



South Georgia and the South Sandwich Islands

Office of the Commissioner
Government House,
Stanley,
Falkland Islands.

16 August 2016

Administration of Justice

Report on Consultation

Summary

The consultation on the draft Administration of Justice Ordinance took place from March to May 2016.

The proposed legislation set out the court framework for South Georgia & the South Sandwich Islands, the jurisdiction of those courts and the judiciary. It would establish the law and practice to be applied in criminal and civil proceedings and provide a framework for the Magistrate based on South Georgia to work within.

The draft legislation and an accompanying consultation document were made available on the GSGSSI website with a news item highlighting the consultation, stakeholders were notified by email and the launch of the consultation was 'tweeted'.

Responses were received from the Chief Justice and Senior Magistrate. The responses concerned, providing clarity to the judicial appointments, amending wording to show greater regard for the independence of the judiciary, clarifying the hierarchy of sources for the practice and procedure to be applied in the courts, and changing the method of appointment of court officers.

The views expressed by the Chief Justice and the Senior Magistrate were considered and resulted in a number of amendments being made to the draft legislation. The main features of the draft legislation remain the same.

It is intended to pass the legislation in its amended form by October 2016.

Detail

The amendments to the draft legislation concerned:

- Including repeal provisions to repeal the existing Administration of Justice legislation
- Removing the part (b) from the pre-commencement appointment provisions set out in section 7 to make it clearer that the existing appointments continue for the time being (rather than pending new appointments)

- Amending section 14 (3) to say 'The Chief Justice may...' rather than 'The Chief Justice must...'
- Amending the wording of section 14 (4) to set out what the Chief Justice shall have regard to in making Practice Directions
- Amending the wording of section 16 (2) to say 'The Chief Justice may...' rather than, 'The Chief Justice must...' and to make clear that the Chief Justice has a general power to make Practice Directions
- Amending section 16 (5) to re-order the hierarchy of sources of practice and procedure to be applied in the courts
- Amending section 17 (1) and (2) so that it is the Commissioner rather than the Chief Justice who appoints the Registrar and Clerk.

Conclusion

GSGSSI now intend to move forward to passing and implementing this legislation. It is expected that it will be in force by January 2017.

The final version of the new Administration of Justice Ordinance will be placed in the legislation section of the website once passed.