

Title of Report: Legislative Drafting - Priorities

Paper No: 172/10

Date: 29 July 2010

Report of: Principal Crown Counsel

1.0 Purpose

The purpose of this paper is to update Members in relation to ongoing legislative drafting work planned for the remainder of 2010, and to seek an indication of particular prioritisation of Bills for the October and November meetings of the Legislative Assembly.

2.0 Recommendations

Members are recommended:

(a) to note the updated information given about ongoing legislative drafting work in paragraph 4 of the paper; and

(b) to advise what prioritisation Members would like to see for consideration of the Bills listed at paragraph 5.1 of the paper between the October and November meetings of the Legislative Assembly.

3.0 Summary of Financial Implications

No direct financial implications.

4.0 Background

4.1 Executive Council paper number 29/10 was considered and approved by Members at the February meeting of Executive Council. Members asked for another look at outstanding legislation in June. Apologies are offered for the late submission of the paper, which was overlooked by Principal Crown Counsel.

4.2 Members are updated on the priorities identified in paragraph 4.16 of the paper 29/10 as follows:

(a) Economy stabilisation:

(i) any finance legislation required in support of the budget;

- a lengthy Finance Bill was drafted and presented to the May Legislative Assembly
- initial instructions have been received from the tax office in connection with the drafting of the medical services tax to allow preliminary drafting issues to be considered. These instructions will be finalised following Members' consideration of a number of policy issues under paper number 181/10. It is then intended that a Bill will be drafted and submitted to the August or September Executive Council meeting, in time for consideration by the Legislative Assembly in October

(ii) amendment to tax law arising from taxation review;

- the review is ongoing so no instructions have been received. In the interim, the tax office will be proposing a number of amendments to the Taxes Ordinance under a paper number 141/10. It would be convenient for those amendments to be made in time to be brought into force in the new year, but unless Members instruct otherwise in due course when they consider the paper, this new legislation would not be given particular priority if it cannot be conveniently completed in time for the November meeting of the Legislative Assembly

(iii) amendment to FIDC Ordinance arising from review of FIDC and EDS/RDS;

- the reviews are still ongoing so no instructions have been received

(iv) Statistics Bill (importantly this will require the private sector to provide information needed to properly assess the economy);

- the Statistics Bill has been drafted with the assistance of Overseas Territories Programme Funding (OTPF), which paid for the services of a contract drafter, and the supporting subsidiary legislation has been drafted by the Attorney General's Chambers. The Bill is to be considered under paper number 174/10

(v) fisheries fees (vital area of economy which requires proper regulatory support but has not previously receive any priority);

- no progress to date

(vi) immigration amending legislation (clear and robust immigration procedures must be an essential requirement of a stable economy);

- an interim Immigration (Amendment) Bill, which is intended to address the first priority issues, has been drafted and is under consideration by the Principal Immigration Officer

(b) Housing:

(i) amendments to Land (Non-Residents) Ordinance (policy issues regarding the purchase of land in Stanley and Camp are critical to any housing strategy);

- following a review of the policies underlying the Ordinance, one matter which has the potential to require legislative amendment is under consideration by the FCO following Executive Council's consideration of the matter. There is also an outstanding amendment arising from policy decisions made in 2008 (reference ExCo paper 44/08). The two matters would sensibly be addressed by the same Bill when the outcome on the first matter is resolved

(c) Education/Training/Localisation of posts:

(i) Education Bill;

- no instructions received

(ii) legislation concerning means testing;

- Members decided not to proceed with any means testing that would require the implementation of new legislation

(d) RDS/FIMCO:

(i) updating of abattoir related legislation;

- the Livestock and Meat Products Bill and some supporting subsidiary legislation has been drafted with the assistance of OTPF. The legislation was prepared in anticipation of the EU inspection of the abattoir scheduled for the 2009/10 season. The inspection was postponed, taking the immediate urgency out of implementation of the legislation, but it is vital that it is in place before the delayed inspection takes place in the 2010/11 meat production season. It is intended to submit that Bill to the August or September meeting of Executive Council and potentially be submitted to the Legislative Assembly in October

(ii) amendments to FIDC Ordinance arising from RDS (as above);

- the reviews are still ongoing so no instructions have been received

(e) Roads/Tracks;

(i) progress of Road Traffic Bill and supporting regulations (this could be progressed by breaking it down into more manageable chunks as a way to make quicker progress);

- a number of policy issues were considered by Executive Council under paper number 85/10 in June, and a general steer given on the extent of application of the Bill. Further work must be carried out by the RFIP before proposals can be made for splitting the Bill into more manageable pieces of legislation. Subject to provision of the information by the RFIP (their policy priorities, and a timetable for RFIP provision of policy instructions for the supporting regulations), the matter may be brought back to Executive Council in August

(ii) compulsory purchase legislation;

- a Land Acquisition Bill has been drafted with the assistance of OTPF and it is hoped will be progressed later in the year, although may require some revision

(iii) highways amending legislation;

- no instructions have been received

(f) Communications:

(i) amended telecommunications legislation arising from completion of telecoms policy review;

- a Telecommunications (Amendment) Bill has been partially drafted to provide an interim solution whilst work continues on the review. It is intended that the Bill will be submitted to Executive Council in August or September, and potentially submitted to the Legislative Assembly in October.

(g) Review of employment law/policy:

(i) Employment Protection (Amendment) Bill arising from completion of employment policy review;

- the review is ongoing so no instructions have been received

(h) Health:

(i) legislation providing for medical services levy (or similar);

- see (a)(i) above

(ii) Prohibition of Smoking in Public Places and Work Places Bill;

- The Bill, which is largely complete, will be finalised and submitted, together with appropriate supporting subsidiary legislation, to the August Executive Council meeting, and potentially submitted to the Legislative Assembly in October.

4.3 Members are updated on the priorities identified in paragraph 4.17 of paper 29/10 as follows:

(a) outstanding immigration/FI status legislation required as a result of the new Constitution;

- a Falkland Islands (Status) Amendment Bill was drafted and submitted to the Principal Immigration Officer. As a result of a steer received from the Immigration Working Group, the parts of that Bill which sought to address the circumstances of a group of persons who had apparently been unintentionally

disadvantaged under the new Constitution have been prioritised and are due to be considered by the Legislative Assembly in July. Further instructions are awaited from the PIO in relation to the other outstanding matters.

(b) 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 to date

(c) 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 to date

(d) 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 to date

5.0 Provisional meeting timetable

5.1 The provisional timetable for consideration of priority legislation which it can reasonably be anticipated will be ready for particular meetings would potentially be as follows:

July Executive Council

Statistics Bill

July Legislative Assembly

Mental Health Bill
Falkland Islands Status (Amendment) Bill

August Executive Council

Public Health (Prohibitions on Smoking) Bill and supporting regulations
Livestock and Meat Products Bill and supporting regulations (*or September*)
Medical Services Tax Bill (*or September*)
Telecommunications (Amendment) Bill (*or September*)

September Executive Council

Any of the three Bills listed above which are not ready for the August meeting

NB: September is the last meeting for ExCo to consider Bills for October LegAssy

October Executive Council

Taxes (Amendment) Bill (*provisional; see paragraph 4.2 (a)(ii) above*)

October Legislative Assembly

Statistics Bill

Public Health (Prohibitions on Smoking) Bill

Livestock and Meat Products Bill

Medical Services Tax Bill

Telecommunications (Amendment) Bill

November Executive Council

No bills currently scheduled

November Legislative Assembly

Taxes (Amendment) Bill (*provisional; see paragraph 4.2 (a)(ii) above*)

5.2 However, it can be seen that this timetable results in a heavy agenda for the October Legislative Assembly.

5.3 It is therefore recommended that this heavy agenda could better be balanced between the October and November meetings. Of course as work progresses on the Bills and any delays potentially occur in finalising policy issues, it could be that the Bills end up being naturally split between the two meetings of the Legislative Assembly. However Members are asked to give a steer on which Bills they would prefer to be considered at the earlier meeting in October, should this prove possible, and which Bills should be deferred to November.

5.4 This is not to say that the provisional timetable set out in paragraph 5.1 reflects the only legislation that will be available for consideration during the relevant period; it is hoped that progress can be made on some other legislation as well. However, paragraph 5.1 seeks to highlight pressures on the October LegAssy agenda that we are already able to identify at this stage.

6.0 Financial Implications

No direct financial implications.

7.0 Legal Implications

No additional legal implications beyond those already addressed in the paper.

8.0 Human Resources Implications

None.

**CHECKLIST FOR FINAL SUBMISSION OF PAPERS TO GO TO
EXECUTIVE COUNCIL**

Tick for **YES** Cross for **NO**

Submitted By: PCC

Paper Number: 172/10

1. Is this really an Executive Council Matter?
2. Is this an Information Paper?
3. Is this a paper for decision? If so, does it have clear recommendations or options?
4. Have the following implications been fully considered:
 - a) **Financial** – Have the financial implications been agreed with Treasury (in the event there are none this must also be stated in the paper)?
 - b) **Legal** – Has the advice of the Attorney General been sought (in the event there are none this must also be stated in the paper)?
 - c) **Human Resources** – Have these implications been discussed with HR (in the event there are none this must also be stated in the paper)
 - d) **Environmental** – any environmental implication – has the advice of the Environmental Planning Officer been sought?
 - e) **Planning** – has the advice of the Environmental Planning Officer been sought?
 - f) **Roads and Services/Building and Construction** – has the advice of the Director of Public Works been sought?
 - g) **Land** – is the development of Crown Land involved – have you referred the matter to the Lands Committee?
 - h) The impact upon staffing and employment?
 - i) The availability of housing?
5. Has this paper been before GMT or the relevant Committee/s?

(Papers of significance must go before the GMT before referral to EXCO – significant includes: Policy Changes, Supplementary expenditure or an impact on another department)