



Ministry of  
**JUSTICE**

# **Background briefing on the Crown Dependencies: Jersey, Guernsey and the Isle of Man**

The Ministry of Justice  
Crown Dependencies Branch

# **Background briefing on the Crown Dependencies (Bailiwick of Jersey, Bailiwick of Guernsey (Guernsey, Alderney and Sark) and the Isle of Man)**

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## **1. Introduction**

Government officials should always consult the Ministry of Justice's Crown Dependencies Branch before contacting the Crown Dependencies when:

- Briefing Ministers to make statements or answer Parliamentary Questions about the Crown Dependencies
- Arranging a visit to the Crown Dependencies by officials or Ministers
- Preparing proposals for international agreements that might apply to, or indirectly impact on the Crown Dependencies, for example, Community Treaties
- Proposing or drafting any Bill which may be relevant to the Crown Dependencies or including any provision relating to them in a published Bill.

The Crown Dependencies team can advise you on the processes involved in, and appropriate contacts for consulting the Crown Dependencies.

Government officials must never state or imply that the Crown Dependencies are part of the United Kingdom, or Great Britain or England or act on that assumption. Government officials are also asked not to state or imply in any public document that a piece of EU legislation applies to any of the Crown Dependencies, or act on that assumption, without first consulting the Ministry of Justice.

It is important that where a UK policy initiative requires consultation with the Crown Dependencies sufficient time is given to their governments to make that consultation effective.

## **2. What are the Crown Dependencies?**

The Crown Dependencies are the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man. The Bailiwick of Guernsey includes the separate jurisdictions of Alderney and Sark and the islands of Herm, Jethou and Lihou. The island of Brecqhou is part of Sark.

Jersey, Guernsey and the Isle of Man are not part of the UK but are self-governing dependencies of the Crown. This means they have their own directly elected legislative assemblies, administrative, fiscal and legal systems and their own courts of law. The Crown Dependencies are not represented in the UK Parliament.

The Crown Dependencies have never been colonies of the UK. Nor are they Overseas Territories, like Gibraltar, which have a different relationship with the UK.

### **3. Government in the Crown Dependencies**

Jersey and the Isle of Man have ministerial systems of government with a directly elected legislature. The Head of Government on Jersey and the Isle of Man is the Chief Minister. Guernsey has a directly elected legislature and operates a system of consensus government through multi-member Departments and the Policy Council, the latter constituted by the Minister from each Department and chaired by the Chief Minister. Alderney has a legislature comprising of a President and 10 members all elected by universal suffrage. Sark has a directly elected legislature of 28 members (Conseillers) who serve on a number of committees.

The Crown Dependencies, with the exception of Sark, each employ their own distinct Civil Services. The Crown Dependencies have responsibility for their own domestic policies. Nonetheless, the relationship between the UK and the Crown Dependencies has always been close.

The legislatures are known as: States of Jersey (Jersey); The States of Deliberation (Guernsey); The States of Alderney (Alderney); The Chief Pleas (Sark); and The Court of Tynwald (Isle of Man).

### **4. Legislation**

The Islands' legislatures make their own domestic legislation. Primary legislation passed in Jersey, Guernsey, Alderney and Sark requires Royal Assent from The Privy Council. In the Isle of Man the Lieutenant-Governor has delegated responsibility to grant Royal Assent to any non-reserved legislation relating to domestic matters. Any reserved legislation in the Isle of Man requires Royal Assent from The Privy Council, in the same way as legislation from Jersey, Guernsey, Alderney and Sark.

The Ministry of Justice examines legislation from the Crown Dependencies to ensure in particular that there is no conflict with international obligations or any fundamental constitutional principles. This enables the Lord Chancellor to advise The Privy Council whether Her Majesty in Council can be advised to make an Assenting Order, and thereby grant Royal Assent. For non-reserved Isle of Man legislation the Ministry of Justice will directly inform the Lieutenant Governor when the Lord Chancellor is content that the delegated responsibility to grant Royal Assent may be exercised. The Lord Chancellor is the Privy Counsellor primarily concerned with the affairs of the Crown Dependencies. There is often a short timetable to which the Ministry of Justice has to work for these purposes.

UK legislation does not normally extend to the Crown Dependencies. In instances where it does extend, it may do so either by virtue of the Act itself or by Order in Council made with their agreement under an enabling provision contained in the Act which provides for it to be extended to the Crown Dependencies<sup>1</sup>. For an Act to extend otherwise than by an Order in Council is now very unusual. Departments must consult the Crown Dependencies at the earliest opportunity in the event that extension is under consideration. It is to be noted that there are different formalities in each jurisdiction which

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<sup>1</sup> An enabling provision for an Order in Council, known as a 'permissive extent clause' in a Bill could take the following form: "Her Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to any of the Channel Islands or the Isle of Man".

must be observed before such an Order in Council can become effective, all of which have the potential to impact on Bill timetables.

## 5. Crown Representation in the Crown Dependencies

The Queen is the Head of State of each Island and the Lieutenant-Governor on each Island is Her Majesty's personal representative. The Crown is ultimately responsible for their good government, the UK for their defence and international relations of each Island – this was explained by Lord Bach in a parliamentary answer given on 3 May 2000 in these terms: *“The Crown is ultimately responsible for the good government of the Crown Dependencies. This means that, in the circumstances of a grave breakdown or failure in the administration of justice or civil order, the residual prerogative power of the Crown could be used to intervene in the internal affairs of the Channel Islands and the Isle of Man”*.

The Crown exercises its responsibility for the Islands through the Privy Council and it also makes appointments to the Judiciary in each Island, through the Ministry of Justice on the request of the island authorities.

## 6. Crown appointments in the Crown Dependencies

Office	Jersey	Guernsey	Alderney	Sark	Isle of Man
<b>Queen's personal representative</b>	Lieutenant-Governor	Lieutenant-Governor	As for Guernsey	As for Guernsey	Lieutenant-Governor
<b>Head of Judiciary</b>	Bailiff	Bailiff	Chairman of the Court	Seneschal	First Deemster
<b>Judges</b>	Deputy Bailiff Lieutenant Bailiff Stipendiary Magistrates  Magistrates and Lieutenant Bailiffs are not Crown appointments. They are appointed by the Bailiff	Deputy Bailiff Judge of the Royal Court Lieutenant Bailiff Judges of the Magistrates Court  NB Only the Deputy Bailiff is a Crown appointment; the other Judges are appointed by the Bailiff or the Royal Court.	Jurats (six) plus chairman of the Court  NB All of Alderney's judiciary are appointed by the Lord Chancellor	Deputy Seneschal Lieutenant Seneschal  NB All Sark's judiciary are appointed by the Seigneur or the Lieutenant Governor	Second Deemster Deputy Deemster High Bailiff (Stipendiary Magistrate)
<b>Law Officers (legal adviser to the Crown and Island's government)</b>	Attorney General and Solicitor General	Procureur (Attorney General) and Comptroller (Solicitor General)	As for Guernsey	As for Guernsey	Attorney General

Note: In Jersey and Guernsey, the Bailiffs are also the Presiding Officer of their respective legislatures.

## 7. History

Guernsey and Jersey were part of the Duchy of Normandy when Duke William, following his conquest of England in 1066, became King William I of England. They have since been subject to the English Crown as successor to the Dukes of Normandy. They have never, however, become part of England administratively or legally.

The Isle of Man first came under the English Crown in the fourteenth century following periods under the suzerainty of the Kings of Norway and Scotland. In 1405, the Island with its regalities was granted to Sir John Stanley and his heirs. From then up to 1765 it

was ruled by the Earls of Derby, and later the Dukes of Atholl, as Kings or Lords of Man. By Acts of Parliament passed in 1765 and in 1825, the rights of the Lords of Man reverted to the Crown, and for a time the Island was largely governed from London. Since this time, the Isle of Man's constitution has evolved to become a parliamentary democracy.

## **8. Relationship with the United Kingdom**

There has always been a close relationship between the Crown Dependencies and the United Kingdom. The constitutional relationship between the Islands and the UK is the outcome of historical processes, and accepted practice. The most recent statement of the relationship between the UK and the Islands is found in Part XI of Volume 1 of the Report of the Royal Commission on the Constitution, published in 1973 and known as the Kilbrandon Report. It acknowledged that there were areas of uncertainty in the existing relationship and that the relationship was complex. It did not try to draw up a fully authoritative statement.

The constitutional relationship between the UK and the Crown Dependencies has recently been clarified for practical purposes in framework documents for developing their international identities

The Crown Dependencies raise their own public revenue and do not receive subsidies from or pay contributions to the UK. They do, however, make annual voluntary contributions towards the costs of their defence and international representation by the UK. The government in Jersey funds a Territorial Army Royal Engineers' Squadron on the Island. In Guernsey, the government remits to HM Treasury the income from passport fees and meets the maintenance costs of the Alderney breakwater. The Isle of Man government makes annual cash payments calculated according to an agreement signed in 1994.

## **9. International relations**

The UK Government is responsible for defence and international representation of the Crown Dependencies. In certain circumstances, the Crown Dependencies may be authorised to conclude their own international agreements by a process of entrustment. For example, all of the Crown Dependencies have autonomy in domestic matters including taxation and, having made commitments to the OECD on the exchange of tax information, they have consequently negotiated tax information exchange agreements (TIEAs) with an increasing number of other states. In order to facilitate the completion of TIEAs, which by virtue of their autonomy in tax matters they considered it inappropriate for the UK Government to sign on their behalf, the UK entrusted the Crown Dependencies to conclude the Agreements within the terms of Letters of Entrustment issued to their Governments under the signature of the appropriate UK Minister.

However, being responsible for the Crown Dependencies' international representation is not limited to simply entering international agreements; it should be read to include any international or external relations whether or not they result in some internationally binding agreement.

## **10. Relationship with the European Union**

The Crown Dependencies are not members of the European Union but have a special relationship with the EU, provided by Protocol 3 of the UK's Treaty of Accession to the European Community. Under Protocol 3, the Islands are part of the customs territory of the Community. The common customs tariff, levies and agricultural import measures apply to trade between the Islands and non-member countries. Other Community legislation does not generally apply. Implementation of the provisions for the free movement of persons, services and capital is, therefore, not required, and the Islands are

not eligible for assistance from the structural funds or under the support measures for agricultural markets. Third pillar justice and home affairs initiatives also do not automatically apply to the Islands.

## **11. Treaties and international agreements**

Article 29 of the Vienna Convention on the Law of Treaties provides that “unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory”. The long-standing practice of the UK when it ratifies, accedes to, or accepts a treaty, convention or agreement is to do so on behalf of the United Kingdom of Great Britain and Northern Ireland and any of the Crown Dependencies or Overseas Territories that wish the treaty to apply to them.

This means that, when the UK is planning to ratify a particular convention or treaty, it should consult the Crown Dependencies about whether they wish to have it extended to them. It is not always possible to include Crown Dependencies or Overseas Territories in the instrument of ratification (for example, where they do not yet have the necessary implementing measures in place), but it is usually possible for the scope of ratification to be extended to include them at a later date. This practice has been agreed by other Member States and is regarded by the UN Secretary General as establishing a different intention for the purposes of Article 29 of the Vienna Convention on the Law of Treaties. Treaties and international agreements made before 1951 applied to Jersey, Guernsey and the Isle of Man by convention without any specific reference to the Islands.

If a convention or treaty is extended to the Crown Dependencies, the UK retains responsibility at international law for all of their international obligations.

Treaties and conventions should not be negotiated so as to contain provisions referring directly to the Crown Dependencies without consultation in good time in advance with the Islands in question.

## **12. Contact us**

Ministry of Justice  
Crown Dependencies Branch  
102 Petty France  
London  
SW1H 9AJ

Telephone: 020 3334 3755

Email: [crown.dependencies@justice.gsi.gov.uk](mailto:crown.dependencies@justice.gsi.gov.uk)

Web: <http://www.justice.gov.uk/about/crowndependencies.htm>