



LAW OFFICERS  
OF THE CROWN

## THE LEGISLATIVE JOURNEY

The steps set out below reflect the usual approach in Guernsey, which is broadly the same in Alderney and Sark.

### **(a) Laws and (b) Ordinances**

Laws and Ordinances are enacted by the parliament of an island e.g. the States of Deliberation in Guernsey, the States of Alderney and the Chief Pleas of Sark, although the States of Guernsey can also legislate on behalf of the Bailiwick in areas such as criminal justice. A Law is generally known as a *projet de loi* before it is registered in the Royal Court of Guernsey after receiving Royal Sanction.

- (1) The journey of a Law or an Ordinance begins when a Committee of the States of Guernsey submits a policy letter to the States of Deliberation requesting approval of the policy and directing the preparation of legislation. The Law Officers may well advise the Committee on any legal or constitutional points arising from the policy letter before or during the States meeting when it is debated. It is also possible for 7 or more members of the States of Deliberation to draft a *requête*, requesting the States to enact legislation.
- (2) If the States of Deliberation approve the Committee's request (which might have been amended during the debate), legislative counsel draft the *projet de loi* or Ordinance as set out in the policy letter. Multiple drafts of legislation may be produced during this process as civil servants from the Committee provide further instructions to ensure all necessary details are included. In addition, other people likely to be affected by the new Law or Ordinance (who might include Alderney or Sark, financial service providers, charities or the general public) may be consulted in order to ensure that all views are considered before the legislation is finalised.
- (3) After the legislation has been finalised, it is sent to the Legislative Review Panel which considers whether the *projet de loi* or Ordinance has been drafted in accordance with the policy approved. If the Panel is satisfied that this is the case, the legislation is then transmitted to the States of Deliberation for approval.
- (4) The States of Deliberation must then consider the *projet de loi* or Ordinance before deciding whether to approve it. Given the extensive policy, consultation and drafting process, it is usually the case that the States approve legislation which is submitted to them. At this point, the type of legislation becomes important, as if it is an Ordinance, it can come into force immediately or whenever it says it does. However, if it is a *projet de loi*, it is sent to the UK to receive Royal Sanction from the Privy Council, which is necessary before it can become a Law and enter into force.
- (5) In order to receive Royal Sanction, the *projet de loi* is sent to the Ministry of Justice which considers whether there is any reason not to recommend its approval by the Privy Council Committee for the Affairs of Jersey and Guernsey; an example might be if

there was a concern that the Law is in breach of a fundamental constitutional principle or of an international convention e.g. on human rights. The Ministry of Justice usually recommends the Privy Council (which includes HM the Queen) to give Royal Sanction to the *projet de loi*.

- (6) Once the Privy Council has given Royal Sanction, the *projet de loi* is sent back to the Royal Court of Guernsey for registration on the Records of the Island. Once registered, the Law may come into force on that date, a date set out in the Law or a date specified in a separate Ordinance passed by the States of Deliberation.

Laws, and some Ordinances, may sometimes be referred to as "primary legislation", as opposed to "subordinate legislation".

### **(c) Subordinate legislation**

Subordinate legislation, such as regulations, orders and rules, is made by committees of the States of Guernsey, the States of Alderney and the Chief Pleas of Sark, as well as other public bodies such as the GFSC and the DPC.

Legislative Counsel in the Law Officers' Chambers will typically work with the civil servants from the Committee or public body to develop the subordinate legislation or will comment on the version drafted by the civil servants themselves.

Unlike Laws and Ordinances, subordinate legislation can come into effect immediately; however, the most important subordinate legislation may have to be approved by the parliament of an island or be presented to it to decide whether to annul that legislation.