

# EXECUTIVE COUNCIL

## PUBLIC

- Title:** Revised Laws Project – Six monthly Project Management Report to Executive Council (Project Board)
- Paper Number:** 46/17
- Date:** 29 March 2017
- Responsible Director:** Attorney General
- Report Author:** Statute Law Commissioner
- Portfolio Holder:** MLA Roger Edwards (MLA Mike Summers) - Treasury, Finance, & Regulatory Services
- Reason for paper:** This paper is submitted to Executive Council:  
  
To provide a project update and to allow Executive Council to make policy decisions as the Project Board
- Publication:** Publication is recommended (**Except** Draft Order in Council to be circulated electronically - FI does not have authority to publish the draft Order which is not yet finalised)
- Previous papers:** 164/15 - Revised Laws Project - Project Initiation (Sep 15)  
225/15 - Updating Adopted UK Statutes from 2017 (Dec 15)  
36/16 - First Advisory Committee Report to ExCo (Feb 16)  
**59/16 - First Project Management Report to ExCo (Mar 16)**  
139/16 - Second Advisory Committee Report to ExCo (Jul 16)  
151/16 - Updating Adopted UK Statutes from 2017 (Sept 16)  
152/16 - Options for Hosting of Laws Publication Database (Sept 16)  
**165/16 – Second Project Management Report to ExCo (Sep 16)**  
11/17 - Law Revision and Publication Bill 2017 (Feb 17)  
26/17 - Third Advisory Committee Report to ExCo (Feb 17)
- List of Documents:** Annex - Current risk register  
Draft Order in Council (provided electronically only - NOT FOR PUBLICATION)
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### 1. Recommendations

Honourable Members are recommended to:

- (a) note the progress made to date on the Revised Laws Project;
- (b) note the consultation responses received under the project in connection with the Law Revision and Publication Bill 2017 (and agree that Government amendment to the Bill be proposed to reflect a requirement for change identified as part of the consultation process; reference paragraph 9.6(b) below);
- (c) endorse the making of the Falkland Islands Applicable UK Laws Order 2017; and
- (d) take any other steps which Executive Council believes is appropriate to discharge its responsibility as the Project Board

## **2. Additional Budgetary Implications**

None.

## **3. Executive Summary**

3.1 Very positive progress has been made in the last six months, and achieving publication of the statute law database on the currently scheduled date of 31 May remains realistic.

3.2 However, there continue to be resourcing challenges as highlighted in the risk register (see Annex), and recent delay on the part of the contractor may represent new materialisation of risk, which requires careful monitoring and mitigating as far as reasonably possible.

3.3 The project consultation responses appear to represent satisfaction with the project work, but a low response rate means more work is required to engage stakeholders before launch of the published laws database to ensure that users are satisfied with and take ownership of the publication.

## **4. Background**

4.1 As Project Board, Executive Council has ownership of the project business plan, and is responsible for the ultimate direction and control of the project.

4.2 The Project Initiation Document (PID) provides that on receipt of a six monthly project management report, Executive Council will consider the following matters, so this report is structured to facilitate that process:

- (a) review the project's delivery against the plan and budget (see paragraph 5) ;
- (b) review key risks and issues (see paragraph 6);
- (c) review any exception reports; ie where the project progress is outside the agreed tolerances (see paragraph 7); and
- (d) ensure that the project benefits are realised through delivery of a suitable product (see paragraph 8).

4.3 This paper also deals with two specific matters; (a) the consultation responses received under the project in relation to the Law Revision and Publication Bill; and (b) formal endorsement of the proposed declaratory Order in Council confirming the United Kingdom statutes applied to the Falkland Islands by the United Kingdom authorities (see paragraphs 9 and 10).

4.4 An electronic copy of the PID will be made available to enable Members to remind themselves of the principles, business case etc under which this project was initiated.

## 5. Review of project delivery against project plan and budget

### *Project Plan:*

5.1 The High Level Project Plan is annotated to show project progress to date:

*Colour coding:*

*Not due*

*On schedule or completed*

*Behind schedule but not (yet) critical path*

*Behind schedule and critical path*

<i>Date</i>	<i>Preparation and closure</i>	<i>Legislative text</i>	<i>Technology</i>	<i>Ongoing Revision</i>	<i>Consolidation</i>
<b>2016</b>	Stage 2 continued...				
March	<p>Procurement underway for contract services in relation to IT functions</p> <p><b>-Procurement launched with invitation for Expressions of Interest issued on 3 March</b></p>	<p>Law lists completed (subject to consultation, incl. with FCO on UK laws applied to FI by UK authorities)</p> <p><b>-FI lists largely completed by June 2016. Final checks and consultation completed by March 2017.</b></p> <p><b>-Work has continued with FCO on checking and finalising the list of UK directly applied laws. Late queries raised by FCO in February 2017 means this list is still in draft.</b></p>			
April/May/ June	<p><b>-Shortlist agreed</b></p> <p><b>-Detailed proposals received 12 May</b></p> <p><b>-Input from technical expert obtained</b></p> <p><b>-Initial evaluation panel meeting 26 May</b></p> <p><b>-Clarification interview</b></p>	<p>Prioritised text of Ordinances and secondary legislation settled</p> <p><b>- More than 85% of settled text of Ordinances and secondary legislation delivered in November and December 2016 to technical contractor. Remaining text to be</b></p>			

<i>Date</i>	<i>Preparation and closure</i>	<i>Legislative text</i>	<i>Technology</i>	<i>Ongoing Revision</i>	<i>Consolidation</i>
	<b>undertaken early June</b> <b>Preferred bidder selected</b>	<b>delivered in March/April</b> <b>(no final deadline agreed</b> <b>with contractor).</b>  Start formulating recommendations for application or omission of recent UK Acts and statutory instruments (to include consultation)  <b>- Recommendations put to ExCo &amp; LegAssy with Law Revision and Publication Bill in January/February 2017. Consultation completed by March 2017 - report included in this paper</b>			
June/July	IT contract/s awarded <b>Contract finalised</b> <b>December 2017</b>		Database requirements settled between Commissioner and designer - with stakeholder consultation  <b>Database requirements largely settled during procurement process (which involved stakeholder consultation)</b>		
August/ September			Technical database specifications settled  <b>Good progress on technical specifications has been made during contract negotiations</b>		
September/ October	Working with AG's Directorate and wider government to plan for impact of publication  <b>-CMT paper submitted</b> <b>December 2017 - work ongoing</b>	Finalise recommendations for application or omission of recent UK Acts and statutory instruments  <b>- Recommendations put to ExCo &amp; LegAssy with Law Revision and Publication Bill in January/February 2017. Consultation completed by March 2017 -</b>	Database design  <b>- Database prototype due under contract in February 2017 - not yet delivered</b>		

<i>Date</i>	<i>Preparation and closure</i>	<i>Legislative text</i>	<i>Technology</i>	<i>Ongoing Revision</i>	<i>Consolidation</i>
		<p><b>report included in this paper</b></p> <p>Remaining text of Ordinances and secondary legislation settled to reflect recommendations for application or omission of recent UK Acts and Statutory Instruments</p> <p><b>Remaining text to be delivered in March/April 2017(no final deadline yet agreed with contractor).</b></p>			
October/ November/ December		<p>Draft Law Revision and Publication Bill finalised with accompanying recommendations</p> <p><b>- Bill submitted to ExCo &amp; LegAssy Jan/Feb 2017.</b></p> <p>Further consultation on recommendations</p> <p><b>- Consultation completed March 2017. Report included in this paper.</b></p> <p>Remaining areas of research post consultation</p> <p><b>- Research ongoing</b></p>	<p>Completion of database design</p> <p><b>- Delayed; receipt of prototype overdue</b></p> <p>Data-capture exercise</p> <p><b>- Work ongoing</b></p> <p>Completion of data-capture</p> <p><b>- Work ongoing</b></p> <p>Data inputting</p> <p><b>- Work ongoing</b></p>		
December /January	<p>Give notice to Blackhall publishers to stop production of the disc?</p> <p><b>Informal notice given; formal notice to be confirmed.</b></p>	<p>Enactment of Law Revision and Publication Ordinance (involvement of Select Committee at this stage a possibility, but may add delay)</p> <p><b>- Bill currently under consideration by Select Committee</b></p>	<p>Completion of data inputting</p> <p><b>- Work ongoing</b></p>		
<b>2017</b>					
February/ March/April		<p>Implementation consultation</p> <p><b>Implementation consultation delayed pending receipt of prototype</b></p> <p>Preparation of commencement and transitional orders (which must address gap between enactment and Day 1 re currency of UK legislation)</p>	<p>System testing and sign-off</p> <p><b>- Delayed pending receipt of prototype</b></p>	<p>System in place for in-house maintenance function which ensures that publication of new law and necessary revision occurs immediately</p>	<p>Recommendations to Executive Council for programme of ongoing consolidation (incorporating greater "localisation"); to include resource implications/cos</p>

<i>Date</i>	<i>Preparation and closure</i>	<i>Legislative text</i>	<i>Technology</i>	<i>Ongoing Revision</i>	<i>Consolidation</i>
					ts
May		Law Revision and Publication Ordinance comes into force	Database go-live ie “Day 1”		
	Stage 3 of project	Stage 3 of project	Stage 3 of Project	Stage 3 of Project	Stage 3 of Project
June			First report to Legislative Assembly on usage and performance of database	First quarterly report presented to Legislative Assembly with draft amending Ordinance	Commence further revision and consolidation if approved
June	Closure report (including lessons learned)				

5.2 The high level project plan was based on a certain amount of guess work about the timeframe for provision of the technical solution - we did not know how long the technical provider might take to build, populate, and test the database.

5.3 The contract for the technical solution was finally signed in December 2016 after considerable delay. But work had already effectively commenced, and the contract provided a more forgiving timeframe than anticipated for delivery of data, building the database, data-capture and inputting and testing and acceptance of the technical solution. For these reasons whilst many of the entries are showing delay against the original project timeframe, none of the delays are yet critical path.

5.4 However, one issue of particular concern is that the contractor is now behind schedule in providing the prototype for the technical solution (due in February). A renewed timeframe of receipt of the prototype was agreed as the week beginning 6 March. However, at the time of writing (at the end of the week) the prototype has still not been received.

5.5 The contractor is currently being pressed for an update and information about the potential impact of this delay on the remaining work and a verbal update will be provided to Executive Council when this paper is delivered.

5.6 The Statute Law Commissioner is scheduled to visit the contractor at the end of March/early April. This will provide a vital opportunity to gain an accurate understanding of any ongoing delays and to enable FIG and the contractor to work together to ensure that, if at all reasonably possible, the publication deadline can still be met.

***Project budget:***

5.7 Project spending remains well within budget.

5.8 The principal expenditure to date is salary costs - largely of the Law Commissioner. Those salary costs are managed independently of the project through Legal Services

administrative systems. Salary costs are within budget, and are forecast to remain so for the remainder of the project life (June 2017).

5.9 Now that that the technical solution has been contracted, the bulk of the remaining project funding has also now been allocated (the technical solution funds are due in staged payments, linked to key performance indicators).

5.10 The cumulative budget total for 16/17 (excluding salary costs) is:

15/16 unspent budget carried over	£165,260.00
16/17 budget allocation	<u>£119,800.00</u>
	<u>£285,060.00</u>

5.11 Allocated expenditure for 16/17 (excluding salary costs) is as follows:

(a) Westlaw subscription	£ 3,240.00
(b) External legal advice (IT contract specialists)	£ 1,500.00
(c) Committee travel expenses	£ 100.10
(d) DHL costs (item sent to technical contractor)	£ 103.10
(e) Contracted technical solution	£243,938.05
(f) Estimate for additional options to technical solution	£ 14,000.00
(f) Consultancy costs	£ 12,800.00
(g) Server costs (for international hosting of database)	£ 1,500.00
(h) Blackhall CD ROM cost	£ 3,650.00
(i) Commissioner visit to Leidos/attendance at CALC conference	£ 3,000.00
Allocated budget	<u>£283,831.25</u>
Unallocated budget	£ 1,228.75

## **6. Review of key risks and issues**

6.1 Project risks are managed through the operation of a risk register. A copy of the current risk register is Annexed to this report, and Members are asked to consider and agree the management of the revised risks.

6.2 The risk of the technical solution service provider failing to deliver the solution as contracted shows as a recently increased risk for reasons given above. Proposed mitigation is to continue to work closely with the contractor to enable delivery of the scheduled publication date, with commencement of formal processes under the contract to ensure delivery when and/if required.

6.3 There is a new emphasis on the risk of continuing failure to provide the project with adequate administrative resources in the long term. Whilst the project is specifically designed to ensure that maintaining the database in the long term requires a low level of administrative support, that will need to be provided relatively consistently to enable the efficient updating of the laws database and to enable the Commissioner to assist the

Assembly's monitoring of adopted UK laws. The Attorney General's proposals made as part of the budget process, and approved by Executive Council, include measures to address this risk, but need to be implemented timeously to ensure that the risk does not materialise.

6.4 A recently increased risk involves the potential for distraction from the project by other work within Legal Services. There are significant staffing and recruitment issues continuing within wider Government Legal Services. There is a risk that the Statute Law Commissioner will be pulled away from project work (whether by formal or informal requests for assistance) as a result of the serious staff shortages within Legal Services. Given the very tight nature of the project timetable, the impact on the project would be very high if this were to be allowed to occur. Members are urged to continue to support the protection of the project work and resourcing.

6.5 An early warning indicator of risk has materialised in the form of the relatively low level of engagement with the project consultations (see below). The continuing risk of lack of overall engagement with the project needs to be mitigated by review of the communication management strategy and stakeholder engagement plan to ensure that there is more engagement leading up to the publication launch.

6.6 An issues log is maintained in order to manage any project issues arising. Current issues are reflected in the adjusted risk register as above.

## **7. Review of exception reports**

Tolerance for the project plan is set at 3 months. No exception reports have been filed for the reasons given at paragraph 5.3 above.

## **8. Are project benefits going to be realised through delivery of a suitable product?**

8.1 It remains the case that the following Project Management steps should ensure realisation of the project benefits through delivery of a suitable product:

- Regular project monitoring has been ongoing through monthly reporting by the Project Manger to the Project Monitoring Group to ensure that, as far as reasonably possible, the project adheres to the project plans as approved by Executive Council;
- the Law Revision Expert Advisory Committee continues to offer critical support and vital input

8.2 Whilst there have been considerable challenges and delays in getting to this point, and there are continuing medium levels of risk, good progress has been made across all work streams, and delivery on the current schedule and within budget remains a real likelihood.

## **9. Consultation Responses**

9.1 Paper 11/17, which presented the Law Revision and Publication Bill to Executive Council, noted that the consultation exercises carried out under the project had been subject to delay, and advised that the consultations would be reported subsequently. The following is a summary of the consultations.

9.2 There have been two consultations carried out so far under the project; relating to the content of the law database publication. A third consultation exercise concerning the format of publication will be undertaken as part of the technical solution testing and acceptance phase.

### ***Consultation (1)***

9.3 The first consultation involved the local legislation which has been identified under the project for publication.

9.4 Consultees were asked:

(a) whether the project has correctly identified all substantive locally made laws in force (consultees were not asked about detailed amendments to local law, which would have made the consultation unmanageably large);

(b) whether proposals to repeal and revoke legislation which is apparently obsolete are appropriate; and

(c) whether proposals to bring a number of fines up to date as part of the low level revision of those locally made laws are appropriate.

9.5 7 responses were received (1 member of the public, 2 members of the legal community, and 4 internal/FIG).

9.6 The responses largely indicated satisfaction that the laws had been identified correctly, and with proposals for updating fines. However, the following issues were raised:

(a) One response raised policy issues which are outside the scope of this project; namely whether the policy reflected in the current fine structure for minerals related offences is correct (it was suggested that fines in respect of breach of regulations made under the Offshore Minerals Ordinance should be unlimited - this requires policy analysis which is outside the scope of the project, but the issue will be recorded under the project's closure report for follow up).

(b) A proposal was received from the Department of Natural Resources that the Animals and Foods (Miscellaneous) Provisions Ordinance 2002 be repealed as obsolete. The 2002 Ordinance adopted a raft of UK legislation necessary to underpin EU certification of the abattoir. However, the Livestock and Meat Products Ordinance 2010, and the suite of regulations made under it, has effectively replaced the provision made in the 2002 Ordinance, but repeal of the 2002 Ordinance had been overlooked. It is recommended that a Government amendment be proposed to Schedule 3 to the Law Revision and Publication Bill to allow repeal of this Ordinance.

### ***Consultation (2)***

9.7 The second consultation concerned proposals to update the United Kingdom laws which are currently adopted by the Falkland Islands. Those adopted laws currently apply as "frozen" at 31 July 2004. It is recommended that the majority of those laws be brought up to date as they currently apply in the United Kingdom.

9.8 Consultees were asked:

(a) whether the proposals to update adopted United Kingdom laws are appropriate; and

(b) whether the list of proposed standard modifications to adopted United Kingdom laws is appropriate.

9.9 Seven responses were received (1 member of the public, 2 members of the legal community, 4 internal/FIG).

9.10 Most responses indicated that they were satisfied with the proposals, but the following issues were raised:

(a) A member of the public noted that the Falkland Islands Government should consider extending the application of the Health and Safety at Work etc. Act 1974 to the whole of the Falkland Island. The Act currently applies only in respect of the offshore minerals industry. The respondent noted that this creates a two tier system of worker protections with offshore workers offered greater protection than on-shore workers. Whilst this response appears to raise a very legitimate issue for debate, the policy and resource analysis required before the Act could be adopted on-shore means that it is outside the scope of this project. The issue has been recorded for future consideration (and will form part of the project's closure report for follow up);

(b) The Department of Natural Resources noted, as above, that the United Kingdom laws adopted under the Animals and Health (Miscellaneous Provisions) Ordinance 2002 should be disappplied. That is reflected in the recommendation for repeal of the Ordinance as above (and Schedule 1 to the Bill will need amendment to remove this legislation).

(c) A respondent noted that modifying adopted legislation to replace references to HMRC with "Customs" does not reflect the wider role that HMRC has in relation to taxation. However, the Falkland Islands is entirely self sufficient in its tax legislation; it does not adopt any United Kingdom laws in that area of law. Therefore relevant adopted United Kingdom Legislation does only relate to customs matters, and it is considered that the modification of the law in this way is appropriate;

(d) A respondent noted that there may be a lack of certainty about who the "Government Printer" is in the Falkland Islands (reference a proposal to modify any reference in an adopted UK law to "Her Majesty's Stationary Office" to "the Government Printer"). However, there is a definition of Government Printer in the Interpretation and General Clauses Ordinance which makes the position as to the Government Printer sufficiently clear (albeit it may not be obvious in practical terms that the Government Legal Services now carry out the function).

## **10. The Falkland Islands Applicable Laws Order 2017**

10.1 Executive Council have been advised through various project papers that it is proposed that a declaratory Order in Council be made to provide clarity and certainty as to the United Kingdom laws which have been applied to the Falkland Islands by United Kingdom Authorities. That order is now in nearly final form (with some minor discussions ongoing with FCO about the finalised content).

10.2 A copy of the current draft Order will be circulated to Members electronically (due to size), and Executive Council are asked to endorse the principle of the making of such an Order. It is currently proposed that the Order be made in April 2017, although that could slip until May due to lack of available FCO resources. Timing of the making of the Order is not critical to the project because it is only declaratory – although it is key that FCO confirms the content of it at an early stage, so that the list of relevant United Kingdom laws can be included in the published database.

## **11. Resource Implications**

### 11.1 Financial Implications

None.

### 11.2 Human Resource Implications

None.

### 11.3 Other Resource Implications

None.

## **12. Legal Implications**

There are no legal implications.

## **13. Significant Risks**

There are no significant risks relating to this paper, but see the Annex to this report for other information on risks.

## **14. Consultation**

There has been no consultation on this paper because of its status as a regular project board update paper rather than policy paper. However, the Portfolio Holder receives project updates during regular portfolio holder meetings with the Attorney General, and is also a member of the Law Revision Expert Advisory Committee, so receives more detailed quarterly updates via the Committee.

## **15. Communication**

The Statute Law Commissioner, as Project Manager, is responsible for communication of the decision making on this paper, and will undertake any such communication in accordance with the project Communication Management Strategy.

## Updated Project Risk Register - as at 12.3.17

Risk title	Description	Early warning indicator	Current Impact	Current Likelihood	Current Risk	Response to risk	Mitigation Description	Residual Impact	Residual likelihood	Residual Risk
Technical Solution	Service provider fails to deliver solution as contracted	Regular reports from contractor fail to show adequate progress and/or contract KPIs not met	4	3	12	Treat	Work closely with contract to explore reasons for late delivery of prototype and seek to mitigate delay - move to formal processes under contract if/when necessary	4	2	8
Durability of solution - Administrative support	Resources are not allocated for the ongoing administrative support of publication of an up to date laws database	No provision in place by final quarter of project timeline (March/June 17)	4	3	12	Treat	Proposals for re-structure of administrative support in Legal Services made as part of 17/18 budget - initial approval must be followed up with timely implementation	4	2	8
Distractions from Project	Project Manager and/or other resources diverted in favour of other FIG priorities	High level project timeline not being met	4	3	12	Treat	Continued engagement of influencing stakeholders to ensure that prioritisation of resources is understood to be key to success of project and that there is commitment to this - <i>especially during ongoing staff recruitment difficulties in Legal Services</i>	4	2	8
Management of work streams	Project stage slippage affects delivery of the timeframe due to inaccurate estimates of work streams (in particular in relation to balance of Project Management and substantive work being carried out by Statute Law Commissioner)	High level timeline not being met	4	3	12	Treat	Continue strong project management - especially project assurance and project reporting on basis of proven project management methodology.	4	2	8
Engagement of stakeholders	Lack of buy-in from stakeholders	Low response rates to	3	3	9	Treat	Review Communication Management Strategy and	3	2	6

		consultations					Stakeholder Engagement plan to ensure better implementation leading to launch			
Durability of solution - Law Commissioner	Project solution requires ongoing commitment to a properly resourced Law Commissioner. Accepted in principle; details for implementation still to be settled.	Succession plans for Legal Services staffing not in place	4	2	8	Treat	Approval of continuation of Law Commissioner post to be followed up with report on Law Revision Programme	4	1	4
Internet services	Provision of internet services by Sure cannot meet the project requirements	N/A	4	2	8	Treat	Early engagement with Sure & Director of Central Services	4	1	4
Support infrastructure	Loss of project support infrastructure (Project Board/Critical Friend/Project Sponsor/ Project Assurance Group/Administration Support)	High level timeline not being met	3	2	6	Treat	Continue to manage administrative staff shortages through re-allocation of resource and adjustment of work programme.	2	2	4
Baseline text	Loss of ongoing baseline text compilation	N/A	3	2	6	Treat	Put systems in place for back-up of electronic storage	3	1	3
Legislative Assembly	Legislative Assembly do not approve the project output	Negative feedback received during early consultations	4	1	4	Tolerate		4	1	4
Project Manager	Absence/illness of Project Manager	High level project timeline not being met	4	1	4	Tolerate		4	1	4
Funding	Funding withdrawal	Lack support/ engagement from Members of the Legislative Assembly	4	1	4	Tolerate		4	1	4
Baseline source material	Loss of source material (ie Gazettes, cut and paste law ring binders etc)	N/A	2	2	4	Tolerate		2	2	4