinance by reference to the Map, the plan area is the total internal horizontal surface area measured to the floor line edge of the interior walls, and
- (c) in the case of land, the plan area is the total horizontal plan view area of the land.

(2) The Committee may by regulation make such provision as it thinks fit in relation to the meaning of the expression "plan area" in relation to any real property or any class or description of real property.

- (3) Regulations under subsection (2) –
- (a) may modify subsection (1) in its application to any real property or any class or description of real property, and
 - (b) may, without prejudice to section 51, make provision which is incidental, supplementary or ancillary to subsection (1).

Measurement of plan area.

6. (1) Subject to the provisions of regulations under subsection (4), the plan area of any real property in Alderney shall be measured as follows –

- (a) in the case of a building described in section 5(1)(a) –
 - (i) to the extent that the plan area can be accurately externally measured by reference to the Map, it shall be so measured, and
 - (ii) to the extent that the plan area cannot be accurately externally measured by reference to the Map, it shall be measured externally by such other means and in accordance with such other arrangements as the Committee may direct,
- (b) in the case of a building described in section 5(1)(b), the plan area shall be measured internally by such means and in accordance with such arrangements as the

Committee may direct,

- (c) in the case of land, the plan area shall be measured by reference to the Cadastre or by such other means and in accordance with such other arrangements as the Committee may direct.

(2) For the avoidance of doubt, nothing in subsection (1) prevents the internal or external measurement of a building where the Committee considers it appropriate.

(3) For the purpose of calculating the plan area of a building or of land –

- (a) in the case of a building –
 - (i) the Committee may apply such multiplier or such other formula, rule or means of calculation as it considers necessary to take account of the number of storeys and the internal configuration of the building, and
 - (ii) any remaining fraction of a square metre of one half or more shall be rounded up to one square metre (and a lesser fraction shall be disregarded), and
- (b) in the case of land, any remaining number of square metres of 25 or more but less than 50 shall be rounded up to 50 square metres (and a lesser number shall be

disregarded).

(4) The Committee may by regulation make such provision as it thinks fit in relation to the measurement of the plan area of any real property or any class or description of real property.

(5) Regulations under subsection (4) –

- (a) may modify subsections (1), (2) and (3) in their application to any real property or any class or description of real property, and
- (b) may, without prejudice to section 51, make provision which is incidental, supplementary or ancillary to subsections (1), (2) and (3).

Administration of Ordinance.

7. The Committee is responsible for the administration of this Ordinance and for the assessment and collection of APT, and in particular, but without limitation, for –

- (a) determining the amount of APT due in respect of any real property (but not the rate of APT),
- (b) determining the property reference into which any real property falls,
- (c) determining the plan area of any real property and the number of assessable units thereof,

- (d) determining the ownership of any real property.
- (e) the establishment and maintenance of the Register under section 13.

Payment and liability

Payment of APT.

8. (1) Subject to the provisions of this Ordinance, liability to APT in respect of any real property arises upon service by the Committee of an account specifying the amount of APT due.

(2) Accounts shall be served –

- (a) on or at any time after the 1st January in the year in respect of which APT is due, and
- (b) on the owner of the property.

(3) APT is payable in such manner and at such times and intervals as the Committee may require; and the requirements of the Committee may make different provision in respect of –

- (a) different owners or classes or description of owner,
- (b) different property references, and
- (c) different methods of payment.

(4) Without prejudice to the generality of subsection (3),

requirements under that subsection may make provision for APT –

- (a) to be discounted by such amount, and
- (b) to be paid by such instalments,

as the Committee thinks fit.

(5) In any proceedings for the recovery of APT a copy of an account produced by the Committee (whether from data stored electronically or by other means) is evidence of the contents of the account.

Penalties or interest for late payment of APT.

9. (1) Where APT in respect of any real property is not paid in accordance with the provisions of this Ordinance, the Committee may, in its absolute discretion, levy whichever of the following is the greater –

- (a) a flat rate penalty of £25 for each month or part of a month in which the APT is unpaid, or
- (b) interest on the sum due at the rate of 10% per annum calculated from the date on which payment becomes due until the date on which payment is made,

and the penalty or interest is recoverable in the manner in which, and from the person from whom, APT is recoverable.

(2) For the avoidance of doubt, a decision of the Committee under this section is a relevant decision within the meaning of section 30.

Owner liable to APT.

10. (1) APT in respect of any real property, together with any interest or penalty recoverable in respect thereof –

(a) is payable by the person who is the owner for the time being of the real property, whether or not that person was the owner of the property when the APT, interest or penalty became due, and

(b) is recoverable from that person as a civil debt due to the States.

(2) If two or more persons are the owners of the real property, their liability for APT and any interest or penalty in respect thereof is joint and several.

Plan area and property reference to be taken as at 31st December.

11. (1) For the purposes of calculating the amount of APT due in any year in respect of any real property –

(a) the plan area of the real property shall be taken to be its plan area as at the 31st December in the preceding year, and

(b) the property reference of the real property shall be taken to be its property reference as at the 31st December in the preceding year.

(2) For the avoidance of doubt, where an enactment -

(a) adds, amends or repeals any property reference, or

- (b) grants the Committee power to approve whether a property falls into a particular property reference,

the property reference of any real property affected for the purposes of calculating the amount of APT due in any year in respect of that real property in accordance with subsection (1)(b) shall be taken to be, from the date on which the enactment is made or the Committee grants approval (as the case may be), the property reference accorded to it by the enactment or the grant of approval, notwithstanding that the enactment was not in force at the time appointed by that subsection for the purpose of determining the property reference of any real property.

Repayment of overpayments.

12. (1) Where –

- (a) a person has paid an amount by way of property tax to the Committee,
- (b) the plan area or usage of that person’s property had changed within the two years immediately preceding the date of that payment, and
- (c) that person believes that, due to that change of plan area or usage -
 - (i) the property tax was not due, or
 - (ii) the amount of property tax paid was greater than was due,

that person may make a claim to the Committee for repayment of the amount overpaid.

(2) The Committee is not liable to give effect to a claim under this section if or to the extent that the claim falls within subsection (3) or (4).

(3) A claim falls within this subsection where the property tax was not due or the amount paid is greater than was due by reason of a failure by the claimant to notify the Committee of -

- (a) a change in the plan area of the property, or
- (b) a change in the property or the purposes for which the property is used,

in accordance with section 16.

(4) A claim falls within this subsection where the claimant knew, or ought reasonably to have known, of the grounds for the claim before the latest of the following -

- (a) the date on which an appeal by the claimant relating to the amount paid, or liable to be paid, in the course of which the ground could have been put forward (a "**relevant appeal**") was determined by the Tax on Real Property Appeals Tribunal ("**the Tribunal**") or is treated as having been so determined,

(b) the date on which the claimant withdrew a relevant appeal to the Tribunal, or

(c) the end of the period in which the claimant was entitled to make a relevant appeal to the Tribunal.

(5) A claim under this section may not be made more than four years after the date of payment of the property tax to the Committee.

The Register and the Map

Committee to keep Register.

13. (1) The Committee shall establish and maintain an Alderney Property Tax Register ("**the Register**") of all real property in Alderney.

References in this Ordinance to registration are, unless the context requires otherwise, to registration in the Register.

(2) The Register shall be kept in such form as the Committee thinks fit and may (without limitation) be kept in electronic form.

(3) There shall be entered in the Register –

(a) particulars of all real property in Alderney,

(b) the property reference into which the real property falls,

(c) the name and address of the owner of the real property,

(d) any reference allocated to any particular real property

and the owner thereof,

- (e) the plan area of the real property, and
- (f) such other matters as the Committee thinks fit.

(4) The Committee shall make arrangements for –

- (a) public access to the Register, and
- (b) subject to payment of the appropriate fee, the supply of certified or uncertified copies or extracts of entries in the Register.

(5) A copy, certified by or on behalf of the Committee as being a correct copy of an entry in the Register, specifying –

- (a) particulars of any real property in Alderney,
- (b) the property reference into which any real property falls,
- (c) the plan area of any real property, or
- (d) the name and address of the owner of any real property,

is, in any legal proceedings for the recovery of APT, evidence of each of those matters unless notice of appeal under section 33(3) or an application for further time under section 34(1)(b) has been served in respect of the matter and the appeal or application has not been finally disposed of.

(6) The cost of the establishment, maintenance, updating and rectification of the Register shall be met by the States of Alderney.

(7) Subsection (6) is without prejudice to any agreement or arrangement between the States and the States of Guernsey as to the payment of the costs incurred by either party in the administration of this Ordinance.

(8) The Committee may at any time amend the Register by modifying, updating or rectifying any entry therein in such manner as it thinks fit.

(9) The Committee shall, as soon as is reasonably practicable after effecting any such amendment, give notice in writing of the amendment to the owner of any real property affected by it.

(10) Subsection (8) is without prejudice to any other provision of this Ordinance relating to the keeping of the Register.

Committee to prepare Map.

14. (1) The Committee shall for the purposes of this Ordinance prepare and maintain a map of Alderney to be called the Alderney Property Tax Digital Map ("**the Map**") from which measurements of the plan area of real property in Alderney may be made.

(2) The Map shall be kept in such form (including, without limitation, in electronic form) as the Committee thinks fit and shall show and contain such information and data as to land parcels, building polygons and other relevant matters as the Committee thinks fit.

(3) The Committee shall make arrangements for –

- (a) public access to the Map (whether by physical or digital means and whether at the States offices or elsewhere), and
- (b) subject to payment of the appropriate fee, the supply of certified or uncertified copies, extracts or representations of entries in the Map.

(4) A copy, extract or representation of an entry in the Map certified by or on behalf of the Committee as being correct is, in any legal proceedings for the recovery of APT, conclusive evidence of what is shown on the Map.

Notification, information and miscellaneous powers

Notification to owner of property reference, etc, of property and changes to Register.

15. (1) The Committee shall, by notice in writing served on the owner of any real property in Alderney, as soon as is reasonably practicable after the commencement of this Ordinance, inform the owner of the Committee's decision as to

–

- (a) the plan area of the property and the number of assessable units thereof,
- (b) the property reference into which the property falls, and
- (c) the ownership of the property.

(2) Where the Committee decides that –

- (a) there has been a change in the plan area of any real property and the number of assessable units thereof,
- (b) there has been some other change in –
 - (i) any real property (including any alteration or addition to it), or
 - (ii) the purposes for which any real property is used, which affects the property reference into which it falls, or
- (c) there has been a change in the ownership of any real property,

and that the Register should be amended to reflect that change, the Committee shall by notice in writing served on the owner of the property, as soon as is reasonably practicable after the change comes to the Committee's attention, inform the owner of the Committee's decision.

(3) For the avoidance of doubt, the Committee may serve notice in writing on the owner of a property for the purposes of subsection (2) by means of an account specifying the amount of tax due for the purposes of section 8.

(4) Where Schedule 1 ("property references and rates of APT") is amended by an enactment and in consequence thereof the Committee decides that any real property now falls into a property reference different from that into which it fell immediately before the amending enactment came into force, the Committee shall, by

notice in writing served on the owner of the property, as soon as is reasonably practicable after the amending enactment comes into force, inform the owner of the Committee's decision.

(5) For the avoidance of doubt a decision of the Committee under this section is a relevant decision within the meaning of section 30.

(6) A notice of the Committee under this section may contain such incidental, supplementary or ancillary information as the Committee thinks fit.

Duty to notify change of plan area or change of property reference.

16. (1) The owner of any real property in Alderney shall inform the Committee of –

(a) any change in the plan area of the property which affects or may affect the amount of APT due in respect of it, and

(b) any other change in –

(i) the property (including any alteration or addition to it), or

(ii) the purposes for which the property is used,

which affects or may affect the property reference into which it falls,

as soon as it is reasonably practicable to do so and in any case by 31st December of the year in which the change is effected.

For the avoidance of doubt, this obligation has effect whether or not the change required development permission.

(2) The information shall be provided in such form and manner (if any) as the Committee may require.

(3) The information shall be accompanied by such other information and documents as the Committee may reasonably require for the purpose of performing its functions under this Ordinance.

(4) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

Duty to notify ownership of real property.

17. (1) If a person (“A”) becomes the owner of any real property in Alderney, A shall inform the Committee of that fact as soon as it is reasonably practicable to do so and in any case within a period of 28 days immediately following the date of –

(a) the registration of the conveyance or other instrument pursuant to which A acquired ownership, or

(b) the event as a result of which A acquired ownership.

If A does not know at the time that A has become the owner of any real property, the duty imposed by this subsection arises on the date on which A first learns or ought reasonably to have learnt of the fact.

(2) The information shall be provided in such form and manner (if

any) as the Committee may require.

(3) The information shall include the name and address of the owner and particulars of the real property and shall be accompanied by such other information and documents as the Committee may reasonably require for the purpose of performing its functions under this Ordinance.

(4) Where a will of the real property of a deceased person is registered, the person effecting registration shall (without prejudice to the duty of any other person under this section) within a period of 28 days immediately following registration give the Committee notice of the will, informing it of the name and address of each devisee and particulars of the real property inherited.

(5) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

Provision of information as to real property, etc.

18. (1) Without prejudice to sections 16 and 17, the Committee may by notice in writing require an owner or former owner of real property in Alderney to provide such information and documents relating to the real property or the ownership thereof as the Committee may reasonably require for the purpose of performing its functions under this Ordinance.

(2) The information and documents shall be provided in such form and manner (if any) as the Committee may require.

(3) If there is any change to any information provided to the Committee under this section or under section 16 or 17 by or on behalf of any person (whether by virtue of the information becoming out of date, or being found to be

incomplete or inaccurate, or otherwise), that person shall inform the Committee of the change as soon as is reasonably practicable and in any case within a period of 28 days immediately following the date of the change.

If a person does not know at the time that there has been any such change, the duty imposed by this subsection arises on the date on which that person first learns or ought reasonably to have learnt of the change.

(4) Where a person is required by or under this section or section 16 or 17 to produce any documents, the Committee may –

- (a) if the documents are produced, take copies of them or extracts from them and require that person to provide an explanation of them, and
- (b) if the documents are not produced, require that person to state, to the best of that person's knowledge and belief, where they are.

(5) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

(6) A statement made by a person ("A") in response to a requirement imposed by or under this section –

- (a) may be used in evidence against A in proceedings other than criminal proceedings, and

- (b) may not be used in evidence against A in criminal proceedings except –
 - (i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of A, or
 - (ii) in proceedings for –
 - (A) an offence under subsection (5) or section 52(1),
 - (B) some other offence where, in giving evidence, A makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,
 - (C) perjury, or
 - (D) perverting the course of justice,

and, for the avoidance of doubt, proceedings for the recovery of APT and any penalty or interest in respect thereof are not criminal proceedings.

Power to enter real property.

19. (1) A person authorised in writing by the Committee ("an authorised person") may, on production of some duly authenticated document showing the authorised person's authority and with such other persons (if any) as may be necessary, at any reasonable time enter any real property in Alderney and

carry out such inspection and measurement of the property as may be reasonably necessary for the purposes set out in subsection (2).

(2) The purposes are –

- (a) to determine the plan area, property reference and ownership of the real property, and
- (b) to ascertain anything else relevant to that determination or to the performance of the Committee's functions under this Ordinance.

(3) Notwithstanding subsection (1), and except in cases of emergency, an authorised person is not entitled to demand admission as of right to a building which is occupied unless 24 hours' written notice has been given to the occupier.

(4) A person who –

- (a) fails without reasonable excuse to comply with a requirement imposed by, or to answer a question asked by, an authorised person for the purpose of enabling the authorised person to exercise a power conferred by this section, or
- (b) wilfully obstructs an authorised person in the exercise of any such power,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Power of Chairman of Court to grant warrant.

20. (1) If the Chairman of the Court, within the meaning of subsection (2), is satisfied by information on oath –

- (a) that a person authorised under section 19 has at any reasonable time been refused admission to any real property in Alderney,
- (b) that for any other reason it would be impracticable, if a warrant were not granted, to obtain access to any such real property,
- (c) that a person has committed an offence under section 19(4),
- (d) that a person has failed to comply with any requirement imposed by or under section 16, 17 or 18, or
- (e) that any information or document furnished pursuant to any such requirement is inaccurate or incomplete,

the Chairman of the Court may grant a warrant conferring the powers set out in section 21.

(2) In this section the "**Chairman of the Court**" means the Chairman of the Court of Alderney or, if the Chairman is unavailable, a Jurat thereof.

Powers conferred by warrant.

21. (1) A warrant under section 20 authorises any officer of police,

together with any other person named in, or of a class or description specified in, the warrant (including, without limitation, any officer, servant or agent of the Committee)

–

- (a) to enter any real property specified in the warrant, using such force as may be reasonably necessary for the purpose,
- (b) to carry out such inspection and measurement of the real property as may be reasonably necessary for the purposes of –
 - (i) determining the plan area, property reference and ownership of the property, and
 - (ii) ascertaining anything else relevant to that determination or to the performance of the Committee's functions under this Ordinance, and
- (c) to require any person named in, or of a class or description specified in, the warrant to answer any questions relevant to the purposes set out in paragraph (b).

(2) A warrant under section 20 ceases to be valid on the expiration of 28 days immediately following the day on which it was granted.

(3) A person who without reasonable excuse obstructs or fails to comply with any requirement of a person exercising or purporting to exercise any

power conferred by a warrant under section 20 is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or to both.

(4) A statement made by a person (“A”) in response to a requirement imposed under a warrant granted under section 20 –

(a) may be used in evidence against A in proceedings other than criminal proceedings, and

(b) may not be used in evidence against A in criminal proceedings except –

(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of A, or

(ii) in proceedings for –

(A) an offence under subsection (3) or section 52(1),

(B) some other offence where, in giving evidence, A makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,

(C) perjury, or

(D) perverting the course of justice,

and, for the avoidance of doubt, proceedings for the recovery of APT and any penalty or interest in respect thereof are not criminal proceedings.

Power to estimate liability to APT in cases of failure to co-operate.

22. (1) Where the Committee is satisfied that it has not been reasonably possible to enter any real property in Alderney and carry out such inspection and measurement of the property as may be reasonably necessary for the purposes of determining its plan area and property reference, it may estimate the plan area of the property and determine the property reference into which, in its opinion, the property falls on the basis of any relevant information available to it.

(2) Subsection (1) applies notwithstanding the provisions of sections 20 and 21 and whether or not an application has been made for a warrant under section 20.

(3) Where subsection (1) applies, APT is payable in respect of the real property on the basis of the Committee's estimate and opinion; and the provisions of this Ordinance apply accordingly.

PART II

THE ALDERNEY PROPERTY TAX

APPEALS PANEL & TRIBUNAL

Establishment of the Panel.

23. (1) The States shall, on the recommendation of the Committee, draw up and maintain a panel to be called the Alderney Property Tax Appeals Panel ("**the Panel**").

(2) The Panel shall consist of such number of persons as in the opinion of the States is necessary for the purpose of hearing and determining appeals against decisions of the Committee described in section 30 ("**relevant decisions**").

(3) The States shall designate one member of the Panel as Chairman of the Panel and another as deputy Chairman thereof.

(4) The following persons may not be appointed to the Panel –

- (a) any member of the States of Alderney,
- (b) any member of the States of Deliberation or the States of Election within the meaning of the Reform (Guernsey) Law, 1948^b,
- (c) any Constable or Douzenier of the Island of Guernsey,
- (d) any procureur or overseer of the poor or member of a parochial outdoor assistance board of the Island of Guernsey, and
- (e) any member of the judiciary of Alderney or of the Island of Guernsey.

Appointment and constitution of the Tribunal.

24. (1) A tribunal to be called the Alderney Property Tax Appeals Tribunal ("**the Tribunal**") shall be appointed from the membership of the Panel for the

^b Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this enactment.

purpose of hearing and determining appeals against relevant decisions.

(2) The Tribunal shall, subject to any provision to the contrary in this Ordinance, consist of three persons.

(3) The Chairman of the Panel or, if the Chairman is unavailable, the deputy Chairman thereof shall –

- (a) from the membership of the Panel, appoint the members of the Tribunal who are to hear and determine any appeal against a relevant decision, and
- (b) nominate one of the members so appointed to chair the Tribunal,

and for the avoidance of doubt the Chairman or deputy Chairman may so appoint and nominate himself or herself.

Resignation or removal of members of the Panel.

25. (1) A person ceases to be a member of the Panel if -

- (a) that person resigns from office by giving not less than 3 months' notice in writing to the Committee, or
- (b) that person's appointment is terminated under subsection (2).

(2) The States may, on the recommendation of the Committee, terminate the appointment of a member of the Panel after satisfying themselves that the member -

- (a) has become bankrupt,
- (b) is incapacitated by physical or mental illness,
- (c) is otherwise unable or unfit to discharge the functions of a member, or
- (d) has ceased to be a member of the Tax on Real Property Appeals Panel established under section 22 of the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007.

(3) For the purposes of subsection (2)(a), "**become bankrupt**" means that -

- (a) a declaration of insolvency has been made in respect of that member pursuant to the provisions of the Law entitled "Loi ayant rapport aux Débiteurs et à la Renonciation" of 1929^c,
- (b) a Commissioner or Committee of Creditors has been appointed under that Law to supervise or secure that member's estate,
- (c) that member's affairs have been declared to be in a state of "désastre" at a meeting of that member's arresting

^c Ordres en Conseil Vol. VIII, p. 310; there are amendments not material to this enactment.

creditors held before a Commissioner,

- (d) an interim vesting order has been made against that member in respect of any of that member's real property in the Bailiwick, or
- (e) a composition, compromise or arrangement with creditors has been entered into in respect of that member whereby that member's creditors will receive less than 100 pence in the pound.

Confidentiality of information.

26. (1) A member of the Panel shall not disclose or cause or permit the disclosure of any document or information which relates to the business or affairs of any person and which is acquired by that member in the course of performing the functions of a member of the Panel or of the Tribunal, except –

- (a) with the consent of the person to whom the document or information relates and (if different) the person from whom it was acquired, or
- (b) to the extent that the disclosure is necessary –
 - (i) to enable that member to perform the functions of a member of the Panel or of the Tribunal,
 - (ii) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings, or

(iii) to comply with an order of a court.

(2) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or to both.

Power of Chairman and Tribunal to seek directions.

27. (1) If the Chairman of the Panel (or, if the Chairman is unavailable, the deputy Chairman thereof) or the Tribunal believes that it would assist in the proper and lawful performance of their respective functions, the Chairman or deputy Chairman (or the Tribunal, as the case may be) may apply to the Court of Alderney (“**the Court**”) for directions, or for a determination of any question of fact, law or procedure, in such manner as may be prescribed by order of the Court.

(2) On an application under subsection (1) the Court may make such order, on such terms and conditions, as it thinks fit.

(3) An appeal from an order of the Court under this section lies –

(a) subject to the provisions of the Court of Alderney (Appeals) Law, 1969, to the Royal Court, and

(b) with leave of the Royal Court or the Court of Appeal, to the Court of Appeal on a question of law.

(4) Section 21 of the Court of Appeal (Guernsey) Law, 1961^d

^d Ordres en Conseil Vol. XVIII, p. 315.

("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Procedure and powers of Tribunal.

28. Schedule 4, which is entitled "The Tribunal: procedure and powers" and which lays down –

- (a) the procedure to be followed by, and the powers to be available to, the Tribunal in hearing and determining appeals against relevant decisions, and
- (b) other ancillary matters relating to the Tribunal and its proceedings and powers,

has effect.

Appointment of Clerk.

29. (1) The Committee shall –

- (a) appoint a Clerk to the Tribunal, and such number of deputy Clerks, on such terms and conditions, and
- (b) provide or arrange for the provision of such other officers and facilities,

as the Committee thinks fit.

(2) The Clerk or a deputy Clerk must be present during all proceedings of the Tribunal, but shall not –

- (a) retire with the Tribunal,
- (b) participate in the Tribunal's deliberations, or
- (c) draft or participate in the drafting of the Tribunal's decisions.

PART III

RELEVANT DECISIONS AND REVIEW THEREOF

Meaning of "relevant decision".

30. In this Ordinance a "**relevant decision**" means a decision of the Committee of any of the following descriptions –

- (a) a decision as to the amount of APT due in respect of any real property,
- (b) a decision as to the property reference into which any real property falls,
- (c) a decision as to the plan area of any real property or the number of assessable units thereof,
- (d) a decision as to the ownership of any real property,
- (e) a decision to levy a flat rate penalty or interest in accordance with section 9,
- (f) a decision to amend or not to amend the Register under

section 13(8).

Notice to be given by Committee of relevant decisions.

31. When the Committee makes a relevant decision, it shall serve on the person concerned a notice in writing, stating –

- (a) the terms of the relevant decision,
- (b) that the person concerned may, within a period of 28 days beginning on the date of the notice –
 - (i) ask the Committee in writing to review the decision, and
 - (ii) make written or oral representations to the Committee in respect of the decision, and
- (c) that if the person concerned does not ask the Committee to review the decision in accordance with paragraph (b), the decision shall be final,

and in this section and section 32 "**the person concerned**" means the person by whom the right of appeal against the decision under section 33 is exercisable.

Review by Committee of relevant decisions.

32. (1) If the person concerned, within the 28 day period mentioned in section 31(b), asks the Committee in writing to review the relevant decision, the Committee shall review the decision, taking into account any representations made by that person, and having done so shall –

- (a) confirm or vary the decision, or rescind it and make a new decision as to the matter in question, and
- (b) serve on the person concerned a notice in writing stating –
 - (i) the terms of, and the grounds for, the decision as confirmed or varied or, as the case may be, the new decision, and
 - (ii) that the person concerned may, within a period of 28 days beginning on the date of the notice, appeal against the decision under section 33.

(2) If the person concerned, within the 28 day period mentioned in section 31(b), does not ask the Committee in writing to review the relevant decision –

- (a) the decision is final, and
- (b) the person concerned may not appeal against the decision under section 33.

(3) Where the Committee is asked to review a decision relating to the plan area of any real property, the Committee may, before undertaking any re-measurement of the property, require the person concerned to pay the Committee's reasonable costs of re-measurement.

(4) If the person concerned does not pay the costs of re-measurement, the Committee is not obliged to re-measure the property or to review its decision.

(5) The costs of re-measurement shall be reimbursed by the Committee only if the re-measurement of the property establishes that an appeal by the person concerned against the decision would have succeeded on the grounds set out in section 33(5).

(6) Where in accordance with this section the person concerned asks the Committee to review a relevant decision, and the Committee fails to comply with subsection (1)(a) and (b) within a period of 3 months beginning on the day on which it received the request to review the decision, then for the purposes of Part IV of this Ordinance ("appeals") the Committee shall be deemed to have reviewed and confirmed its decision, and to have served on the person concerned notice in writing of the fact, in accordance with this section.

PART IV APPEALS

Right of appeal.

33. (1) A person aggrieved by a relevant decision may, subject to the provisions of this Ordinance, and provided that the Committee has reviewed the decision in accordance with section 32, appeal against the decision to the Tribunal.

(2) The grounds of an appeal under this section are that the decision was wrong.

(3) An appeal under this section shall be instituted by notice of appeal served on the Clerk stating the grounds and material facts on which the appellant relies.

(4) On an appeal under this section the burden of proof is on the

appellant to establish on a balance of probabilities that the relevant decision was wrong.

(5) In the case of an appeal under this section against a decision of the Committee as to the plan area of a building which has been externally measured for the purposes of this Ordinance by reference to the Map, the appeal shall be allowed only if the appellant can establish that –

- (a) the co-ordinates of any point of the building measured by reference to the Map have been incorrectly measured by an amount of more than 10 centimetres,
- (b) that error has resulted in an increase in the plan area attributed to the building by the decision, and
- (c) that error has affected the number of assessable units attributed to the building by the decision by more than –
 - (i) 5 assessable units, or
 - (ii) 5% of the total number of assessable units attributed to the building by the decision,

whichever is the greater.

In this subsection the "**building**" means the combined group of buildings in respect of which the appeal was instituted.

(6) The Clerk, on receipt of notice of appeal, shall immediately –

- (a) transmit it to the Chairman of the Panel requesting the Chairman (or, if the Chairman is unavailable, the Deputy Chairman of the Panel) to appoint, from the membership of the Panel, a Tribunal constituted by three members to hear and determine the appeal, and
- (b) transmit it to the Committee.

(7) Without prejudice to any other provision of this Ordinance, where the decision to be appealed is a decision to levy a flat rate penalty or interest in accordance with section 9 -

- (a) the Tribunal may be constituted by the Chairman, Deputy Chairman, or other member of the Panel as may be selected by the Chairman, sitting alone, and
- (b) the appeal may be determined on the notice, information and documents received by the Tribunal and without a hearing.

Time for appealing.

34. (1) The Tribunal shall not hear and determine an appeal against a relevant decision unless notice of appeal under section 33 is served on the Clerk –

- (a) before the end of a period of 28 days beginning on the date of the notice of the decision required to be served by the Committee on the person aggrieved under section 32(1)(b), or

(b) within such further time as the Tribunal (constituted by a single member of the Panel) may, on the application of the person aggrieved served on the Clerk, allow in a case where it is satisfied that it was not reasonably practicable for notice of appeal to be presented within that period.

(2) The Clerk, on receipt of an application for further time under subsection (1)(b), shall immediately transmit it to the Chairman of the Panel requesting the Chairman (or, if the Chairman is unavailable, the Deputy Chairman of the Panel) to appoint, from the membership of the Panel, a Tribunal (constituted by a single member) to hear and determine the application.

(3) Where the Tribunal, on an application under subsection (1)(b), decides that further time should or should not be allowed for the service of notice of appeal –

(a) the Tribunal's decision is subject to appeal in accordance with section 38, and

(b) if the Tribunal (or the Court on appeal under section 38) determines that further time should be allowed for the service of notice of appeal, the single member of the Tribunal shall not be appointed as one of the members of the Tribunal who are to hear and determine the appeal.

Form of notice of appeal and application.

35. (1) A notice of appeal under section 33 and an application for further time under section 34(1)(b) –

- (a) shall be served on the Clerk in such form as may be specified by the Committee, and
- (b) shall be supported by such information and documents, verified in such manner, as the Clerk may require.

(2) At any time after receipt of a notice of appeal or an application for further time, the Clerk may require the appellant or applicant to furnish such additional information and documents, verified in such manner, as the Clerk thinks fit.

Refusal by Tribunal to hear appeals or applications.

36. (1) The Tribunal may refuse to hear and determine an appeal under section 33 or an application for further time under section 34(1)(b) –

- (a) in default of compliance by the appellant or applicant with any provision of, or any requirement imposed under, section 35, or
- (b) if the appeal or application appears to the Tribunal to be frivolous or vexatious.

(2) The Tribunal shall refuse to hear and determine an appeal under section 33 against, or an application for further time under section 34(1)(b) in respect of, a relevant decision if the Committee has not reviewed the decision in accordance with section 32.

Powers of Tribunal on appeal.

37. (1) On an appeal under section 33, the Tribunal may –

(a) dismiss the appeal, or

(b) quash the relevant decision to which the appeal relates,

and, where the Tribunal quashes the decision, it may remit the matter to the Committee with a direction to reconsider it and reach a decision in accordance with the findings of the Tribunal.

(2) The effect of a relevant decision to which an appeal under section 33 relates is not, except where the Tribunal orders otherwise, suspended in consequence of the bringing of the appeal.

(3) The Committee may, where an appeal under section 33 has been instituted, apply to the Tribunal, by notice served on the appellant and the Clerk, for an order that the appeal be dismissed for want of prosecution, and on hearing such an application the Tribunal may –

(a) dismiss the appeal or dismiss the Committee's application (in either case on such terms and conditions as the Tribunal may direct), or

(b) make such other order as the Tribunal considers just.

Appeals from Tribunal to Court.

38. (1) A person aggrieved by a decision of the Tribunal on a question of law may, subject to the provisions of subsections (2) and (3), appeal therefrom to the Court in such manner and within such period as may be prescribed by order of

the Court.

(2) No decision of the Tribunal shall be invalidated solely by reason of a procedural irregularity unless the irregularity was such as to prevent any party to the proceedings from presenting that party's case fairly before the Tribunal.

(3) This section does not confer a right of appeal on a question of law which has been referred to the Court under section 27 or 39.

Reference of points of law to Court.

39. A question of law arising in connection with the hearing and determination by the Tribunal of an appeal under section 33 or an application for further time under section 34(1)(b) may, if the Tribunal thinks fit, be referred for decision to the Court in such manner and within such period as may be prescribed by order of the Court.

Appeals from Court to Royal Court and Court of Appeal.

40. (1) An appeal from a decision of the Court made on an appeal under section 38 or on a reference under section 39 lies –

- (a) subject to the provisions of the Court of Alderney (Appeals) Law, 1969^e, to the Royal Court, and
- (b) with leave of the Royal Court or Court of Appeal, to the Court of Appeal.

^e Ordres en Conseil Vol. XXII, p. 192; there are amendments not material to this enactment.

(2) Section 21 of the Court of Appeal (Guernsey) Law, 1961^f ("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Interpretation of Tribunal's decisions.

41. (1) Any party to an appeal under section 33 which has been decided by the Tribunal may, within a period of 28 days immediately following the date of the Tribunal's decision (or such other period as the Tribunal may in its absolute discretion allow), apply to the Tribunal for a determination of any question as to the interpretation of the decision.

(2) The Tribunal shall, before making such a determination, hear any oral or receive any written representations of the parties as to the question in issue.

(3) The determination of the Tribunal on an application under subsection (1) shall be stated in writing to the parties and has effect as if it were an original decision.

PART V

GENERAL PROVISIONS AND INTERPRETATION

Amnesty for Alderney occupiers' rate, etc.

42. (1) The Committee shall waive any liability of any person to any Occupier's Rate due in respect of any real property under the provisions of section 3

^f Ordres en Conseil Vol. XVIII, p. 315; there are amendments not material to this enactment.

of the Alderney (Application of Legislation) Law, 1948^g or any Ordinance made under it which has not been paid at the date of commencement of this Ordinance in accordance with those provisions.

(2) Subsection (1) applies only in respect of a non-payment or under-payment of Occupier's Rate attributable to a failure on the part of the owner or occupier of the real property to declare, in accordance with the provisions of the Alderney Rateable Values Assessment Ordinance, 1949^h and the Cadastre Law, 1947^{hh} (as applied to Alderney by that Ordinance) –

- (a) an alteration or addition to the property which would have resulted in an increase in the rateable value thereof, or
- (b) a change of the use of the property which would have resulted in an increase in the Occupier's Rate payable in respect thereof.

(3) Subsection (1) does not apply in cases where the non-payment or under-payment is attributable to the fraud, wilful misconduct or gross negligence of the owner or occupier.

(4) References in this section to the owner or occupier of any real

^g Ordres en Conseil Vol. XIII, p. 448; there are amendments not material to this enactment.

^h Ordinance of the States of Deliberation (Recueil d'Ordonnances Tome X, p. 1); there are amendments not material to this enactment.

^{hh} Ordres en Conseil Vol. XIII, p. 78; there are amendments not material to this enactment.

property include, where there is more than one owner or occupier thereof, references to any of them.

Effect of legislation on planning laws.

43. (1) For the avoidance of doubt, the property reference into which any real property is considered to fall for the purposes of this Ordinance is not relevant to the determination of the use or use class of that property for the purposes of the planning Laws (and vice versa).

(2) The "**planning Laws**" means the Building and Development Control (Alderney) Law, 2002ⁱ and any Ordinance or regulation under it.

Prohibition against disclosure of information.

44. (1) Subject to sections 45 and 46, any document or information acquired by any person in connection with the operation of this Ordinance or any regulations under it shall not be disclosed, except –

- (a) to the extent necessary to enable the Committee to perform its functions,
- (b) for the purposes of civil proceedings in connection with the operation of this Ordinance,
- (c) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings,
- (d) with the consent of the person to whom it relates and (if

ⁱ No. XII of 2003.

different) the person from whom it was acquired,

- (e) to comply with an order of a court,
- (f) to the extent that its disclosure is expressly authorised or required by or under any enactment relating to the Committee's functions, or
- (g) in accordance with section 45(1).

(2) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (1) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or to both.

(3) This section and section 45 do not apply to members of the Panel in respect of documents and information described in section 26.

Exchange of information with Building and Development Control Committee.

45. (1) Any document or information referred to in section 44(1) may also be disclosed to any member, officer or servant of the States of Alderney Building and Development Control Committee (“**the Building and Development Control Committee**”) to enable that Committee to carry out its functions or to investigate matters of relevance to its functions.

(2) Any document or information acquired by the Building and Development Control Committee in connection with the operation of any enactment administered by it may be disclosed to any member, officer or servant of the Committee to enable the Committee to carry out its functions, or to investigate matters of relevance to its functions, under this Ordinance or any regulations under it.

This subsection is without prejudice to any other power of the Building and Development Control Committee to disclose documents and information.

(3) Information disclosed under subsection (1) or (2) shall not be further disclosed except as mentioned in paragraphs (a) to (f) of section 44(1).

Those paragraphs have effect as if references to the Committee and this Ordinance included references to the Building and Development Control Committee and any enactment administered by it.

(4) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (3) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both.

Further provisions as to disclosure.

46. (1) In proceedings against a person (“A”) for an offence under section 44 or 45 it is a defence for A to show –

- (a) that A took all reasonable steps and exercised all due diligence to avoid committing the offence, or
- (b) that A did not know and had no reason to suspect that the document or information in question was to be regarded as confidential.

(2) The Committee and the Building and Development Control Committee may, when disclosing any document or information to any person pursuant to section 44 or 45 –

- (a) impose such conditions in relation to the use, disclosure, safekeeping and return of that document or information by that person or by any other person who may obtain it from that person,
- (b) require any such person to enter into such undertakings in relation to such use, disclosure, safekeeping and return, and
- (c) take such other steps to ensure that the confidentiality of the document or information is protected,

as the Committee or Building and Development Control Committee thinks fit.

Guidance.

47. (1) The Committee may issue such guidance as it considers appropriate in connection with the administration of this Ordinance and any matter relating to it.

(2) Guidance under this section may, without limitation, give examples and explanations of –

- (a) how the plan area of real property in Alderney will be measured, and
- (b) how the number of assessable units, and the charge to APT, in respect of any such real property will be calculated.

- (3) Guidance under this section –
- (a) must be taken into account by the Committee in exercising its functions under this Ordinance but, unless the guidance provides otherwise –
 - (i) it is not binding on the Committee or on any other person,
 - (ii) it is merely indicative of the Committee's likely approach to any particular issue,
 - (iii) it does not prejudice the Committee's discretion to decide any particular case differently according to its merits, and
 - (iv) it does not relieve any person of any duty, obligation, restriction or liability imposed by or under this Ordinance,
 - (b) may, subject to the limitations set out in paragraph (a), be received in proceedings under this Ordinance, and
 - (c) may contain provision which is incidental, supplementary or ancillary to the provisions of this Ordinance and any regulations under it.

Performance of functions by officers (including officers of States of Guernsey), etc.

48. (1) The Committee may arrange for any of its functions under this Ordinance (other than those under this section, and other than any power to make

regulations) to be performed in its name by –

- (a) any of its officers,
- (b) any committee of the States of Guernsey, or
- (c) any officer of any committee of the States of Guernsey (whether specified by name, by service area or by other description).

(2) A function performed pursuant to an arrangement under subsection (1) is for all purposes performed by the Committee; and every decision taken or other thing done pursuant to such an arrangement has the same effect as if taken or done by it.

(3) An arrangement under subsection (1) –

- (a) may be varied or terminated at any time by the Committee, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement,
- (b) does not prevent the performance of the function by the Committee whilst the arrangement subsists.

(4) This section is without prejudice to the provisions of the Public Functions (Transfer and Performance) (Guernsey) Law, 1991^j.

^j Order in Council No. XXI of 1991.

(5) The Committee must from time to time consider the advisability of making arrangements under subsection (1) and under the provisions mentioned in subsection (4) and review any such arrangements previously made by it.

Repeal and amendment of enactments.

49. (1) The enactments listed in Schedule 2, so far as they have effect in Alderney, are repealed.

(2) The enactments listed in Schedule 3, so far as they have effect in Alderney, are amended in accordance with the provisions of that Schedule.

Service of documents.

50. (1) Any document to be served for the purposes of this Ordinance is validly served, in the case of an individual or body, by being left at, or sent by post to, their address for the time being entered in the Register or, if there is no such address –

- (a) in the case of an individual (“A”), by being delivered to A or by being left at, or sent by post to, A’s usual or last known place of abode,
- (b) in the case of a body corporate with a registered office in Alderney, by being left at, or sent by post to, that office,
- (c) in the case of a body corporate without a registered office in Alderney, by being left at, or sent by post to, its principal or last known principal place of business in Alderney or, if there is no such place, its registered office

or principal or last known principal place of business elsewhere,

- (d) in the case of an unincorporated body –
 - (i) by being served on any partner, member, manager, director or other similar officer thereof at their address for the time being entered in the Register or, if there is no such address, in accordance with paragraph (a), or
 - (ii) by being left at, or sent by post to, the body's principal or last known principal place of business in Alderney or, if there is no such place, its principal or last known principal place of business elsewhere,
- (e) in the case of the Committee, by being left at, or sent by post to, its principal offices in Alderney,

and in this section the expression "**by post**" means by registered post, recorded delivery service or ordinary letter post.

(2) If a person notifies the Committee of an address for service within Alderney for the purposes of this Ordinance, any document to be served on that person may be served by being left at, or sent by post to, that address.

(3) If a person on whom a document is to be served for the purposes of this Ordinance is an infant or person under guardianship, the document shall be served on his or her guardian; and, if there is no guardian, the Committee

may apply ex parte to the Court for the appointment of a person to act as guardian for the purposes of this Ordinance.

(4) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served by being published on two occasions in the Alderney Official Gazette.

(5) Subsections (1) to (4) are without prejudice to any other lawful method of service.

(6) For the avoidance of doubt and without prejudice to any other method of service set out in this section, a document may be served by being transmitted to the relevant electronic address of the person to be served and, for the purposes of this subsection -

(a) "**electronic address**" includes, without limitation, an e-mail address and telecommunications address, and

(b) "**relevant electronic address**" means an electronic address -

(i) with which, in the reasonable opinion of the person effecting service, the person concerned has a personal, business or other connection, and

(ii) a document transmitted to which is likely to come to the attention of the person concerned.

(7) A document transmitted to an electronic address shall, unless the contrary is shown, be deemed to have been received when it was transmitted.

(8) Where the ownership of any real property is vested in two or more persons, service of a document on one of them in accordance with the provisions of this section is deemed, for the purposes of this Ordinance, to be service on all of them.

(9) No document to be served on the Committee under this Ordinance shall be deemed to have been served until it is received.

(10) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Ordinance to have been received –

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting, and

(b) in the case of a document sent elsewhere by airmail, on the seventh day after the day of posting,

excluding in each case any non-business day.

(11) Service of a document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(12) Without prejudice to any other provision of this section, a document relating to any real property in Alderney which is to be served for the purposes of this Ordinance on the owner or occupier of that real property may be served –

(a) by being left at, or sent by post to, that property, or

- (b) where the foregoing is impracticable, by being affixed to some conspicuous part of or about that property.

(13) If the name of the owner or occupier of any real property on whom a document is to be served for the purposes of this Ordinance cannot after reasonable inquiry be ascertained, the document may be served by addressing it to the person on whom it is to be served by the description of "owner" or "occupier" of the real property (describing it) to which the document relates.

(14) In this section –

"document" means any notice, account or other document other than a summons, and

"served" includes given.

General provisions as to subordinate legislation.

51. (1) The Committee may by regulation make provision for the purpose of carrying this Ordinance into effect.

This subsection is without prejudice to any other provision of this Ordinance conferring power to enact regulations or orders (and vice versa).

(2) Any regulation or order under this Ordinance –

- (a) may be amended or repealed by a subsequent regulation or, as the case may be, order hereunder, and

- (b) may contain such consequential, incidental,

supplementary and transitional provision as may appear to be necessary or expedient, including (in the case of a regulation, and without limitation) provision amending or modifying any enactment (including this Ordinance).

(3) Any power conferred by this Ordinance to make a regulation or order 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,

(iii) any such provision either unconditionally or subject to any prescribed conditions.

(4) Regulations of the Committee under this Ordinance shall be laid before a meeting of the States as soon as possible after being made; and, if at that

or the next meeting the States resolve to annul the regulations, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Penalties for false information.

52. (1) If a person (“D”) –
- (a) in purported compliance with a requirement imposed by or under, or otherwise for the purposes of, this Ordinance, or
 - (b) otherwise than as mentioned in paragraph (a) but in circumstances in which D intends, or could reasonably be expected to know, that the statement, information or document provided by D would or might be used by the Committee for the purpose of performing its functions under this Ordinance,

does any of the following –

- (i) makes a statement which D knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (iii) produces or furnishes or causes or permits to be produced or furnished any information or

document which D knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or

- (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

then D is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 3 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Criminal liability of directors, etc.

53. (1) Where an offence under this Ordinance is committed by a body corporate or other legal person and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any of the following persons -

- (a) any director, manager, secretary or other similar officer of the body,
- (b) in the case of a limited partnership with legal personality, any general partner,
- (c) in the case of a limited liability partnership, any member,

- (d) in the case of a foundation, any foundation official, or
- (e) any person purporting to act in any capacity described in paragraph (a), (b), (c) or (d),

that person as well as the body corporate or other legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with that member's functions of management as if that member were a director.

Proceedings against unincorporated bodies.

54. (1) Where an offence under this Ordinance is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of the body and not in the name of any of its members.

(2) A fine imposed on an unincorporated body on its conviction of an offence under this Ordinance shall be paid from the funds of the body.

(3) Where an offence under this Ordinance is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any of the following persons –

- (a) in the case of a partnership, any partner thereof, but subject to paragraph (b),
- (b) in the case of a limited partnership without legal

personality, any general partner thereof,

- (c) in the case of any other unincorporated body, any officer of the body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (d) any person purporting to act in any capacity described in paragraph (a), (b) or (c),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

Defence of due diligence.

55. In any proceedings for an offence under this Ordinance, it is a defence for the accused ("A") to prove that A took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by A and by any person under A's control.

Interpretation.

56. (1) In this Law, unless the context requires otherwise, and subject to the provisions of regulations under subsection (2) –

"**Alderney**" means the Island of Alderney,

"**appeals**" includes applications and other proceedings,

"**APT**" means Alderney property tax,

"**assessable unit**" : see section 2,

"**body corporate**" includes any legal person,

"**building**" means a building or other structure falling within a property reference specified in column 1 of Part I of Schedule 1,

"**Building and Development Control Committee**" means the States of Alderney Building and Development Control Committee,

"**Cadastre**" means the record of assessments of rateable value made and for the time being in force under the Alderney Rateable Values Assessment Ordinance, 1949^k,

"**Chairman of the Court**" : see section 20(2),

"**Clerk**" means the Clerk to the Tribunal appointed by the Committee under section 29, and includes any deputy Clerk so appointed,

"**a committee**" means any committee, council, department, authority, board or like body of the States of Alderney, however called,

"**the Committee**" means the States of Alderney Policy and Finance Committee,

"**copy**", "**extract**" or "**representation**", in relation to any entry on the Map or in the Register which is not in documentary form, means a copy, extract

^k Ordinance of the States of Deliberation (Recueil d'Ordonnances Tome X, p. 1); there are amendments not material to this enactment.

or representation in a legible form in which it can be taken away,

"costs of a hearing": see paragraph 5(3) of Schedule 4,

"Court" means the Court of Alderney,

"document" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production, however expressed, include references to the production of a copy of the information in legible form,

"electronic address" and **"relevant electronic address"** : see section 50(6),

"enactment" means any Law, Ordinance, Act of Parliament and Order in Council, and any subordinate legislation made thereunder,

"extract": see definition of "copy", "extract" or "representation" above,

"information" includes data, however recorded,

"land" means real property other than a building,

"Map" : see section 14,

"mezzanine" means a floor area within a building which does not extend over the whole floor space of the building,

"non-business day" means –

- (a) a Saturday, a Sunday, Christmas Day and Good Friday,

and

- (b) any day appointed as a public holiday by Ordinance of the States of Alderney under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^l,

"officer of police" means –

- (a) a member of the salaried police force of the Island of Guernsey,
- (b) a member of any police force which may be established by the States of Alderney, or
- (c) within the limits of his or her jurisdiction, a special constable appointed under section 47 of the Government of Alderney Law, 2004^m,

"owner", in relation to real property, means –

- (a) where the real property is the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour the order was made,

^l Ordres en Conseil Vol. XVII, p. 384; there are amendments not material to this enactment.

^m Order in Council No. III of 2005; there are amendments not material to this enactment.

- (b) where the real property is not the subject of such saisie proceedings but is the subject of a vested right of usufruct or a droit d'habitation, the usufructuary or (as the case may be) the habitant,

- (c) where the real property is not the subject of such saisie proceedings, vested right of usufruct or droit d'habitation –
 - (i) where the real property is held in trust, the trustees, or

 - (ii) where the real property is not held in trust, the person in whom there is vested, whether solely or jointly with another person, an estate of inheritance or freehold tenure therein,

and related expressions shall be construed accordingly,

"Panel" means the Alderney Property Tax Appeals Panel established under section 23,

"plan area" : see section 5,

"prescribed" means prescribed by this Ordinance or by any regulation or order under it,

"property reference", in relation to real property, means the property reference specified in column 1 of Part I of Schedule 1 into which the real property falls,

"real property" means –

- (a) land, buildings and other property in Alderney constituting immovable property under the law of Alderney, and
- (b) any other class or description of property in Alderney prescribed by Ordinance of the States of Alderney,

"Register" and **"registration"** : see section 13,

"relevant appeal" : see section 12(4)(a),

"relevant decision" : see section 30,

"representation" : see definition of "copy", "extract" or "representation" above,

"Royal Court" means the Royal Court sitting as an Ordinary Court,

"States" means the States of Alderney,

"Tribunal" means the Alderney Property Tax Appeals Tribunal established under section 24,

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Alderney) Law, 1989ⁿ,

ⁿ Ordres en Conseil Vol. XXXI, p. 278.

"year" means a calendar year.

(2) The Committee may by regulation amend subsection (1) by adding any definition to it or by removing or varying any definition set out in it.

(3) Reference in this Ordinance to any real property include references to any part of that real property.

Extent.

57. This Ordinance has force of law in Alderney.

Citation.

58. This Ordinance may be cited as the Alderney Property Tax Ordinance, 2020.

Commencement.

59. This Ordinance shall come into force on the 1st January, 2021.

SCHEDULE 1

Sections 3 and 4

PROPERTY REFERENCES AND RATES OF APT

PART I

PROPERTY REFERENCES SUBJECT TO APT

ALDERNEY REAL PROPERTY

**TABLE 1
ALDERNEY RESIDENTIAL BUILDINGS**

1 Property Reference	2 Property Description/Usage	3 2021 Tariff
B1.1A	Domestic (whole unit) with a plan area of less than 200 assessable units	
B1.1.2A	Domestic (whole unit) with a plan area of 200 or over up to (and including) 299 assessable units	
B1.1.3A	Domestic (whole unit) with a plan area of 300 or over up to (and including) 399 assessable units	
B1.1.4A	Domestic (whole unit) with a plan area of 400 or over up to (and including) 499 assessable units	
B1.1.5A	Domestic (whole unit) with a plan area of 500 and over assessable units	
B1.2A	Domestic (flat) with a plan area of less than 200 assessable units	
B1.2.2A	Domestic (flat) with a plan area of 200 or over up to (and including) 299 assessable units	
B1.2.3A	Domestic (flat) with a plan area of 300 or over up to (and including) 399 assessable units	
B1.2.4A	Domestic (flat) with a plan area of 400 or over up to (and including) 499 assessable units	
B1.2.5A	Domestic (flat) with a plan area of 500 and over assessable units	
B1.3A	Domestic (glasshouse)	
B1.4A	Domestic (outbuildings)	
B1.5A	Domestic (garaging and parking) (non-owner-occupied)	
B3.1A	Domestic (whole unit) Social Housing	
B3.2A	Domestic (flat) Social Housing	

B3.3A	Domestic (glasshouse) Social Housing	
B3.4A	Domestic (outbuildings) Social Housing	
B3.5A	Domestic (garaging and parking) (non-owner-occupied) Social Housing	
B13.1A	Development building (domestic)	

**TABLE 2
ALDERNEY COMMERCIAL BUILDINGS**

1	2	3
Property Reference	Property Description/Usage	2021 Tariff
B4.1A	Hostelry and food outlets	
B4.2A	Self-catering accommodation	
B4.3A	Motor and marine trade	
B4.4A	Retail	
B4.5A	Warehousing	
B4.6A	Industrial and workshop	
B4.7A	Recreational and sporting premises	
B4.8A	Garaging and parking (non-domestic)	
B5.1A	Utilities providers	
B6.1A	Office and ancillary accommodation (regulated finance industries)	
B6.2A	Office and ancillary accommodation (other than regulated finance industries, legal services, accountancy services and NRFSB)	
B6.3A	Office and ancillary accommodation (legal services)	
B6.4A	Office and ancillary accommodation (accountancy services)	
B6.5A	Office and ancillary accommodation (NRFSB)	
B7.1A	Horticulture (building other than a glasshouse)	
B8.1A	Horticulture (glasshouse)	
B9.1A	Agriculture	
B10.1A	Publicly owned non-domestic	
B11.1A	Exempt (buildings)	
B12.1A	Buildings – Penal Rate	
B13.2A	Development building (non-domestic)	

**TABLE 3
ALDERNEY RESIDENTIAL LAND**

1	2	3
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Property Reference	Property Description/Usage	2021 Tariff
L1.1A	Communal (flat)	
L3.1A	Domestic	
L3.5A	Domestic Social Housing	

**TABLE 4
ALDERNEY COMMERCIAL LAND**

1 Property Reference	2 Property Description/Usage	3 2021 Tariff
L1.3A	Hostelry and food outlets	
L1.4A	Self-catering accommodation	
L1.5A	Motor and marine trade	
L1.6A	Retail	
L1.7A	Warehousing	
L1.8A	Industrial	
L1.9A	Recreational and sporting premises	
L1.10A	Office and ancillary accommodation (regulated finance industries)	
L1.11A	Office and ancillary accommodation (other than regulated finance industries, legal services, accountancy services and NRFSB)	
L1.11.2A	Office and ancillary accommodation (legal services)	
L1.11.3A	Office and ancillary accommodation (accountancy services)	
L1.11.4A	Office and ancillary accommodation (NRFSB)	
L1.12A	Utilities providers	
L2.1A	Approved development site	
L3.3A	Horticulture	
L3.4A	Agriculture	
L3.6A	Publicly owned non-domestic	
L4.1A	Exempt (Land)	
L5.1A	Land – Penal Rate	
L6.1A	Garaging and parking (non-domestic)	

PART II
REAL PROPERTY EXEMPT FROM APT

1. Buildings used principally for religious ceremony and connected purposes.
2. Cemeteries.
3. Highways.
4. Quays and breakwaters of harbours.
5. Airport "airside" runways, taxiways, aprons and airfield.
6. Moveable site structures and installations put in place for the duration of civil engineering, construction works or some other temporary purpose.

However, this exemption shall expire, and shall not recommence, in relation to any structure or installation which has been in place for a period of, or periods totalling, 12 months or such longer total period as the Committee may direct in any particular case.

7. Real property used principally for open community use, other than when leased, in part or in entirety, to a third party for domestic purposes or the purposes of a business, trade or undertaking, in which case the property or that part of the property falls into the appropriate property reference for that property on the basis that it is not exempt.
8. Land areas in the process of reclamation until the date when formal development permission is granted.

9. Such other property so designated by regulation made by the Committee.

PART III
INTERPRETATION OF SCHEDULE 1

1. In this Schedule, unless the context requires otherwise, the following expressions have the following meanings (and related expressions shall be construed accordingly) –

"accountancy services" property means real property owned or occupied for the purpose of carrying on the business of an accountant who, by way of business, provides accountancy services to third parties (and for the purposes of this Ordinance an **"accountant"** does not include accountants employed by undertakings which do not by way of business provide accountancy services to third parties,

"agricultural" property includes –

- (a) land covered or uncovered by buildings which is used or capable of being used for agricultural purposes, and
- (b) any building used in connection with the use of land for agricultural purposes,

but does not include any real property which is domestic property, horticultural property, publicly owned non-domestic property or tourist property,

"agricultural purposes" includes –

- (a) dairy farming,

- (b) livestock breeding and keeping,
- (c) production of any consumable produce,
- (d) production of ferns, plants, flowers and bulbs not for the purposes of a business, trade or undertaking in those items, and
- (e) use of land as –
 - (i) grazing, meadow or pasture land, or
 - (ii) orchard or woodland,

"airfield" includes, but is not limited to, any runway shoulder, runway strip, grass park and runway end safety area,

"approved development site" means any real property –

- (a) which is subject to a current development permission issued by the Building and Development Control Committee, but
- (b) which is not a development building,

"bulbs" includes corms, rhizomes and tubers but does not include potato tubers,

"cemetery" means –

- (a) any land which is exclusively being used for the interment of human remains whether under any enactment for the time being in force or otherwise lawfully, and
- (b) any building used for any purposes ancillary to such interment,

"communal", in relation to land, means communal land which is –

- (a) adjacent to and used in connection with the enjoyment of a whole unit divided into more than one flat, and
- (b) owned by a person other than the owners of those flats,

"conservatory" means a building –

- (a) attached to and used in connection with the enjoyment of a domestic dwelling house, and
- (b) the walls and roof of which are predominantly of glass or some other translucent material,

"development building" means, notwithstanding section 43, a building in relation to which -

- (a) full plans have been approved in accordance with regulation 16 of the Building (Alderney) Regulations, 2014 ("**the Alderney Regulations**")^e, and

- (b) the Building and Development Control Committee has confirmed in writing that building work has commenced,

but a building will cease to be considered in development when the Building Development and Control Committee has -

- (i) issued a completion certificate, or
- (ii) confirmed the building has met the relevant requirements for completion in accordance with Regulation 18(2) of Alderney Regulations,

"domestic" means –

- (a) that part of a building comprising a dwelling house, owned –
 - (i) privately,
 - (ii) by any Parish, or
 - (iii) by the States of Guernsey or States of Alderney,and which is not a development building,
- (b) land which is –
 - (i) adjacent to or under, or used in connection with the enjoyment of, a dwelling house,

- (ii) owned publicly or privately, and
- (iii) not –
 - (A) communal or exempt land, or
 - (B) an approved development site,
- (c) in relation to garaging or parking, a building (or part of a building) or land used solely for the storage or parking of one or more private vehicles or for domestic storage,

and includes any glasshouse which falls into property reference B1.3A or B3.3A,

"dwelling house" means any building wholly or principally used or usable for the purposes of human habitation,

"exempt" means real property listed in Part II of this Schedule,

"flat" –

- (a) means any dwelling house that –
 - (i) is separate and self-contained, and
 - (ii) forms part of a building from some other part of which it is divided horizontally,

and for the avoidance of doubt includes an apartment,
and

(b) includes –

(i) any swimming pool, pool house, owner-occupied garage, shed, conservatory or other building used by the owner of the flat in connection with the enjoyment of the flat as such,

(ii) any garage or parking owned by a company the sole shareholders of which are the individual flat owners, and

(iii) gardens, owner-occupied parking and other land adjoining a flat, the aggregate area of which does not exceed 1 vergée,

but does not include any tourist property,

"food outlet" means any building from which food is provided for the purposes of a business, trade or undertaking for consumption –

(a) on the premises (whether indoors or outdoors),

(b) elsewhere, or

(c) both,

"garaging or parking" means real property (or part of real property) used solely for the storage or parking of one or more private vehicles or for domestic storage,

"glasshouse" –

- (a) includes any structure which would be a glasshouse were it not for the fact that in the construction thereof translucent material other than glass has been used,
- (b) in relation to horticulture, means a glasshouse used for the production of any consumable produce or the production of ferns, plants, flowers or bulbs for the purposes of a business, trade or undertaking, and includes any building adjacent to any such glasshouse and used in connection with the trade carried on thereat, and
- (c) in relation to a domestic dwelling house, means a glasshouse attached to a dwelling house which –
 - (i) is not used for the purposes of a business, trade or undertaking, and
 - (ii) on application by the owner, has been approved by the Committee as falling into property reference B1.3A or B3.3A (as the case may be),

"harbour" means the quays, hards and roads under the administration of the States and adjacent to the Alderney harbour area,

"highway" means any public or private road, including the carriageways, verges and footpaths thereof, and shared driveways,

"home" means any building used or intended to be used principally for the –

- (a) reception of pregnant women or of women immediately after childbirth, or
- (b) provision of nursing or accommodation for –
 - (i) persons suffering from any illness, injury or disability,
 - (ii) the elderly, or
 - (iii) both,

"horticultural" property –

- (a) includes a glasshouse or other building used for horticulture, and
- (b) in relation to land, means any land used –
 - (i) for the production of any consumable produce, or
 - (ii) the production of ferns, plants, flowers or bulbs

for the purposes of a business, trade or undertaking in those items, or

- (iii) as market gardens or nursery grounds,

but does not include any domestic property,

"hostelry" means –

- (a) any tourist property from which food is provided for consumption on the premises (whether indoors or outdoors),
- (b) any public house, or
- (c) any social club,

and includes any private residential, nursing or care home,

"industrial" property means real property used for the manufacture of any machinery or goods, and which is not motor trade or marine trade property,

"legal services" property means real property owned or occupied for the purpose of carrying on the business of a lawyer, notary or other independent legal professional (and for the purposes of this Ordinance an **"independent legal professional"** does not include legal professionals employed by –

- (a) public authorities, or

- (b) undertakings which do not by way of business provide legal services to third parties),

"marine trade" property includes any real property used for the sale, display or repair of any marine vehicle,

"motor trade" property includes any real property used –

- (a) for the sale, display, repair and valeting of any motor vehicle, and
- (b) by any tyre or exhaust factor,

"moveable site structure" does not include any property -

- (a) which cannot be moved to a different position without being damaged or deconstructed, or
- (b) which has a direct connection to receive -
 - (i) mains electricity,
 - (ii) mains gas , or
 - (iii) mains water,

"non-domestic" means, in relation to buildings, land, or garaging and parking, any real property of that description which does not fall within the definition of "domestic", except that it does not include any real property

which falls into a property description/usage within property reference B4.3A or L1.5A,

"non-owner-occupied", in relation to any real property, means occupied by a person other than the person who is the owner of that real property,

"NRFSB" property means real property owned or occupied for the purpose of carrying on the business of a financial services business within the meaning of the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008^{ra},

"open community use" means any real property that is available for free and unfettered use by the general public,

"owner-occupied", in relation to any real property, means occupied by a person who is the owner of that real property,

"outbuildings" means a shed, barn or any other building which –

- (a) is detached from, and used in connection with the enjoyment of, a dwelling house,
- (b) is used primarily for domestic storage, and
- (c) is not a domestic garage,

"penal rate" means a rate which is applied to a property reference or

^{ra} No. XV of 2008; there are amendments not material to this enactment.

class or description of real property specified by an Ordinance of the States,

"pool house" means a fixed or retractable structure with a plan area of 10 square metres or more situated upon domestic land and used to cover a swimming pool,

"public road" means any road, street, lane, alley or passage repairable in whole or in part by the States,

"publicly owned non-domestic" property includes any real property –

- (a) principally used by any school,
- (b) comprising a hospital, home or other institution controlled or maintained by the States of Guernsey or the States of Alderney,
- (c) owned by the States of Guernsey or the States of Alderney and used for a purpose which is of benefit to the general public or a section thereof,
- (d) owned by any Parish and used for a purpose which is of benefit to –
 - (i) the general public or a section thereof, or
 - (ii) the residents of the Parish or a section thereof,
- (e) owned or occupied by a charity the income of which is not chargeable to income tax in accordance with section

40(k) of the Income Tax (Guernsey) Law, 1975^o,

- (f) owned or occupied by any club, association, society or other organisation and used otherwise than for profit for the purposes of that club, association, society or other organisation,

except where that real property is principally used by a third party as real property which would otherwise fall into a property description/usage within property reference B4, B5, B6, B7, B8 or B9, in which case it falls into the appropriate property reference for that property on the basis that it is not exempt,

"quays" includes dolphins, jetties, wharfs, piers, walls, slipways and steps,

"recreational and sporting premises" includes any building used principally for purposes ancillary to sport,

"regulated finance business" property means real property owned or occupied for the purpose of carrying on business by –

- (a) a person who carries on controlled investment business within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^P and who holds a

^o Ordres en Conseil Vol. XXV, p. 124; there are amendments not material to this enactment.

^P Ordres en Conseil Vol. XXX, p. 281; there are amendments not material to this enactment.

licence under section 3 of that Law or an authorisation under section 8 of that Law,

- (b) a person who is a licensed institution within the meaning of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^q,
- (c) a person who is a licensee within the meaning of the Insurance Business (Bailiwick of Guernsey) Law, 2002^r or the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^s,
- (d) a person who is, or who is deemed to be, a licensed fiduciary within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000^t, and
- (e) a person of any other class or description prescribed for the purposes of this section by regulations of the Committee,

^q Order in Council No. XIII of 1994; there are amendments not material to this enactment.

^r Order in Council No. XXI of 2002; there are amendments not material to this enactment.

^s Order in Council No. XXII of 2002; there are amendments not material to this enactment.

^t Order in Council No. I of 2001; there are amendments not material to this enactment.

"retail" includes any real property used principally for the purposes of a profession, business or trade, other than any real property falling within any other definition contained in this Part of this Schedule,

"school" has the same meaning as in the Education (Guernsey) Law, 1970^u and includes any organisation or institution whose principal function is the provision of supervision and care, whether on a full time or part time basis, to children of less than compulsory school age, as defined by that Law,

"self-catering accommodation" means any tourist property from which food is not provided for the occupier,

"social housing" means any domestic property which is currently occupied and which is owned or controlled by the Alderney Housing Association,

"swimming pool" means any water-retaining structure of 10 square metres or more in plan area situated in or upon land, which is visible at or above ground level, and which is used in connection with the enjoyment of a dwelling house or tourist property,

"tourist property" –

- (a) means any dwelling house in respect of which there is in force for the time being an accommodation permit

^u Ordres en Conseil Vol. XXII, p. 318 (applied, with modifications, to the Island of Alderney by the Alderney (Application of Legislation) (Education) Ordinance, 1970 (Recueil d'Ordonnances Tome XVI, p. 495)).

issued under the Tourist (Alderney) Law, 1956^v, and

- (b) includes –
 - (i) any swimming pool, pool house, garage, shed, conservatory or other building used, whether from time to time or otherwise, in connection with the use of that property under any such permit,
 - (ii) any gardens, parking, and other land under or adjoining that property and used as aforesaid in connection with the use of that property under any such permit,

(and for the avoidance of doubt, any garage or parking comprised within a tourist property does not fall within property references B1.5A),

"undertaking" means an undertaking whether or not carried on for profit,

"utilities provider" property means any real property owned or occupied by –

- (a) service providers subject to regulation by the Guernsey Competition and Regulatory Authority established by the Guernsey Competition and Regulatory Authority Ordinance, 2012,

^v Ordres en Conseil Vol. XVII, p. 29.

- (c) the Alderney Water Board for the purposes of the collection, storage, purification and distribution of water, or of the collection and disposal of wastewater, and obtaining payment for water and for those purposes and for ancillary activities, and
- (d) Alderney Electricity Limited for the purposes of the production of, distribution of and payment for, electric energy and ancillary activities,

"warehousing" means any building used to store goods for the purposes of a business, trade or undertaking unless it is part of, or connected to, real property used principally for another property reference,

"whole unit" –

- (a) means any dwelling house which is not a flat, but includes premises which are divided into more than one flat, and
- (b) includes –
 - (i) any swimming pool, pool house, owner-occupied garage, shed, conservatory or other building used in connection with the enjoyment of a whole unit as such,

- (ii) any garage owned by a company the sole shareholders of which are the individual owners of the whole unit, and
- (iii) gardens, owner-occupied parking and other land adjoining a whole unit, the aggregate area of which does not exceed 1 vergée,

but does not include any tourist property, and

"**workshop**" means any building used for the repair or maintenance of any machinery or goods, and which is not motor trade or marine trade property.

2. The Committee may by regulation amend this Part of this Schedule by adding any definition to it or by removing or varying any definition set out in it.

SCHEDULE 2

Section 49

REPEALS

THE ENACTMENTS LISTED IN THIS SCHEDULE ARE REPEALED

ORDINANCES

1. The Alderney Rateable Values Assessment Ordinance, 1949^w.
2. The Alderney Rateable Values (Public Utilities) Assessment Ordinance, 1949^x.
3. The Alderney Occupiers' Rate Ordinance, 1949^y.
4. The Alderney Rateable Values (Public Utilities) Assessment Ordinance, 1953^z.
5. The Alderney Occupiers' Rate (Amendment) Ordinance, 1972^{aa}.
6. The Alderney Rateable Values Assessment (Amendment) Ordinance, 1973^{bb}.
7. The Occupier's Rate (Level for 1987) Ordinance, 1986^{cc}.
8. The Occupier's Rate (Level for 1990) Ordinance, 1989^{dd}.

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- w Ordinance of the States of Deliberation (Recueil d'Ordonnances Tome X, p. 1).
- x Ordinance of the States of Deliberation No. XXIII of 1949.
- y Alderney Ordinance No. II of 1949.
- z Ordinance of the States of Deliberation No. XXV of 1953.
- aa Alderney Ordinance No. III of 1972.
- bb Ordinance of the States of Deliberation No. I of 1973.
- cc Alderney Ordinance No. VII of 1986.
- dd Alderney Ordinance No. VI of 1989.

9. The Occupier's Rate (Level for 1991) Ordinance, 1990^{ee}.
10. The Occupier's Rate (Level for 1992) Ordinance, 1991^{ff}.
11. The Occupier's Rate (Level for 1993) Ordinance, 1992^{gg}.
12. The Occupier's Rate (Level for 1994) Ordinance, 1993^{hh}.
13. The Alderney Occupiers' Rate (Amendment) Ordinance, 1994ⁱⁱ.
14. The Occupier's Rate (Level for 1996) Ordinance, 1995^{jj}.
15. The Occupier's Rate (Level for 1997) Ordinance, 1996^{kk}.
16. The Occupier's Rate (Level for 1998) Ordinance, 1997^{ll}.
17. The Occupier's Rate (Level for 1999) Ordinance, 1998^{mm}.
18. The Occupier's Rate (Level for 2000) Ordinance, 1999ⁿⁿ.
19. The Occupier's Rate (Level for 2001) Ordinance, 2000^{oo}.
20. The Occupier's Rate (Level for 2002) Ordinance, 2001^{pp}.

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- ee** Alderney Ordinance No. X of 1990.
- ff** Alderney Ordinance No. XII of 1991.
- gg** Alderney Ordinance No. X of 1992.
- hh** Alderney Ordinance No. X of 1993.
- ii** Alderney Ordinance No. XII of 1994.
- jj** Alderney Ordinance No. X of 1995.
- kk** Alderney Ordinance No. XIII of 1996.
- ll** Alderney Ordinance No. X of 1997.
- mm** Alderney Ordinance No. VI of 1998.
- nn** Alderney Ordinance No. XV of 1999.
- oo** Alderney Ordinance No. XIII of 2000.
- pp** Alderney Ordinance No. XIV of 2001.

21. The Occupier's Rate (Level for 2003) Ordinance, 2002^{qq}.
22. The Occupier's Rate (Level for 2004) Ordinance, 2003^{rr}.
23. The Occupier's Rate (Level for 2005) Ordinance, 2004^{ss}.
24. The Occupier's Rate (Level for 2006) Ordinance, 2005^{tt}.
25. The Occupier's Rate (Level for 2007) Ordinance, 2006^{uu}.
26. The Occupier's Rate (Level for 2008) Ordinance, 2007^{vv}.
27. The Occupier's Rate (Level for 2009) Ordinance, 2008^{ww}.
28. The Occupier's Rate (Level for 2010) Ordinance, 2009^{xx}.
29. The Occupiers' Rate (Level for 2011) Ordinance, 2010^{yy}.
30. The Occupier's Rate (Level for 2012) Ordinance, 2011^{zz}.
31. The Occupier's Rate (Level for 2012) Ordinance, 2011^{aaa}.
32. The Occupier's Rate (Level for 2013) Ordinance, 2012^{bbb}.

^{qq} Alderney Ordinance No. XIII of 2002.

^{rr} Alderney Ordinance No. X of 2003.

^{ss} Alderney Ordinance No. XVII of 2004.

^{tt} Alderney Ordinance No. XIII of 2005.

^{uu} Alderney Ordinance No. XIII of 2006.

^{vv} Alderney Ordinance No. X of 2007.

^{ww} Alderney Ordinance No. XV of 2008.

^{xx} Alderney Ordinance No. XIII of 2009.

^{yy} Alderney Ordinance No. XX of 2010.

^{zz} Alderney Ordinance No. XVIII of 2011.

^{aaa} Alderney Ordinance No. XXIII of 2011.

^{bbb} Alderney Ordinance No. VI of 2012.

33. The Occupier's Rate (Level for 2014) Ordinance, 2013^{ccc}.
34. The Occupier's Rate (Level for 2015) Ordinance, 2014^{ddd}.
35. The Occupier's Rate (Level for 2016) Ordinance, 2015^{eee}.
36. The Occupier's Rate (Level for 2017) Ordinance, 2016^{fff}.
37. The Occupier's Rate (Level for 2018) Ordinance, 2017^{ggg}.
38. The Occupier's Rate (Level for 2019) Ordinance, 2018^{hhh}.
39. The Occupier's Rate (Level for 2019) (No. 2) Ordinance, 2018ⁱⁱⁱ.
40. The Occupier's Rate (Level for 2020) Ordinance, 2019^{jjj}.

ccc	Alderney Ordinance No. XIV of 2013.
ddd	Alderney Ordinance No. XXV of 2014.
eee	Alderney Ordinance No. VI of 2015.
fff	Alderney Ordinance No. XII of 2016.
ggg	Alderney Ordinance No. XIII of 2017.
hhh	Alderney Ordinance No. XII of 2018.
iii	Alderney Ordinance No. XV of 2018.
jjj	Alderney Ordinance No. III of 2019.

SCHEDULE 3

Section 49

AMENDMENTS

THE ENACTMENTS LISTED IN THIS SCHEDULE ARE AMENDED AS FOLLOWS

1. In section 3 of the Alderney (Application of Legislation) Law, 1948ⁱⁱ -
 - (a) the text is numbered as subsection (1),
 - (b) in subsection (1), as so numbered, for “shall levy” substitute “may levy”, and
 - (c) after subsection (1), as so numbered, insert the following subsection –

“(2) The provisions of subsection (1) are in addition to and not in derogation from the provisions of the Alderney Property Tax (Enabling Provisions) Law, 2020 and any Ordinance made thereunder.”.

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

THE TRIBUNAL: PROCEDURE AND POWERS

Voting in Tribunal.

1. (1) Each member of the Tribunal has, subject to subparagraph (2), one vote, and the decisions of the Tribunal shall be taken by a simple majority.

(2) The person chairing the Tribunal has an original vote and also, where there is an equality of votes, a casting vote.

Procedure in hearings before Tribunal.

2. (1) Where a Tribunal is appointed to hear and determine an appeal against a relevant decision –

(a) the Tribunal shall afford the parties a reasonable opportunity of appearing and being heard or, if all parties so elect, of submitting a statement in writing to the Tribunal,

(b) the Tribunal may admit any evidence given for the purposes of the hearing and determination of the appeal notwithstanding any rule of law relating to hearsay or otherwise as to the admissibility of evidence,

(c) the parties are entitled to be present during any hearing by the Tribunal of representations made in person, and for the purposes of this subparagraph –

(i) the appellant may be represented by any person,

whether or not legally qualified, except that if in a particular case the Tribunal is satisfied that there are good and sufficient reasons for doing so, it may refuse to permit a particular person, other than one who is legally qualified, to represent the appellant, and

- (ii) the Committee may be represented by any person who is legally qualified, by any officer of the Committee or by any other person appointed by the Committee to represent it,

- (d) the Tribunal shall afford the parties a reasonable opportunity of replying to the representations made by the other party, either by appearing and being heard in person or (if the original representations were made in writing) by a statement in writing,

- (e) the Tribunal shall consider all representations and replies submitted to it by the parties,

- (f) the Tribunal may at any time require either party to furnish further particulars in writing within such time as it may direct with regard to any question referred to it and shall afford the other party a reasonable opportunity of replying in writing,

- (g) the Tribunal may call for such documents and examine such persons (including the parties) on oath, affirmation or otherwise as appear likely to afford evidence which

is relevant and material to any question to be determined by the Tribunal,

- (h) the parties may, if authorised to do so by the Tribunal, cause a summons to be served on any person, in the same manner as that in which a summons may be served in a civil action before the Court, summoning that person to attend any hearing of the Tribunal to give evidence or produce any document likely to assist the Tribunal in determining any question before it, and a person so summoned is under the same obligation as to the giving of any evidence or the production of any document as if that person were summoned to give the evidence or produce the document in a civil action before the Court,
- (i) the Tribunal may adjourn any hearing from time to time as it thinks fit,
- (j) if it is proved to the satisfaction of the Tribunal that the parties have been notified of the place, date and time of a hearing, and one of the parties fails to appear at the hearing, the Tribunal may proceed to determine any matter in dispute in the absence of that party,
- (k) the decision of the Tribunal shall be in writing, signed by the person chairing the Tribunal and transmitted as soon as reasonably practicable to the parties, and
- (l) the Tribunal may, subject to the above provisions –

- (i) determine its own procedure, and
- (ii) give such directions, subject to such terms and conditions, as it thinks fit for the purposes of the hearing and determination of the appeal.

(2) The provisions of this paragraph are subject to paragraph 8 (“remote and electronic hearings”).

Hearings to be in public.

3. (1) A hearing and every part of a hearing before the Tribunal shall be held in public unless the Tribunal directs otherwise.

(2) The Tribunal may at any time exclude any person from a hearing or any part thereof.

Powers of Tribunal as to summoning witnesses, etc.

4. The Tribunal has, for the purposes of hearing and determining an appeal against a relevant decision, the same powers as the Court in respect of –

- (a) the attendance and examination of witnesses,
- (b) the administration of oaths or affirmations to witnesses,
- (c) the production of documents and exhibits,

and a summons in relation to any of these matters signed by the person chairing the Tribunal is equivalent to a formal process issued in that behalf in an action before the Court.

Costs.

5. (1) The Tribunal may, subject to the provisions of subparagraphs (4) and (5), order that the whole or any part of the costs of a hearing shall be paid by one or more of the parties in such amount or proportion and on such basis as the Tribunal may direct.

(2) An order for costs under subparagraph (1) –

(a) is enforceable as a judgment debt by the person in whose favour the order was made, and

(b) carries interest at the rate for the time being prescribed under section 2 of the Judgments (Interest) (Bailiwick of Guernsey) Law, 1985^{kk} from the date of the order until the order is satisfied, and the interest may be recovered by the person in whose favour the order was made as part of the award of costs.

(3) The expression "**costs of a hearing**" (without prejudice to the generality of the expression) includes –

(a) any costs, fees and expenses reasonably incurred by any party in the preparation or presentation of that party's case, including witness costs,

(b) any costs, fees and expenses of, or incidental or

^{kk} Ordres en Conseil Vol. XXIX, p. 135, amended by Order of the Royal Court No. I of 1996.

preliminary to, the holding and conduct of the hearing and the determination of the appeal incurred by the States (other than as a party to the hearing), and

(c) the costs, fees, expenses and allowances of the Tribunal and the members thereof.

(4) The Tribunal may not order –

(a) the payment of costs on a full or partial indemnity basis,

(b) the giving of security for costs,

(c) the taxation of costs, or

(d) the payment of the costs of legal representation of any of the parties.

(5) The Committee may by regulation prescribe maximum scales of costs, fees and expenses in relation to the costs of hearings and, where the Committee so prescribes a scale in relation to any proceeding or matter, an award of the Tribunal under subparagraph (1) in relation to the costs of such a proceeding or matter shall not exceed the amount prescribed.

(6) The provisions of this paragraph do not apply in relation to the Court and are accordingly without prejudice to the powers of the Court in relation to costs.

Offences in relation to hearings, etc.

6. (1) A person (“A”) who –

- (a) in proceedings before the Tribunal, or in making any statement or providing any information or document to the Clerk or the Tribunal when acting in the performance or purported performance of their respective functions –
- (i) makes a statement which A knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
 - (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
 - (iii) produces or furnishes or causes or permits to be produced or furnished any information or document which A knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
 - (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,
- (b) on being duly summoned as a witness before the Tribunal, fails without reasonable excuse to attend,

- (c) on attending before the Tribunal as a witness, fails, when legally required to do so –
 - (i) to take the oath or affirmation,
 - (ii) to produce any document in A's possession, custody or power, or
 - (iii) to answer any question,
- (d) does any other thing before the Tribunal which, if done before the Court, would constitute a contempt of court, or
- (e) discloses, except for the purposes of legal proceedings or with other lawful excuse, any matter which came to A's knowledge by reason of A being present before the Tribunal when the Tribunal was sitting in camera,

is guilty of an offence.

(2) A person guilty of an offence under subparagraph (1) is liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Allowances and expenses of members of Tribunal.

7. There shall be paid to the members of the Tribunal such allowances as the Committee may determine together with the travelling and other expenses incurred by them in connection with the performance of their functions as a member of the Tribunal.

Remote and electronic hearings.

8. (1) Notwithstanding any other provision of this Schedule -
- (a) a hearing and any part of a hearing before the Tribunal may be held in any place other than Alderney,
 - (b) the members of the Tribunal, the Clerk, the parties and their representatives and the witnesses, and all or any of them, may attend a hearing and any part of a hearing by being present in different locations,
 - (c) a hearing and any part of a hearing may be conducted by electronic or digital means and/or by means of telecommunications,

and paragraph 2(1)(l) (power of Tribunal to determine its own procedure and give directions, etc.) and all other provisions of this Schedule have effect accordingly.

(2) This provisions of this paragraph are without prejudice to the provisions of the Electronic Transactions (Alderney) Law, 2001 ^{kk}.

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Alderney Greffier

Alderney legislation is available online at
www.guernseylegalresources.gg

^{kk} Order in Council No. XXVI of 2001; there are amendments not material to this enactment.