

EXECUTIVE COUNCIL

CONFIDENTIAL

Title of Report: Legislative Drafting Priorities for 11/12
Paper No: 168/11
Date: 28 July 2011
Report of: Attorney General/Principal Crown Counsel

1.0 Purpose

The purpose of this paper is to:

- (a) advise Members of the legislative drafting achieved in the last six months;
- (b) update Members about ongoing legislative drafting requirements;
- (c) propose a change to the legislative drafting programme to line it up with the financial year, and, in particular, with the Governor's speech; and
- (d) seek Honourable Members' input into and approval of a proposed prioritisation of legislative drafting for the current financial year.

2.0 Recommendations

Members are recommended to:

- (a) agree to the proposed change to the timeframe for the legislative drafting programme as set out in paragraph 4.6; and
- (b) agree to the legislative drafting priorities proposed in Annex 3 to this paper (although Members are encouraged to provide alternative proposals if those set out do not reflect their policy priorities).

3.0 Summary of Financial Implications

None.

4.0 Background

Legislative Drafting January to June 2011

4.1 At their January meeting of Executive Council, Members considered paper 5/11 and agreed to the drafting programme for 2011. The table at Annex 1 compares the priorities with the legislative drafting work completed January to July 2011.

4.2 Annex 2 details the outstanding legislative drafting backlog. The list has been reduced slightly from the backlog list produced in January, on the basis that some items have been overtaken by policy change, or are so distantly aspirational that their continued inclusion would make the list more of a “wish list” than a useful working document.

4.3 Recent practice has been for a paper with a draft programme to be submitted to Exco in January for the calendar year, and reviewed in July.

4.4 It can be seen from Annex 1 that some good progress has been made already this year, and the approval which has been given for the continuation of the Legislative Drafting post for a further two years should enable this steady rate of progress to continue.

Proposal to shift legislative drafting priorities programme to the Financial Year

4.5 For the last two years, a change in style in the Governor’s speech has meant that the Governor sets out in the speech some of the key legislative drafting priorities for the forthcoming year. However, at the time of the Governor’s speech in May, priorities only remain agreed for the next seven months.

4.6 It is therefore proposed that the timing of the programme be changed, and that the programme for the coming financial year will usually be agreed in March or April, in time for the Governor’s speech in May. The programme and the speech will relate to the forthcoming financial year at the time of announcement in May each year.

Transitional arrangements

4.7 Whilst this paper would normally have simply provided a mid-year update on the existing legislative drafting priorities programme, instead; a new priorities programme for the forthcoming financial year is recommended by this paper.

5. Legislative Drafting Priorities – Recommendation

5.1 It is recommended that the legislative drafting priorities detailed in Annex 3 be agreed for the financial year 2011/12.

5.2 Members will see that the headings for the proposed priorities for 11/12 have changed from those used under Annex 1. The existing headings used in Annex 1 derive from the priorities identified by Members at an early point in the electoral term (eg, “economy stabilisation”, “roads” etc). However, as priorities have moved on since then, not all matters which have since been agreed as priorities by Executive Council do nicely fall under those headings (eg sale of trout, regulation of airstrips). Therefore, the priorities have been listed by reference to Director, but of course Members may request that the priorities list be amended again in accordance with

other priority headings which Member might advise as better reflecting their overarching priorities.

5.3 If the recommended priorities are agreed by Members, the programme for Bills before the Legislative Assembly in 2011/12 is likely to be along the following lines:

August	Referendum (Single Constituency Bill) Bill Electoral (Amendment) Bill Jury (Amendment) Bill
October	Minimum Wage Bill [meeting note; the above is likely to be subject to delay in receipt of policy instructions until arrival of new Head of Policy] Committees/Access to Information Bill Conservation of Wildlife and Nature (Amendment) Bill
November	Stanley Rates (Amendment) Bill Offshore Minerals (Amendment) Bill Domicile Bill
February	Taxes Amendment Bill Aviation (Regulation of Camp airstrips) Bill
May	Finance Bill

5.3 However, it should be noted that this suggested timetable is liable to change to reflect changing priorities over the coming year, and is dependent on the Attorney General's Chambers receiving appropriate drafting instructions from the relevant departments.

6.0 Legal Implications

None.

7.0 Human Resources Implications

None.

Annex 1 to ExCo paper 168/11 – Legislative Drafting Priorities for 11/12

Existing drafting priorities programme - to show progress made January to June 2011

AGREED PRIORITIES	WORK ACHIEVED
(a) Economy stabilisation:	
(i) any finance legislation required in support of the budget	Finance Ordinance 2011 Supporting appropriation legislation drafted by Treasury
(ii) fisheries fees	No progress
(iii) updating of fisheries products legislation to ensure EU compliance	No progress
(iv) any legislation required in support of the EDS as approved in due course	No instructions received
(v) amendments to FIDC Ordinance and any other legislation arising from RDS	No instructions received
(vi) any amending/new immigration legislation arising from recommendations of the Immigration Working Group as approved in due course	Immigration (Amendment Ordinance 2011) Immigration (Permanent Residence Permit) (Amendment) Regulations 2011
(vii) outstanding amendments to tax legislation	Taxes (Amendment) Ordinance 2011 Taxes (Amendment) (No 2) Ordinance 2011
(viii) on the basis that there is any spare capacity as a result of any of the above matters not progressing as anticipated etc, the amendments required to the Finance and Audit Ordinance	No instructions received
(b) Referendum on single constituency:	
(i) Bills required to enable the referendum to take place in November 2011	Referendum (Single Constituency Bill) Bill 2011 Electoral (Amendment) Bill
(c) Good governance:	
amending legislation arising out of recommendations of working group on Committees (access to information) as approved in due course	Draft Bill started but not yet complete

AGREED PRIORITIES	WORK ACHIEVED
(d) Abattoir /FIMCO:	
second phase of updating of abattoir related legislation	Livestock and Meat Products Regulations (draft subject to public consultation) Animal Welfare Codes of Practice (draft subject to public consultation)
(e) Communications:	
amending telecommunications legislation arising from further work in connection with the telecoms policy review	Bill drafted but on hold awaiting further policy instructions
(f) Review of employment law/policy:	
amending employment legislation arising from the staged completion of employment policy review (first of which is the proposed minimum wage)	Draft Minimum Wage Bill started but not complete (further detailed instructions required from Policy Section)
(g) Education:	
any legislation arising as a result of the strategic review of education	No instructions received
(h) Minerals:	
amendment to Offshore Minerals legislation to update provisions relating to environmental impact statements	Instructions received July 2011
(i) Roads/Tracks:	
(progress of supporting regulations required to progress Road Traffic Bill (and any amendments required to the Bill)	St Mary's Walk (Parking Control) Order 2011 Road Traffic (Mobile Phones etc) Order (still under consideration) Road Traffic (Proper Control, etc while Driving) Order (still under consideration) Road Traffic (Variation of Fines) Order 2011 Incomplete instructions received in relation to the Road Traffic Bill; more instructions required
compulsory purchase legislation (a first draft Bill has already been produced, but needs some modification)	No progress

AGREED PRIORITIES	WORK ACHIEVED
(j) The following tasks, which are outstanding priorities from 2010:	
(i) a review of other previously published Bills (eg Police and Criminal Evidence Bill) to establish what elements of the work already carried out can usefully be taken forward or whether the lapse of time/policy change requires those Bills to be scrapped (recommendations to that effect to be made to Executive Council where appropriate);	No progress
(ii) a review of other ongoing tasks for which policy instructions are already settled (eg Planning (Amendment) Bill and regulations), with a view to completion of those task unless the lapse of time/policy change requires those Bills to be scrapped (recommendations to that effect to be made to Executive Council where appropriate); and	No progress
(iii) a review of legislation which has been enacted but never brought into force (because of an absence of formulation of policy for supporting regulations; eg Data Protection Ordinance), and recommendations to be made to Executive Council either for the policy formulation work to be carried out, or the relevant Ordinance be repealed, to ensure that our statute book is not cluttered with inactive (and therefore misleading) law;	No progress

In addition, the following legislation has been produced to meet regular or urgent requirements, or to reflect changing priorities:

[Criminal Justice \(Amendment\) Ordinance 2011](#)
[Jury \(Amendment\) Bill 2011](#)

[Coins Order 2011 \(x 2\)](#)
[Davis Street at Philomel Street \(Parking Control\) Order 2011](#)
[Ross Road \(Clearway\) Regulations Order \(Amendment\) Order 2011](#)
[Stanley \(Various Roads\) One Way Traffic \(Amendment\) Order 2011](#)
[Taxes and Duties \(Defence Contractors' Employees Exemption\) Order 2011](#)

OUTSTANDING LEGISLATIVE DRAFTING

Contents listed by reference to Corporate Management Team member with responsibility:

- A** Attorney General (page 1 – 4)
- B** Chief Executive (page 4 – 6)
- C** Director of Community Safety (page 6 – 8)
- D** Financial Secretary (page 9 – 10)
- E** Director of Health and Education (page 10 – 11)
- F** Director of Natural Resources (page 11 – 13)
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- I** Director of Public Works (page 14)

A Attorney General

- 1. Legal Services*
- 2. Registry*
- 3. Regulation*

1a. Legal Services – Outstanding tasks (policy instructions largely settled)

i. Agricultural Loans Regulations

Regulations are required to give effect to forms currently in use concerning the registration of agricultural loans. A first draft of the regulations has been produced.

ii. Criminal Appeals Bill 2006

The Bill was remitted to the Select Committee in 2007 but expired on the dissolution of the Legislative Assembly. Outstanding queries were to be addressed by the Attorney General's Chambers. There would be some orders required to support the Ordinance on its coming into force.

iii. Criminal Justice (International Cooperation) Ordinance (Enforcement of Overseas Forfeiture Orders) Order 2006

Executive Council approval exists for this to be made in an amended form to reflect changes to the law made by the Proceeds of Crimes Ordinance 2006. The Proceeds of Crimes Ordinance 2006 has been made, but awaits commencement by notice. The relevant amendments are still required to be made to this order

iv. *Criminal Justice (International Cooperation) (Amendment) Bill*

It is necessary to amend the existing Ordinance to meet the obligations of the Falkland Islands under international Conventions. A draft bill was begun by the former Attorney General and remains on file.

v. *Family Law Bill 2006*

The Bill was remitted to the Select Committee, which met in early 2006. Twenty one points were raised by the Committee for further legal advice, including the re-drafting of the Explanatory Memorandum. The former Attorney General appears to have re-drafted the Explanatory Memorandum, but it is not immediately apparent how many of the remaining points still need to be addressed. The Bill expired on dissolution of the Legislative Assembly.

Consequential issues: commencement of the Bill should be synchronised with a Children and Adoption Bill (see Health and Social Services).

vi. *Land (Non-residents)(Amendment) Bill*

Executive Council previously approved amendment of the Ordinance to make supplementary provision regarding the conditions which may be attached to a licence to hold land. A first draft of the Bill has been produced, but was held back pending the report of the Task and Finish group on the subject. The policy decisions arising from that group don't require legislative change, so progress could be made with the outstanding amendments fairly easily.

vii. *Proceeds of Crime Ordinance 2006*

Ordinance made in October 2006. Not yet in force. Consequential issues - See Criminal Justice (International Cooperation) Ordinance (Enforcement of Overseas Forfeiture Orders) Order 2006 referred to above.

viii. *Stanley Common (Amendment) Regulations*

Approval of regulations under the Stanley Common Ordinance concerning a number of matters was given by Executive Council in 2004, but has not been progressed.

1b. Legal Services – Future requirements (policy instructions outstanding)

i. *Charitable Trust Bill*

A Bill is required to regularise the position concerning charitable funds held by FIG officers in the course of their employment.

ii. *Civil Contingencies (Emergency Powers) Regulations*

Specimen regulations under the Civil Contingencies (Emergency Powers) Ordinance 2006, to cover all likely eventualities, were requested by the former Governor.

iii. *Court of Appeal (Amendment) Bill*

An amending Bill is required to increase the number of Court of Appeal Judges in order to widen their areas of expertise, to include public law. The Bill would also deal with amendment required as a result of the new Constitution.

iv. *Crimes (Penalties) Order*

Several years ago an order was made under the Criminals Justice Ordinance increasing some criminal penalties. It is necessary to complete the review of criminal penalties.

v. *Domicile Bill*

It has been identified that the disapplication of the Domicile and Matrimonial Proceedings Act 1971 means that the domicile of married women is determined in the unsatisfactory and discriminatory position as set out in the common law which preceded the UK Act.

vi. *Powers in Criminal Courts (Sentencing) Bill*

A handwritten draft was begun by the former Attorney General and remains on file. This Bill is thought to be necessary to address existing inadequacies in sentencing powers of the courts and to reflect developments in the law of sentencing in England and Wales. The former Attorney General began a consultation process with the former Senior Magistrate in order to re-start work on the subject, but no significant progress was made.

The Children and Young Person Strategy Group action plan indicates that legislation dealing with young offenders, in particular those receiving custodial sentences, should also be reviewed. Some of the existing provisions are thought to be in breach of international treaty requirements.

vii. *Stanley Common (Amendment) Bill*

The Stanley Common Ordinance requires amendment to reflect the adjustment of boundaries previously approved by Executive Council. Appropriate plans are required. Consequential issues – amendment is required to Stanley Airport (Regulations) Ordinance which is affected by the boundary change (see Director of Procurement and Efficiency, below).

2 *Registry - Future requirements (policy instructions outstanding)*

i. *Land Charges (Amendment) Bill 2006*

Remitted to the Select Committee in early 2006 together with the Family Law Bill 2006. The Bill expired on dissolution of the Legislative Assembly. The two bills are associated.

3. Regulation - Future requirements (policy instructions outstanding)

i. Aerodrome approval/regulation

The Director of Civil Aviation advises that legislation is required in due course to introduce a new system of regulation/approval of camp airstrips. Executive Council approval was given to prioritise the drafting of this matter in April 2011.

ii. Broadcasting (Amendment) Bill

The existing Ordinance, which is largely aimed at preventing the sale and importation of unauthorised decoders, is defective, and requires substantial revision.

iii. Telecommunications (Amendment) Bill

Amending/new legislation may be required to reflect any further changes to the regulatory regime required following policy decisions (and inadequacies in the existing legislation possibly addressed). Timing of any changes will depend on the nature and timing of those policy decisions.

B Chief Executive

1. Environmental Planning

2. Executive Management

3. Falkland Islands Development Corporation

4. Policy

1a. Environmental Planning – Outstanding tasks (policy instructions largely settled)

i. Planning (Amendment) Bill and regulations

An amending Bill is required to implement policies already approved by Executive Council concerning simplification of the planning appeals process.

A first draft of supporting regulations has been produced in relation to delegation of powers, which have been similarly already approved.

1b. Environmental Planning - Future requirements (policy instructions outstanding)

i. Building (Amendment) Regulations

Amending regulations are required to remedy a number of matters, including concerns regarding steps, first floor feature windows and flues.

ii. *Conservation of Wildlife and Nature (Amendment) Bill*

Amendment to the law is required in connection with the sale of trout (subject to Executive Council policy approval in July 2011). In addition, Crown Counsel has advised in relation to apparent flaws in the provisions of the Ordinance dealing with the protection of wild animals; the matters could, possibly, be dealt with together.

iii. *Environmental Impact Regulations*

These are required under the Planning Ordinance 1992, as amended. The EPO has noted that the commitment made in relation to environmental impact assessments in the Environment Charter requires these regulations to be made.

iv. *National Nature Reserve – Sea Lion Island*

Proposals are well developed for the designation of Sea Lion Island as a National Nature Reserve. Supporting regulations would need to be drafted for this to occur

v. *Planning (Amendment) Bill*

The existing provisions concerning historic buildings are defective, and proposals for amendment are required for consideration by the Planning and Building Committee.

The EPO may pursue proposals to introduce legislation to support a conservation area within Stanley.

2. *Executive Management – Outstanding tasks (policy instructions largely settled)*

i. *Committees (Access to Information)(Amendment) Bill*

A working group is reviewed the policy on access to information and made proposals for change early in 2011. Executive Council agreed the principles for change in February 2011, and a draft Bill is underway.

3a. *Falkland Islands Development Corporation - Outstanding tasks (policy instructions largely settled)*

i. *Falkland Islands Development Corporation (Amendment) Bill*

Amendments to the Ordinance, approved by the Development Board, are required to be drafted and submitted to Executive Council for approval in connection with the change of the Fishing Vessel Owners' Association to the Falkland Islands Fishing Companies Association.

3b *Falkland Islands Development Corporation - Future requirements (policy instructions outstanding)*

i. *Falkland Islands Development Corporation (Amendment) Bill*

The Manager FIDC advised that the FIG review of FIDC is likely to result in more substantive changes required to the FIDC Ordinance in order to make the corporation more fit for purpose structurally and organisationally in the context of the emerging economic development strategy and rural development strategy.

4. Policy – Future requirements (policy instructions outstanding)

i. Employment of Women, Young Persons and Children (Amendment) Bill

Amendments made to this Ordinance in 2006 have resulted in the provisions now being flawed; this needs to be corrected following policy clarification.

iii. Employment Protection (Amendment) Bill

Policy approval has been given to the introduction of minimum wage legislation as part of the ongoing review of employment law policy. A draft Bill has been commenced, but more detailed instruction is required from the Policy section.

C Director of Community Safety

1. Customs and Immigration (including registration of ships)

2. Defence Force

3. Fire and Rescue

4. Police (including prisons)

1b. Customs and Immigration – Future requirements (policy instructions outstanding)

i. Cruise Ships (Amendment) Bill

The Ordinance requires amendment because it doesn't entirely reflect policy in relation to the passenger levy.

ii. Customs (Amendment) Bill

A number of errors in the 2004 Customs Bill need to be corrected, and some liquor definitions need wholesale revision.

iii. Customs Regulations

There is a lack of procedural regulations needed to support the Customs Ordinance.

Regulations providing for travellers' and ships' crews allowances are specifically required to implement the current, discretionary, system of allowances.

iv. Embarkation Tax (Amendment) Regulations

Amendments are required to the regulations to permit embarkation tax to be included on a traveller's ticket.

v. *Immigration (Amendment) Bill*

A number of inadequacies and flaws in the Immigration Ordinance generally, and gaps in policy, indicate that a review of the existing laws and policies may result in significant need for amendment in future; a review of key immigration policy and procedure is currently being carried out by the Immigration Working Group.

vi. *Immigration Regulations*

The regulations under the Immigration Ordinance are already outdated (most continuing in force from the Immigration Ordinance 1987), and in need of replacement. Significant gaps in policy and regulation generally also indicate a need for detailed regulations to support the immigration regime.

vii. *Merchant Shipping (Registration of Ships)(Amendment) Regulations*

Amendment is required to the regulations in relation to merchant vessels of 500 grt +.

2. *Falkland Islands Defence Force – Future requirements (policy instructions required)*

i. *Falkland Islands Defence Force (Amendment) Bill*

The MOD Armed Forces Act team visited the Islands in 2009, when the new Armed Forces Act came into force. It is apparent that the FIDF Ordinance will need to be amended in due course to replace the disciplinary provisions of the old armed forces acts.

3. *Fire and Rescue - Future requirements (policy instructions outstanding)*

i. *Fire prevention legislation*

Legislation providing fire officers a right of entry to deal with fire/fire prevention has been particularly requested by the former Governor as a matter of priority. Legislation, for example of the type requiring all businesses and Government buildings to have fire alarms fitted, is also required.

4a. *Police - Outstanding tasks (policy instructions largely settled)*

i. *Firearms (Amendment) Bill*

Revision of the Firearms Ordinance is required to reflect the amendments to firearms policy approved by Executive Council in September 2009.

ii. *Police (Amendment) Bill*

The Police Committee has requested amendments to the Ordinance to provide more detail and flexibility in relation to arrangements for membership of the Committee.

iii. *Police and Criminal Evidence Bill 2006*

The Bill was remitted to the Select Committee in 2007. Outstanding queries were to be addressed by the Attorney General's Chambers, but the Bill expired on dissolution of the Legislative Assembly. Although very significant to the Police, this Bill also falls under the remit of the Attorney General's Chambers in terms of their role as "Ministry of Justice".

Of particular significance is the need to improve powers to impose conditions on police bail, for example to assist in the protection of victims of domestic violence/children; an amendment to the law also strongly supported by Health and Social Services.

Consequential issues; detailed police codes of practice must be drafted before relevant parts of the Bill could be brought into force.

iv. *Road Traffic Bill*

Detailed regulations are required to support the Bill before much of it can be brought into force (this will require considerable work in both determining policy and then legislative drafting). A detailed timetable was agreed by Executive Council in January 2011 for the submission of policy instructions by the RFIP to the AG's Chambers for drafting to begin. Some instructions have been received, but more work is required on policy issues before any significant drafting can take place. In particular, progress has been made in relation to draft legislation to prohibit the use of mobile phones, a priority identified by Members, but even in that area there are still policy instructions outstanding.

4b *Police and Prisons - Future requirements (policy instructions outstanding)*

i. *Police Bill*

The inadequacies of the Police Ordinance 2000 have been highlighted on numerous occasions; in particular regarding unclear provisions concerning the disciplinary process. The role of the Police Committee also requires review.

ii. *Prisons Bill and regulations*

The Officer in Charge of the Prison and the Attorney General's Chambers regard the Prisons Ordinance 1966 and regulations made under it as outdated, inadequate, and in serious need of replacement, being in breach of various international convention requirements. Substantial work is required, including formulation of policy and instructions. The RFIP are now working with the Prisons Adviser to make progress in this area, the Prison Adviser having offered his assistance in January 2011.

iii. *Road Traffic Regulations*

Detailed regulations are required before much of the provisions of the Road Traffic Bill could be brought into force (reference paragraph 4a(iv) above)

D Financial Secretary

1. Finance and Audit

2. Taxation

1a. Finance and Audit - Outstanding tasks (policy instructions largely settled)

i. Annual Appropriation and Finance Legislation

There continues to be an annual requirement for appropriation and finance legislation to be drafted at short notice following ExCo approval of budget policy.

ii. Falkland Islands Pensions Scheme Ordinance

Executive Council approved a policy change in relation to ill health retirement in March 2011 which requires implementation by amendment of the Ordinance.

1b. Finance and Audit – Future requirements (policy instructions outstanding)

i. Falkland Islands Pensions Scheme (Amendment) Bill

Amendment is required to the 1997 Ordinance to give statutory effect to the introduction of a new form of protection for FIG employee members of the scheme in respect of service up to 31 December 1996. Additional “tidying up” amendments continue to be identified by the FIPS Board, which could be addressed at the same time.

ii. Finance and Audit (Amendment) Bill

Amendments to the Constitution require amendments to the Ordinance in connection with the duties, powers and appointment of the Principal Auditor, and in connection with setting up a Public Accounts Committee. Further, the former Financial Secretary advised that the opportunity of amendment of the Ordinance should be taken to provide more explicit provisions for resource accounting and audit functions.

iii. Public Funds Bill

Amendment of the Public Funds Ordinance is required in relation to the provisions concerning payments out of the Capital Equalisation Fund, as existing provisions are considered unnecessarily cumbersome (requiring Secretary of State approval).

2a. Taxation – Outstanding tasks (policy instructions largely settled)

i. Taxes (Amendment) Bill and Regulations

A Taxes (Amendment) Bill considered by the Legislative Assembly in February 2011 was just the first of a number of outstanding amendments required to the existing tax legislation; some of which have already received policy approval, and so are ongoing tasks.

2b. Taxation – Future requirements (policy instructions outstanding)

i. *Taxes (Amendment) Bill and Regulations*

There are a number of other amendments required to the Taxes Ordinance, but which are likely to wait for a full review of the Ordinance which the Taxation Department intend to implement in the medium/long term, once they have been able to secure the right resource to do a full scale review.

ii. *Tax Appeals Tribunal Bill*

The failure to recruit sufficient interest to the Tax Appeals Tribunal means that a legislative change may be required to transfer the functions of the Tribunal to the Senior Magistrate/Justices of the Peace.

E Director of Health and Education

1. Education

2. Health and Social Services

1. Education – Future requirements (policy instructions outstanding)

i. *Education (Amendment) Bill*

The Education Ordinance was enacted in 1989 and was to some extent modelled on the Education Act of 1944 of England. It is now extremely dated, and so are the Education Regulations made under it. A strategic review of Education is expected , and should incorporate recommendations to replace/update the existing legislative administrative framework for education.

2. Health and Social Services - Future requirements (policy instructions outstanding)

i. *Children (Amendment) Bill*

Amendment of the Ordinance and similar legislation is required, in accordance with the action plan of the Children and Young Persons Strategy Group in order to:

- (i) impose on FIG statutory obligations to investigate matters of significant harm to children and children in need;
- (ii) provide statutory regulation of foster care; and
- (iii) provide statutory regulation of child care.

There are other issues which FIG is already alive to in relation to the Children Ordinance which indicate that amending/additional provisions of the Ordinance are required, eg financial responsibility of parents of children in care. An ongoing review of the child protection procedures by the Safeguarding Committee may also result in the need for change. Therefore a general revision of the Ordinance is therefore required, which will deal with some complex issues.

ii. *Children and Adoption Bill*

The English Adoption Act 1976 applies as part of the law of the Falkland Islands, and amendments made to the English Act have been automatically applied to the Act as it applies in the Falkland Islands. However, some of those amendments are not suitable, and will need to be disappplied and substituted with provisions suitable to the Falkland Islands.

Consequential issues – Drafting of the Bill should be synchronised with progress on the Family Law Bill (see above, under Attorney General’s Chambers).

iii. *Criminal Justice (Amendment) Bill*

The Multi-Agency Public Protection Group plans to put forward proposals for the amendment of the Criminal Justice Ordinance to enable sex offenders to remain on licence following release from prison.

iv. *Medicines Regulations*

The Medicines Ordinance was made in June 2006, but is not yet in force. Many provisions of the Ordinance require subsidiary legislation before they can be brought into force, involving a considerable amount of policy formulation and consultation (see Veterinary Services, below).

F Director of Natural Resources

1. Agriculture

2. Fisheries

3. Marine and Port Services

4. Veterinary Services

1b. Agriculture - Future requirements (policy instructions outstanding)

i. *Abattoir/Animal Health legislation*

The first phase of enabling legislation in connection with the abattoir meeting EU requirements has been passed, now substantially more detailed work required to complete the process of updating legislation to be EU compliant is ongoing.

iii. *Plant Disease Regulation (Amendment) Bill/Regulations*

The Biosecurity Officer has identified amendments needed to this legislation to enable better regulation of the importation of seeds.

2a. Fisheries - Outstanding tasks (policy instructions largely settled)

i. *Fisheries (Fees) Regulations*

Regulations prescribing fisheries fees are required.

ii. *Fishery Products (Amendment) Bill*

The Ordinance was made in October 2006, but is not yet in force (and is to be brought into force with Marine Farming Ordinance 2006).

The following regulations have been drafted under the Ordinance and published for consultation but not further progressed because they were found not to properly reflect EU requirements: Fishery Products (Hygiene) Regulations 2006, Fish Health Regulations 2006, and Water Quality (Shellfish) Regulations 2006.

The Fishery Products (Hygiene) Regulations have now been re-drafted with OTPF assistance, but a little more work is required to progress the whole package.

Regulations regarding the Environmental Impact Assessment of Fish Farming in Marine Waters are still to be drafted under this Ordinance.

iii. *Marine Farming Ordinance*

Made in October 2006. Not yet in force. To be brought into force with the Fishery Products Ordinance 2006.

3. *Marine and Port Services - Future requirements (policy instructions outstanding)*

i. *Maritime Security Bill*

The Maritime Security and Safety Ordinance recently made only addressed the most immediate needs in relation to maritime security provisions, Executive Council were advised that a further Bill to address outstanding issues would likely be required.

ii. *Merchant Shipping (Adoption of Legislation) Amendment Order*

The order would make legislative provision for the classing of the new cross-Sound ferry in accordance with EU passenger class regulations rather than the UK Department of Transport passenger ship classes.

iii. *Merchant Shipping Bill*

Consideration needs to be given to replacing the remaining provisions of the Merchant Shipping Act 1894 which remain in force, but which are, in a number of cases, outdated and defective; a policy paper on the matter is to be considered in August 2011.

iv. *Prevention of Oil Pollution (Amendment) Bill*

The provisions of the Prevention of Oil Pollution Act 1971 as apply in the Islands are outdated, having been replaced by provisions of the Merchant Shipping Act 1995 in UK, but not updated here. The Chief Executive's review of the Ocean 8 incident highlighted the need to update our legislation in this area.

4. *Veterinary Services – Future requirements (policy instructions required)*

i. *Medicines (Veterinary) Regulations*

There is a requirement for regulation to be made under the Medicines Ordinance 2006 in relation to the importation of veterinary drugs, before the Medicines Ordinance is brought into force (see also Health and Medical Services, above).

G Director of Minerals

1a. *Minerals - Outstanding tasks (policy instructions largely settled)*

i. *Offshore Minerals (Amendment) Bill*

Instructions have now been received for the drafting of an amending Bill in connection with environmental impact assessments, following Executive Council approval of policy change in January 2011.

ii. *Mining Regulations*

Regulations setting out licence model clauses are required to enable licensing to occur for the extraction of calcified seaweed under the Mining Ordinance. A first draft has been produced.

1b. *Minerals - Future requirements (policy instructions outstanding)*

i. *Mining Regulations*

Regulations under the Mining Ordinance are also required to allow for the award of prospecting and exploration licences.

H Director of Procurement and Efficiency

1. *Stanley Airport – Future requirements (policy instructions outstanding)*

i. *Stanley Airport (Regulations)(Amendment) Bill*

An amendment is needed to reflect a boundary change to Stanley Common (see under Attorney General, regulation, above), but awaits appropriate plans.

I Director of Public Works

1. *Highways*

2. *Municipal Services*

1. Highways – Future requirements (policy instructions outstanding)

i. Compulsory Purchase Bill

Legislation is needed to provide FIG with powers of compulsory purchase, in particular in connection with highways, which are in accordance with the requirements of the Constitution. A draft Bill has been produced with OTPF assistance, but needs some revision.

2. Municipal Services – Future requirements (policy instructions outstanding)

i. Stanley Rates (Amendment) Ordinance

An in-principle decision during the 2011 budget process to introduce a service charge for business premises with effect from 2012 requires more detailed drafting instructions.

Recommended Legislative Drafting Priorities for 2011/12
(by reference to lead Director)

1. IMMEDIATE PRIORITY

(a) Attorney General:

- (i) completion of amending legislation arising out of recommendations of working group on Committees and access to information (a draft is underway reference policy approval of February 2011);
- (ii) legislation to allow the Director of Civil Aviation to better regulate camp airstrips, reference policy approval of April 2011;
- (iii) legislation to correct the existing discriminatory legislation concerning the domicile of a married woman;
- (iv) amending telecommunications legislation arising from further work in connection with the telecoms policy review (a first draft is on hold pending further policy decision making);

(b) Chief Executive:

- (i) completion of legislation to implement minimum wage (a draft is underway, reference policy approval of February 2011; pending receipt of further policy instructions);
- (ii) legislation to prohibit the sale of trout (subject to policy approval in July);

(c) Director of Community Safety

- (i) progress of supporting regulations required to progress Road Traffic Bill (and any amendments required to the Bill), including mobile phone legislation reference timetable approved in January 2011 (subject to the receipt of outstanding policy instructions);

(d) Financial Secretary

- (i) finance legislation required in support of the budget;
- (ii) outstanding amendments to tax legislation with existing policy approval (of various dates);

(e) Director of Natural Resources

- (i) fisheries fees (currently unregulated);

(ii) updating of fisheries products legislation to ensure EU compliance (some work has already been done in this area, but the project needs to be completed);

(iii) continued second phase of updating of abattoir related legislation as required by the EU Mission to the Falkland Islands in February 2011;

(f) Director of Mineral Resources

(i) amendment to Offshore Minerals legislation to update provisions relating to environmental impact statements, reference policy approval of January 2011;

(g) Director of Public Works

(i) amending legislation in support of the in-principle decision made as part of the budget process in 2011 to introduce a service charge relating to business premises with effect from 2012.

2. SECONDARY PRIORITY - (a) to (e) require drafting/policy instructions

(a) Attorney General

(i) compulsory purchase legislation (a first draft Bill has already been produced, but needs some modification, and the policy needs to be considered and settled);

(b) Chief Executive

(i) any legislation required in support of the EDS as approved in due course;

(ii) amendments to FIDC Ordinance and any other legislation arising from RDS in due course;

(iii) any further amending employment legislation arising from the staged completion of employment law policy review (the proposed minimum wage is an immediate priority above);

(c) Director of Community Safety

(i) any amending/new immigration legislation arising from recommendations of the Immigration Working Group as approved in due course;

(ii) further progress of supporting regulations required to progress Road Traffic Bill (and any amendments required to the Bill), including taxi licensing legislation;

(iii) prisons amending legislation;

(d) Financial Secretary

(i) on the basis that there is any spare capacity as a result of any of the above matters not progressing as anticipated etc, the amendments required to the Finance and Audit Ordinance;

(e) Miscellaneous - the following tasks are outstanding priorities from 2010:

(i) a review of other previously published Bills (eg Police and Criminal Evidence Bill) to establish what elements of the work already carried out can usefully be taken forward or whether the lapse of time/policy change requires those Bills to be scrapped (recommendations to that effect to be made to Executive Council where appropriate);

(ii) a review of other ongoing tasks for which policy instructions are already settled (eg Planning (Amendment) Bill and regulations), with a view to completion of those task unless the lapse of time/policy change requires those Bills to be scrapped (recommendations to that effect to be made to Executive Council where appropriate); and

(iii) a review of legislation which has been enacted but never brought into force (because of an absence of formulation of policy for supporting regulations; eg Data Protection Ordinance), and recommendations to be made to Executive Council either for the policy formulation work to be carried out, or the relevant Ordinance be repealed, to ensure that our statute book is not cluttered with inactive (and therefore misleading) law.

(As amended to reflect Executive Council decision of 28 July 2011)