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THE PRODUCTION OF LEGISLATION IN THE CROWN DEPENDENCIES

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This article compares the procedures for making primary and secondary legislation in the Bailiwicks of Jersey and Guernsey and in the Isle of Man from the formulation of policy through the drafting and parliamentary stages to its formal enactment. It also touches on how the drafting of legislation is resourced and organised in each Island. Most lawyers in private practice, though they may work with legislation every day, may have given very little thought to how it came about. They will doubtless be aware that a Bill (or a projet de loi) has to be approved by the Island's legislature and then given Royal Assent, but perhaps few will have thought that that is merely the end of a lengthy process which probably began at least a couple of years earlier. Even fewer will have thought about law drafting as a field of practice. This article invites you into the engine room of law production in the Islands and introduces you to those of us privileged to work there.

Pre-drafting stages

1 All legislation starts with policy. Most legislation results from an initiative within government; in all cases an idea considered to require action is formulated and legislation is the chosen method by which that action is given effect. If new legislation is needed—and it is often forgotten that there is much that government can do without legislation—it may be that the necessary change in the law can be effected using powers in existing primary legislation to make secondary legislation, regulations, orders, etc. If the action is outside the scope of those powers, new primary legislation is needed to extend them.

2 In the case of all legislation promoted by government, it is up to officials in the department responsible for the particular subject area to seek approval from the relevant minister to the policy and the necessary legislative changes. In Jersey and the Isle of Man there is a legislation programme published as part of the government's Strategic Plan. In Jersey all but minor and routine drafting items (matters that are not expected to take more than a day of drafting time) need a place on the Law Drafting Programme in order to be drafted. The Programme is administered by the Chief Minister on behalf of the States. Ministers (plus the *Comité des Connétables* and the Privileges and Procedures Committee) submit bids for drafting time and the bids are assessed and prioritised according to the extent that they deliver the States' strategic policy and their impact on the finances and manpower complement of the public sector, and on the private sector. The programme is reviewed quarterly by the Corporate Management Board (consisting of Chief Officers) and the Council of Ministers. Once a year it is debated by the States

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Assembly as part of its Annual Business Plan, which sets States' spending for the following year.

3 In the Isle of Man² the Legislative Programme is agreed following bids from the various departments. It is published in the Strategic Plan produced at the beginning of the new administration and updated for each annual report on that Plan. It operates effectively as a rolling programme as the Council of Ministers will add to and delete items from the Programme and change priorities according to prevailing circumstances. Bills are allocated to a particular year in which they are to go before Tynwald and informally are given a priority within that year according to an ABC system with "A" bills having the highest priority and "C" bills the lowest. This provides a guide to the Senior Drafter in allocating and managing the work. Proposals for new primary legislation are referred to the Council of Ministers with an Impact Assessment that includes an explanation as to the need for the legislation, the alternatives to it and why they have been rejected, the resource implications of the bill (Treasury consent is needed if there is to be an increase in expenditure or reduction in income), a timetable for its progression and details of consultation with the business community if they are affected by it. It is usual for there to be full consultation on any new legislative proposals.

4 The most notable feature of the Guernsey system³ is that the principal debate takes place on a departmental report (known as a States Report) and not on the draft legislation itself, the legislation not being drafted until the policy as set out in the report has itself been approved by the States of Deliberation. Alternatively, though this happens only rarely, at least seven States members may ask for a change in any recommended policy or the law by way of a petition known as a *requête*. The report/petition is addressed to the Chief Minister who publishes it as part of the *Billet d'État* for a forthcoming States meeting with a proposition based on the contents of the document. The *Billet* is a collection of papers that serves both as an order paper giving the agenda and order of business for the States meeting and also as the vehicle for reports by departments as to proposed action, including legislative action. Unless the proposal comes from the Policy Council and/or the Treasury and Resources Department, a report is usually accompanied by an opinion from one or both of them as to whether the States should accept the proposals and sometimes suggesting qualifications or modifications. The report (or *requête*) is debated by the States and if passed, the proposition (which may be amended) becomes a resolution directing the preparation of such legislation as may be necessary to give effect to their decision. The States give each policy a priority category on an ABC system similar to that used informally in the Isle of Man. The legislative counsel in Guernsey thus get involved at a much earlier stage than drafters in the other Islands as they will have been involved in the preparation of the report and so have knowledge or, and sometimes a hand in, the development of policy. It also means that a draft law is based on what the States rather

²For details of the process in the Isle of Man see *New Acts of Tynwald—A guide to instructing the drafter*, Attorney General's Chambers, 2nd Edition, 2009.

³For the process of passing Guernsey legislation see Ogier, *The Government and Law of Guernsey*, States of Guernsey, 2005, at 39–42 and Dawes, *The Laws of Guernsey*, Oxford, 2003, at 30–32.

than a department have decided, largely obviating the need for amendments during the passage of the legislation, which must mean that those drafting in Guernsey spend less time drafting provisions that never see the light of day. Because the decisions have already been taken, the States have much less of a role to play in relation to the resulting *Projet de Loi* than in Jersey, as we shall see.

5 Assuming, then, that a proposed new law/bill has the requisite authority, the appropriate official in the relevant government department prepares drafting instructions. In Guernsey the policy as published in the *Billet* forms the basis of the instructions, as supplemented by input from departments. In the other Islands, at least in theory, the drafters do not get involved in the policy formulation stage. The role of the drafter is to give effect to the policy (in the way the instructions set out) in the draft, not to decide the policy, which is the province of the department via its instructing official who should be steeped in the subject matter. However, in small jurisdictions where there is inevitably less detailed expertise, the drafter, who may have wide experience of drafting comparable schemes in other fields of government activity or in other jurisdictions, may be tempted to make suggestions as to the policy, though this should be on the basis that the department is free to accept or reject them. Instructions should consist of a detailed brief to the drafter in narrative form setting out the full details of the scheme and attaching all relevant background material. Producing drafting instructions for a bill of any significant size is a major task. Drafters sometimes find themselves having to explain that it is not enough just to be told that a licensing scheme or an appeals system is needed without giving details of what those provisions should consist. Instructions in the form of a draft are also not a good idea because the instructor may not have achieved the intended result and unless the drafter knows the intention behind a particular provision this may well not come to light. Drafters are, however, pleased to be told that there is comparable legislation elsewhere, but are wary of being told to copy and paste it as it is important to take account of the fact that the needs of the Island might be different. The law in each of the Islands is not the same as that in England and Wales, which is designed for a much larger nation with multiple layers of government. Frequently it needs substantial adaptation to produce either the same effect in the Island or, perhaps more to the point, a result that is appropriate for the Island.⁴

6 Once the instructions have been received, they are assigned to a particular drafter to be drafted. Before we look at the next stage of the process we should know a little more about these drafters (or draftsmen/legislative counsel as they are called in Jersey and Guernsey).

Law drafting resources

⁴A recent short article in this journal (Miscellany, February 2007, at 5) criticised the approach of cutting and pasting English legislation, regardless of its quality, complexity, length, appropriateness or success. The author agrees but strongly doubts the conclusion that sharing drafting resources between the Bailiwicks is of any practical use, because policy considerations and the steps needed for the legislation to fit into the local statute book are always different. The sharing of ideas amongst and the adapting of legislation from comparable jurisdictions is, however, to be encouraged.

7 The drafting of legislation, in all sophisticated jurisdictions, is recognised as a complex task. At least insofar as the drafting of primary legislation is concerned, it is normally undertaken by lawyers of high intellectual ability who have developed the skill of drafting over a number of years. To those who practise in the field it is a hugely fascinating area of law in which to work. In Jersey the Law Draftsman's Office is part of the Chief Minister's Office. Prior to the advent of ministerial government at the end of 2005 it was an autonomous unit sharing a budget with the States Greffe. In fact until about 20 years ago the positions of Law Draftsman and the Greffier of the States were held by the same individual. The office continues to share accommodation in Morier House, St Helier, with the States Greffe. The Law Draftsman is assisted in her work by four assistant law draftsmen (one of whom is appointed as the senior assistant to deputise for her), a draftsman who works on a consultancy basis and one full and one part time law clerk. The office also benefits from the services of the States Greffe's publications editor. All the draftsmen are Commonwealth-qualified lawyers recruited from outside the Island following substantial drafting experience in a Commonwealth jurisdiction (including the United Kingdom). The Law Draftsman's Office is responsible for drafting all primary and secondary legislation in Jersey, except for Rules of Court which are usually drafted by a lawyer in the Law Officers' Department on the basis they are the responsibility of the Court and not the States. Judged on the output of the past few years the office drafts around 30–40 laws and about 170 sets of regulations and orders a year. Unlike the position in the other Crown Dependencies, none of the Jersey draftsmen is a qualified Jersey lawyer. It is not apparently considered necessary. All primary legislation is reviewed in draft by the Law Officers' Department, the Law Officers being advisers to the States, who check for compliance with the European Convention on Human Rights and other international obligations, assess impact on customary law and review any offences created by the proposed legislation and the level of penalties proposed for them.

8 The drafters in both Guernsey and the Isle of Man come under the Attorney General and are part of St James' Chambers, St Peter Port and the Attorney General's Chambers, St Mary's Court, Douglas respectively. This structure is the most common in small jurisdictions. The Legislative Drafting and Advisory Division of St James' Chambers consists of eight legislative counsel, one of whom is the Director of Legislative Drafting, and two consultants, together with a paralegal. In addition, the Director of Legal Services, who heads all the legal teams in Chambers, also contributes to the drafting and advisory service provided. The legislative counsel tend to be recruited earlier in their careers than their Jersey counterparts and are normally expected to qualify as Guernsey advocates. The Guernsey team, in addition to being responsible for advisory work, draft all primary legislation for the Bailiwick (including Alderney and Sark) and most secondary legislation. Guernsey produces roughly 20 laws a year, 50 ordinances (explained later) and 90 statutory instruments.

9 In the Isle of Man the Legislative Drafting Division of the Attorney General's Chambers consists of the Senior Legislative Drafter, two Legislative Drafters one assistant in training

to be a full drafter and a legislation and publications clerk. Two of the team are Manx advocates and two drafters were recruited from Jersey and the UK respectively. The Isle of Man is fortunate that in recent times it has been able to recruit and train highly competent lawyers from the local profession. The Manx drafters usually draft only primary legislation, about 20 bills a year, but are responsible for reviewing draft secondary legislation, which is drafted by civil servants in the various government departments. As the Island produces over 1,000 statutory documents a year, many of which relate to temporary road closures, resources are targeted to checking around 200 of the more important statutory documents.

The drafting process

10 Let us return to our drafter who has received his or her instructions. Frequently there will be a number of queries and need for clarification. It may be that a note of these matters will accompany the first draft or the drafter may want to meet the instructing officer or obtain further information before producing the draft. In any event, it would be odd if the first draft were the end of the process rather than a spring-board for further discussion and analysis. It is often only at this stage that the policy, or how it is to be given effect, is tested in detail. The drafter will be looking to see that all relevant areas are covered, the necessary powers provided for details to be prescribed in regulations and orders (if appropriate), that nothing is objectionable in terms of human rights requirements, international obligations or constitutionally. The proposals will have to fit with existing legislation so there may be a number of substantial or consequential amendments and if an old regime is to be replaced, thought will have to be given to transitional arrangements. It is normal for several drafts to pass between the drafter and the instructing officer before the draft is finalised and in a large bill this process is expected to take several months. Frequently the instructing officer will think of modifications to his plans only once he sees the draft and the dialogue with the drafter will refine the product considerably.

11 Once the draft is settled, it may go out for consultation and in the Isle of Man it usually does. In Jersey it is common for matters of any substance to be referred to the appropriate scrutiny panel at this stage rather than to wait until the *projet* is before the States and, as noted above, all primary legislation is usually considered in detail by the Law Officers' Department. Several months are likely to have passed for these processes to take place and the various comments received to be reviewed by the relevant department. As a result of the consultation process the instructing officer may well request the drafter to make changes. Thereafter the draft must then be approved by the minister to be lodged *au greffe* (Jersey) and by the Council of Ministers for introduction into the Branches of Tynwald (Isle of Man). At this stage the Isle of Man normally sends the bill to the Ministry of Justice; in the Channel Islands it is only rarely that a draft law is sent for what is known as "pre audit" prior to being passed by the States. When legislating on matters within its competence (*i.e.* domestic affairs) Jersey and Guernsey take the view that the matter is of no concern to London until it has been passed by the States and is submitted for Royal Assent. The Isle of Man, as a matter of long practice, tends to submit its legislation at an

earlier stage in the hope that any conflict with the UK authorities might be ironed out before the bill is introduced and because it might speed up the process of legislation obtaining Royal Assent if the UK authorities can be persuaded to start the process earlier.

12 So far we have mainly concerned ourselves with primary legislation, but the bulk of law-making these days is in the form of secondary legislation. In Jersey, instructions for drafting Regulations, Orders, *etc.* are submitted to the Law Draftsman's Office in the same way as drafting requests for primary legislation. Rules of Court, however, being made by the Royal Court and not by the States or a minister, are historically drafted in the Law Officers' Department. In Guernsey the procedure is the same for ordinances as for laws. When it comes to statutory instruments (regulations, orders and rules) drafting is often undertaken by departments without input from the drafting team but more complex items are sent to the drafting team for comments or drafting, and they also draft the Rules of Court. In the Isle of Man the more important statutory documents are sent to the drafters for scrutiny and occasionally they are drafted in Chambers. It should be noted that a very large proportion of Manx secondary legislation is concerned with road closures, many to do with road racing events such as the TT, and there is no input from the drafters for most of those. The difference between the various types of legislation is explained further below.

The legislative process

13 In Jersey there are three types of legislation that require States approval: laws, triennial regulations and regulations made under the authority of a law. Triennial regulations are made under the authority of an Order in Council of 1771. The States have competence to make triennial regulations on matters that would normally require Royal Assent, but they may not remain in force for longer than three years. Under the powers of an 1884 Order in Council they may be re-enacted if they are purely municipal and administrative. Triennial regulations must not affect customary law or existing legislation. They are a convenient vehicle when legislation is needed quickly, as there is no requirement for Royal Assent. In each case the draft legislation must be lodged *au greffe* with a report prepared by the Department for a minimum of six weeks prior to being considered. These documents together form a *Projet de Loi* (or *Reglements*). It is common in Jersey for legislation to go through the States in one sitting. After it is moved by the minister responsible for it, *i.e.* read for the first time, there is a debate on the principles. If the States approve the *projet* in principle, the Bailiff (or other officer presiding) will ask the Chairman of the relevant scrutiny panel if he or she wishes to have it referred to the panel. As in practice the opportunity will usually have been afforded in advance, the Chairman usually declines. The States may then go on to consider the legislation clause by clause, together with any amendments (which the Law Draftsman's Office will draft for any States' member) that may have been lodged. In practice few amendments are lodged. Thereafter the minister is invited to move the *projet* in third reading. In the case of regulations that is the end of the process and they will come into force as they provide. Usually a period of at

least a week is given to allow for the regulations to be brought to the attention of the public by means of a notice in the *Jersey Gazette*.

14 In the case of a draft law that has been adopted by the States, a report is prepared by a legal adviser in the Law Officers' Department which is transmitted with the draft as adopted (including any amendments that were passed) *via* the Lieutenant Governor's Office to the Ministry of Justice, the UK government department responsible for the Crown Dependencies. The "UK stage" of the process, which is largely the same for all three Crown Dependencies, is considered further below.

15 In the case of orders and other forms of subordinate legislation in Jersey made by a minister, the completed draft is submitted to the minister for his or her signature and the order will come into force as it provides. Again it is usual to allow a week or so from the order being made to publicise it. The order is laid before the States and may at any time be annulled if the States so vote on a proposition from a States member, but this is very rarely invoked.

16 In Guernsey the *Projet de Loi* is examined by the Legislation Select Committee of the States whose job is to see that it is in accordance with the resolution made by the States (see para 4 above) and that it carries the resolution into effect. This Committee has seven members, five of whom are States members. Most will not have legal training but there is usually at least one Advocate on the Committee from the Guernsey private Bar. Once the Committee is satisfied with the *projet* it appears in the brochure that accompanies the *Billet d'État* which includes a proposition that the *Projet de Loi* be approved. It is then considered by the States but usually with little debate or amendment. Laws will be transmitted for Royal Assent in a similar manner to that for Jersey.

17 The procedure also applies to ordinances which are passed by the States of Deliberation of Guernsey either as subordinate legislation under the authority of an enabling Law or under inherent customary powers. These powers are similar to those exercised by the States of Jersey when making triennial regulations save that ordinances are unlimited in duration. Generally speaking, provided that there is no conflict with existing customary or primary legislation, and the proposal does not involve the imposition of a tax or removal of property rights, an ordinance may be enacted to give effect to a proposal requiring legislation. Ordinances do not require Royal Assent and will come into force in accordance with their commencement provisions (or if none on approval by the States). In any case where Guernsey's Legislation Select Committee believes that the immediate or early enactment of a draft ordinance is necessary or expedient in the public interest, the Committee may order that the ordinance is to have legislative effect immediately, or on such future date as the Committee shall prescribe. This legislative power of the Committee, whilst not often exercised, has proved useful in cases where the timing of States meetings makes it impossible for the States themselves to make ordinances required as a matter of urgency. These ordinances have to be laid before the

States as soon as possible after being made by the Committee and the States have a power of annulment.

18 Guernsey's statutory instruments are made by departments and signed by the relevant departmental minister. The law or ordinance under which they are made usually requires their laying before the States. As in Jersey, the States can resolve to annul a statutory instrument. Occasionally the enabling legislation requires the statutory instrument to be approved by the States, for example certain regulations made under the Income Tax laws, in which case it will lapse if not approved.

19 In the case of legislation made by the States of Alderney or Sark's Chief Pleas, the procedures are the same except that the Legislation Select Committee (the functions of which extend only to Guernsey) does not consider laws or ordinances from those parliaments. However, ordinances made by the Chief Pleas must be transmitted to Guernsey's Royal Court and may be annulled by the Court (without prejudice to anything done under the ordinance) wherever the Court takes the view that they are *ultra vires*.

20 In the Isle of Man, once a bill has been approved by the Council of Ministers it is printed on green paper together with an explanatory memorandum prepared by the drafter and notes on clauses prepared by the department. It is introduced into one of the Branches of Tynwald, usually the House of Keys. The Isle of Man, which boasts of having the oldest Parliament in continuous existence, dating back to 979, has a tricameral legislature. The House of Keys is the Lower House, consisting of 24 elected members. The Upper House is the Legislative Council, consisting of 11 members, 8 elected by the House of Keys, plus the President of Tynwald who presides and *ex officio*, the Lord Bishop of Sodor and Man and the Attorney General. Bills must pass through both Branches of Tynwald and they each meet, in term time on three Tuesdays a month. Once a month on a Tuesday (and such subsequent days as are needed) the two Branches sit together as the Court of Tynwald for a variety of purposes, including to approve secondary legislation.

21 The procedure for the passing of bills in the Isle of Man is very similar to that of the Westminster Parliament and thus takes much longer than it does in the Channel Islands. The first reading in the Keys consists merely of the announcement of the short title by the Secretary of the House; however there may be some debate at first reading in the Legislative Council. The bill then returns at a later sitting for its second reading when the minister or other member moving the bill gives a speech on the principles of the bill and there is a general debate. The clauses stage must take place at least two weeks after second reading. This stage requires the member in charge of the bill to move that each clause stand part of the bill. It gives members the opportunity to debate each clause, to seek an explanation from the member in charge as to the effect of particular clauses and to move amendments. The precise procedure is governed by the standing orders of each House. Amendments to the bill have to be submitted to the Secretary of the House no later than six working days before the day of the sitting (but no notice of amendments has

to be given in the case of the Legislative Council). Keys amendments are usually drafted by the drafters but this often does not happen in the Upper House because they are often proposed “on the hoof”. At the next sitting (unless standing orders are waived) the bill is moved in third reading which is usually a brief and formal affair, following which it is sent to the other Branch of Tynwald to undergo similar stages. If the second chamber amends the bill it is returned to the first for agreement and there are provisions to resolve the situation if this is not forthcoming. The bill is then prepared for Royal Assent by the Crown and External Relations Division of the Chief Secretary’s Office and submitted via the Lieutenant Governor’s Office in similar manner as happens in the Channel Islands.

22 Secondary legislation is made by a department in accordance with what is provided by the parent act, by being signed by the minister for that department. This is very similar to the process with Jersey orders and statutory instruments in Guernsey. The act will also set out the appropriate Tynwald procedure. The act may require Tynwald approval before the statutory document can come into operation. It may provide for it to be laid before Tynwald and for it to cease to have effect if it is not approved at that sitting or the next, or it may give Tynwald power to annul it at that sitting or the next. The document may just have to be laid for information. There are a few other variants but the most common procedure is to require Tynwald approval, which means that more routine matters of legislation are considered by Tynwald than are considered by the States in the Bailiwicks.

23 In all three Crown Dependencies primary legislation requires the Assent of Her Majesty in Council. In the Isle of Man, however, the power is delegated to the Lieutenant Governor in most cases.⁵ It is not, however, the case that this leads to Manx legislation being passed any more quickly than that in the Bailiwicks. In all cases there is a 4–6 month delay while the draft legislation is considered by the Ministry of Justice, the UK government department responsible for the Crown Dependencies. That department normally requires 80 working days from receipt to process Crown Dependency legislation. First the draft is sent to the UK government department that deals with the area of policy that is covered by it. This “policy holding department” is given 20 days to respond and its lawyers look at the legislation to see if there are any matters of concern from a UK perspective. Thereafter the Constitutional section of the Ministry of Justice’s own legal advisers considers the Bill and any comments made by the policy holding department to ensure that it does not conflict with any of the UK’s international or constitutional obligations. Quite often informal queries are raised with the Island concerned. Officials then advise the responsible UK Minister who determines whether the legislation may

⁵The power stems from an Order in Council of 1981. The Lieutenant Governor reserves for Her Majesty any bill that he considers should be so reserved or which he is directed to reserve by the Secretary of State. He has to consult the latter about the reservation of a bill that he considers deals wholly or partly with defence, international relations, nationality and citizenship, his own powers and remuneration or the constitutional relationship between the UK and the Isle of Man, or affects the Royal prerogative or the rights of the Queen in her personal capacity. In practice, after passing through the Branches, a bill goes to a “Royal Assent Committee” consisting of the Chief Minister, the Attorney General and the Chief Secretary who certify that it is fit to be considered for Royal Assent and advise His Excellency on the question of reservation of Royal Assent.

receive Royal Assent.⁶ Manx bills are then returned to the Isle of Man if the Lieutenant Governor is to grant Royal Assent on behalf of Her Majesty; other Manx bills and Channel Island draft laws are submitted to the next meeting of the Privy Council, which takes place about once a month. Once Royal Assent is given, Jersey and Guernsey laws are registered in their respective Royal Courts, though they will come into force in accordance with their particular commencement provisions. In Jersey it is common for laws to come into force on such day as the States may by act appoint, which involves a draft act being lodged as a *projet* and debated. Guernsey has a similar procedure to commence laws by ordinances of the States. It should be noted that only Jersey has a system of notifying the public of all its legislation via the *Jersey Gazette*, which is published as part of the *Jersey Evening Post*. This is in common with most if not all Commonwealth countries, but there are no gazetting requirements in the Isle of Man and no comprehensive system of publicising all Guernsey legislation.⁷

24 Manx bills are put to the next sitting of Tynwald when they are signed by the members present. Bills are then sent to the Lieutenant Governor for his signature and once this is obtained each bill is announced in Tynwald, when it becomes an act. It is common for acts to contain provision for them to be brought into operation on such day or days as may be appointed by order of the department responsible for the bill. Finally, the act must be promulgated on Tynwald Hill, St John's by the reading in English and in Manx of the short title of the Act and a summary of the long title.⁸ If an act is not promulgated within 18 months of being passed it will cease to have effect.

25 There are two other matters that might usefully be touched on in the context of Crown Dependency legislation. The first is that it should be remembered that domestically produced legislation is not the whole story. Acts of the Westminster Parliament sometimes, although now rarely, provide that they extend to the Channel Islands and the Island of Man, usually with a power for an Order in Council to modify their application. More commonly, acts contain a power for an Order in Council to extend the act to the Islands, with exceptions and modifications. The Islands are consulted about these provisions,⁹ and the respective Orders in Council, though they are UK instruments, are drafted by or with a large input from the Islands. In matters where there is not much need

⁶Considerations as whether Royal Assent could be refused in relation to insular domestic legislation are outside the scope of this article.

⁷As to the importance of accessibility of legislation by those affected by it, see *ZL v Home Secretary*, [2003] EWCA Civ 25 discussed in Greenberg, *Access to Legislation—the Legislative Counsel's Role*, a paper presented to the Conference of the Commonwealth Association of Legislative Counsel, Hong Kong 2009, available on the CALC website <http://www.opc.gov.au/calc/loophole.htm>, see the October 2009 edition of *The Loophole*.

⁸See the Promulgation Act 1988. In practice promulgation happens annually at the special sitting of Tynwald held on Tynwald Day, 5 July, being St John's Day according to the old calendar, or, if it falls at a weekend, on the next Monday. It is a public holiday and the Manx national day. The extracts of the act are read out by the First and Second Deemsters, the Island's two Senior Judges, in English and Manx respectively.

⁹Again, this article does not deal with the interesting question as to whether the UK could legislate for the Islands without their consent. See for example articles by Young and Jowell in volume 5 (2001) of this journal.

for local legislation, such as broadcasting or armed forces, it saves time to apply UK acts. However it is becoming much more common, especially in Jersey, for home-grown versions of the legislation to be produced, which can then be tailor-made to the Islands' needs.¹⁰ The Isle of Man has more UK legislation applying to it than appears to be the case in the Channel Islands, because in several areas it follows UK regimes.¹¹ European Community legislation that applies to the Islands because of the terms of Protocol 3 to the UK Act of Accession is also part of Crown Dependency law.

26 Secondly, access to Crown Dependency legislation is now much improved. Jersey leads the way with all its locally produced primary legislation and secondary legislation and applicable Orders in Council updated annually using law revision powers and available on a website.¹² Guernsey now has a website containing its more recent legislation.¹³ The Isle of Man publishes recent legislation as enacted and plans to set up a dedicated legislation website.¹⁴ Easy access to the current version of the statute book is a vital tool for the drafter as well as the practitioner.

27 As a final thought, the author draws attention to the "Guide, Philosopher and Friend" of student days, namely *Learning the Law* by Professor Glanville Williams.¹⁵ Many may have forgotten the paragraph that reads:

"There is no more important, exciting and intellectually rewarding work for a lawyer than that of drafting legislation ... My little book will have performed a useful function if it persuades one or two of the best of its readers to take up this career."

Fortunately for the Crown Dependencies, a few of us have.

¹⁰In relation to extradition, for example, instead of applying UK legislation as previously, Jersey now has the Extradition (Jersey) Law 2004 and the Isle of Man is preparing its own legislation, both adapted from the UK Extradition Act 2003. The Armed Forces Act 2006, however, applies automatically to the Isle of Man (but not to the Channel Islands), with power for an Order in Council to modify it in its application to the Island. Jersey is bringing forward its own Armed Forces Offences and Jurisdiction (Jersey) Law rather than relying on the power in the 2006 Act for an Order in Council to extend it to Jersey.

¹¹For example, customs and social security. In the Isle of Man, UK legislation is often applied to the Island using powers given in Acts of Tynwald. An answer to a recent Keys question (8 December 2009) stated that there are over 500 UK acts that apply in whole or in part to the Isle of Man.

¹²See the Law Revision (Jersey) Law 2003 and www.jerseylaw.je, which contains all the Island's legislation in force from 1771 as well as the consolidated and revised edition of legislation, the *Jersey Law Reports*, unreported judgments from 1997, the *Jersey & Guernsey Law Review*, and much other legal information too.

¹³<http://www.guernseylegalresources.gg> contains Laws since 1980, ordinances since 1990 (plus key earlier items) and statutory instruments and orders of the Royal Court since 1980. Unofficial consolidations since 1990 are also available on the site.

¹⁴See <http://www.gov.im/infocentre/acts/>. This contains Acts of Tynwald since 2001 and statutory documents since 2009 excluding those concerned with road closures and temporary traffic restrictions, etc. It is hoped shortly to replace the current subscription service which covers the Acts of Tynwald in reprinted form with a similar Internet service accessible to all, to which other forms of legislation will be added when time and resources allow.

¹⁵*Sweet & Maxwell*, 13th edition, 2006.

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