

Justice Committee



The constitutional relationship with the Crown Dependencies: Government Response

First Special Report of Session 2024–25

HC 582

Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Ministry of Justice (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers) and its associated public bodies.

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First Special Report

The Justice Committee published its Second Report of Session 2023–24, [The constitutional relationship with the Crown Dependencies](#) (HC 30), on 28 March 2024. The Government Response and a covering letter were received on 16 December 2024.

Appendix 1: Letter from Lord Ponsonby, Parliamentary Under Secretary of State, to Andrew Slaughter MP

I write with regard to the previous Justice Select Committee’s report on the constitutional relationship between the UK and the Crown Dependencies, which was published on 28 March 2024.

I agree with the Committee that the relationship remains strong and valuable and that it should continue to evolve in a way that respects the autonomy of the Crown Dependencies as well as the UK’s constitutional responsibilities and international obligations.

The issues the Committee raises are important, and I have carefully considered the report. I enclose the Government’s response to the Committee’s recommendations.

I hope that the response demonstrates the Government’s commitment to maintaining a constructive and respectful relationship with the Crown Dependencies, based on mutual understanding, friendship and cooperation.

Lord Ponsonby of Shulbrede

Appendix 2: Government Response

Introduction

The Government is grateful to the Justice Committee for its report on the constitutional relationship between the UK and the Crown Dependencies, published on 28 March 2024. The report provides a comprehensive review of the constitutional relationship and highlights some of the challenges and opportunities that lie ahead.

I welcome the Committee's positive findings on the overall quality and health of the relationship, which I believe result from our shared commitment to maintaining and strengthening the bonds of friendship and cooperation between the UK and the Crown Dependencies. I also appreciate the Committee's recommendations for action where it considers there is scope for improvement.

The Crown Dependencies are self-governing jurisdictions, with their own directly elected legislative assemblies and administrative, fiscal and legal systems. The UK is responsible for the Crown Dependencies' defence and international relations and has ultimate responsibility for ensuring their good government, although primary responsibility for good government lies with the islands themselves.

The Ministry of Justice is the Government department with responsibility for managing the constitutional relationship between the UK and the Crown Dependencies. The Ministry of Justice acts as an interlocutor and facilitator for the Crown Dependencies within Whitehall and provides advice and guidance to other departments on matters relating to the Crown Dependencies. Each Government department is responsible for working with the Crown Dependencies on its substantive areas of business, so several departments have contributed to this response.

The constitutional relationship between the UK and the Crown Dependencies is not static, but gradually evolves over time to reflect changing circumstances and needs. The Government recognises the importance of regular dialogue and consultation with the Crown Dependencies to

ensure that the relationship remains effective and fit for purpose. It also recognises the value of fostering greater understanding and awareness of the relationship across Whitehall.

This document sets out the Government's response to the Committee's recommendations, addressing each recommendation in turn. The response also provides additional information and clarification on some of the points raised by the Committee.

The UK and the Crown Dependencies have a unique and long-standing constitutional relationship based on mutual respect and support for each other's interests and aspirations. The Government remains committed to continuing the dialogue and cooperation between the UK and the Crown Dependencies and to nurturing our relationship in the years ahead.

Lord Ponsonby of Shulbrede

Parliamentary Under Secretary of State at the Ministry of Justice

Response to the Committee's conclusions and recommendations

1. In the sections below, the Government responds in turn to the Committee's conclusions and recommendations, which are shown in bold. Each of the Committee's 20 recommendations, referenced JSC1 to JSC20, includes the relevant paragraph number from the report in brackets and they are grouped under the report's five themes.

Relationship between the Ministry of Justice and the Crown Dependencies

JSC1: There is a very positive working relationship between the Crown Dependencies and the Ministry of Justice. Engagement has clearly improved in recent years with both planned and spontaneous contact and communication taking place much more frequently between officials, the Minister and the Lord Chancellor.

More regular contact should be established between senior officials in the Ministry of Justice, namely the director, the director general and permanent secretary, and the Crown Dependencies. This should be actively offered, rather than the Crown Dependencies having to request it, and become a routine part of Crown Dependency and Ministry

of Justice engagement. The permanent secretary should meet her counterpart in each Crown Dependency at least twice a year. (Paragraph 18)

2. The Government welcomes the Committee's recognition of the positive working relationship between the Crown Dependencies and the Ministry of Justice. This relationship is based on mutual respect and constructive dialogue on a range of issues relating to the Crown Dependencies' interests and aspirations. The Ministry of Justice plays a vital role as an interlocutor and facilitator for the Crown Dependencies in their engagement with the rest of the Government.
3. We recognise the value of regular and meaningful engagement between the Crown Dependencies and senior officials in the Ministry of Justice as well as other Government departments, and how such engagement can enhance understanding, foster trust and cooperation, and help in the resolution of any issues or concerns that may arise.
4. We are pleased that the Crown Dependencies feel there has been an improvement in contact and communication with the Ministry of Justice in recent years, and we appreciate their positive feedback on the role and performance of the Crown Dependencies Team.
5. The Government notes the Committee's recommendations that meetings with more senior officials, above Deputy Director level, should be actively offered by the Ministry of Justice and specifically that the Permanent Secretary should meet her counterpart in each Crown Dependency at least twice a year.
6. The Government does not think that the seniority of Ministry of Justice officials should be the decisive factor in determining who should attend a meeting with the Crown Dependencies. Rather, meetings should occur as needed, with the most relevant Ministry of Justice officials attending, based on the content of what is to be discussed. We will always endeavour to make sure that Ministry of Justice officials who attend meetings with the Crown Dependencies have the necessary authority, experience and expertise.

JSC2: The Ministry of Justice Crown Dependencies team has a substantial workload which is likely to increase in the coming years. We believe that the team is under pressure as a result and there is a risk that their work, which is currently extremely good, could suffer as a result.

While we welcome the recruitment of a new grade seven official to the Crown Dependency team, the Ministry of Justice should increase staffing yet further to manage the increase in work associated with trade deals. This would also enable team officials to undertake regular

work placements in Crown Dependency governments, with reciprocal arrangements in place enabling Crown Dependency officials to spend time in UK Government departments. (Paragraph 19)

7. The Government is pleased that the Committee has recognised the quality of the work of the Crown Dependencies Team and agrees that the quality would be at risk if the team were under-resourced.
8. The Ministry of Justice has further considered the resource implications of the team's workload, especially in relation to free trade agreements, and has introduced another Grade 7 to the team, in addition to the one already in post.
9. This has enabled us to create two sub teams, reporting to the Grade 6 head of team. Any further staffing increase will have to be judged in the context of other priorities.
10. We note the Committee's suggestion that regular work placements between the Crown Dependencies and Government departments would be of mutual benefit. We will explore the feasibility of this idea with the Crown Dependencies and relevant Government departments.

JSC3: We believe there is a good understanding of the constitutional relationship across Whitehall as a result of the Ministry of Justice's awareness-raising work.

Nevertheless, to take account of turnover among officials and Ministers, the Ministry of Justice must ensure that these efforts are ongoing.

Ahead of the general election, the Ministry of Justice should prepare a programme of education, guidance and awareness-raising on the constitutional relationship in case there is a new administration.

The Lord Chancellor should write to each Minister in each UK government department as soon as possible after the general election to remind them of their responsibilities towards the Crown Dependencies. (Paragraph 20)

11. The Government is grateful for the Committee's acknowledgement of the Ministry of Justice's efforts in promoting awareness of the UK's constitutional relationship with the Crown Dependencies across Whitehall. We recognise nevertheless that this is a task that needs ongoing attention and updating.
12. To build on what has already been achieved the Ministry of Justice is developing a comprehensive approach to educating civil servants across Government departments about the constitutional relationship between the UK and the Crown Dependencies, including by delivering a series of

presentations and webinars. We have produced new resources to support this work and are exploring possible inclusion of a Crown Dependency module in the curriculum of the 'Civil Service Learning' platform.

13. The Lord Chancellor will write to her Cabinet colleagues to remind them of their and their departments' responsibilities under the constitutional relationship and to offer the Ministry of Justice's help and advice on matters related to the Crown Dependencies.

Relationship between other UK Government departments and the Crown Dependencies

JSC4: The advent of direct engagement between Crown Dependencies and other UK Government departments is a very positive step. It underlines the importance of the Ministry of Justice's work in raising awareness across Whitehall of the constitutional relationship.

To help reinforce relationships and further increase awareness, there should be greater use of secondments between the Crown Dependencies and UK Government departments.

We recommend that, to start with, secondments of officials from the Department for Business and Trade and Her Majesty's Treasury to the Crown Dependencies might be most fruitful. The first of these secondments should begin before the general election. (Paragraph 25)

14. The Government appreciates the Committee's recognition of the positive development of direct engagement between the Crown Dependencies and Government departments.
15. The Government believes that intergovernmental placements can play a valuable role in building first-hand experience of working in other administrations and improve delivery in shared priority areas. In 2023 the Government established an intergovernmental placement working group, which the Crown Dependencies attend. The focus of the working group is removing barriers to placements (loans and secondments) and unlocking the broader benefits to intergovernmental working.

JSC5: Working relationships between UK Government departments and the Crown Dependencies should be underpinned by early and regular engagement and consultation. This will ensure that they can properly consider what action they may need to take and have time to follow their own democratic processes.

The Ministry of Justice should update its existing 'How To Notes' to include a specific emphasis of the need for UK Government departments to take the approach to engagement that we have just outlined.

(Paragraph 26)

16. The Government agrees with the Committee that working relationships between Government departments and the Crown Dependencies should be underpinned by early and regular engagement and consultation. This will help to ensure that the interests of the Crown Dependencies are taken into account in UK policymaking and legislation.
17. We welcome the Committee's acknowledgment of the progress made in this area and the positive examples of engagement cited in the report.
18. The Ministry of Justice will review the existing 'How-To-Notes' to ensure they are clear about the need for early and regular engagement and consultation with the Crown Dependencies.

JSC6: When we asked Minister Freer whether he thought the Cabinet Office might be better placed to represent the Crown Dependencies in Whitehall, he said that he thought the responsibility worked well where it was.

Nevertheless, we recommend that the UK Government consider whether the Cabinet Office could potentially have a role, alongside the Ministry of Justice, in facilitating engagement on urgent matters requiring the involvement of several UK Government departments. *(Paragraph 30)*

19. The Government recognises that there may be occasions when cross-departmental coordination is needed to address complex or contentious issues affecting the Crown Dependencies. Normally this coordination would be undertaken by the Ministry of Justice as the department responsible for managing the UK's constitutional relationship with the Crown Dependencies. In certain circumstances the Ministry of Justice may need to consider possible routes of escalation, which may include a Ministry of Justice Minister writing to other Government departments, or could include seeking assistance from the centre of Government by asking the Cabinet Office to lend support.
20. However, we consider that this should remain a rare exception rather than a routine practice, reflecting the role of the Lord Chancellor as the Privy Counsellor with responsibility for advising the Crown on matters relating to the Crown Dependencies, and the Ministry of Justice's responsibility for overseeing and supporting the constitutional relationship between the UK and the Crown Dependencies.

21. The Ministry of Justice will continue to work with the Cabinet Office and other relevant departments to help ensure that the Crown Dependencies' interests are properly represented and respected across Whitehall.

JSC7: The active consideration being given by the Lord Chancellor and Minister Freer to the framework for the relationship between the Ministry of Justice and the Crown Dependencies is welcome.

The Ministry of Justice should consult the Crown Dependencies on the feasibility of formalising such a framework and what it could usefully contain, building on the existing International Identity Frameworks. For example, we believe that it could usefully set out expectations for engagement and consultation and clarify the Ministry of Justice's role in the event of a dispute. (Paragraph 32).

22. The Government recognises that a framework could provide greater clarity and transparency about the expectations and roles of both the UK and the Crown Dependencies, as well as setting out the principles and mechanisms for engagement and consultation.
23. However, we are also mindful of the fact that the constitutional relationship has evolved organically over time and is based on mutual respect and cooperation. Any attempt to codify or prescribe the relationship could risk undermining the flexibility and adaptability that has been beneficial to the relationship. We should be wary of unintended consequences and of the potential to damage a relationship that the Committee has found to be in good health.
24. Working with other Government departments, the Ministry of Justice will carefully consider the implications and potential benefits of developing a formal framework and will seek the views and input of the Crown Dependencies.

Participation in international trade deals

JSC8: The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was unusual in that the UK was joining an existing trade agreement and had to comply with an existing text. This had implications for the negotiation process and the outcome it was possible to achieve for the Crown Dependencies. However, the CPTPP negotiation process provides lessons for how the Crown Dependencies could be more effectively involved in negotiations in the future.

We acknowledge that, given their economies and ambitions, it was a disappointing outcome for the Crown Dependencies not to be covered by the Service and Investment chapters of the CPTPP from the outset.

The UK Government's aim for all future trade agreements should be for the Crown Dependencies to be covered by services as well as goods chapters from the outset. Where this does not prove possible, extension mechanisms should routinely be sought. (Paragraph 41)

25. The Government recognises the importance of services to the Crown Dependencies' economies and supports the Crown Dependencies' trade ambitions.
26. Extension mechanisms offer additional time for the Crown Dependencies to review trade agreements, determine whether they wish to make any changes necessary to domestic legislation or regulation, and to make these changes to ensure compliance with the final treaty text.
27. The Government will continue to seek extension mechanisms in free trade agreements to facilitate extending coverage to the Crown Dependencies. This approach ensures services and investment coverage remains possible for Crown Dependencies, whilst avoiding delays to UK ratification of free trade agreements.

JSC9: We are very conscious that trade negotiations are complex, often extremely fast paced and, as Minister Hands pointed out, require the Department for Business and Trade to operate "in a corridor of what is deliverable and negotiable". Nonetheless, improvements to the process for the Crown Dependencies can and should be made.

Therefore, we recommend that for future trade agreement negotiations the Crown Dependencies, Ministry of Justice and Department for Business and Trade should work together to identify a set of principles to guide effective engagement during the negotiation process.

We recommend that they should include early and comprehensive engagement from the outset to conclusion; early sight of relevant documents; real time updates; and reasonable timeframes for provision of responses and information. During particularly time-pressured periods, we recommend that there should be officials in the room acting as a conduit for information to and from the Crown Dependencies in real time. (Paragraph 46)

28. The Government notes the Committee's recommendation and recognises the importance of engagement with the Crown Dependencies from the outset to the conclusion of negotiations.
29. The Department for Business and Trade has well-established processes in place for consulting the Crown Dependencies in a regular and timely fashion. This includes engagement with the Chief Negotiator and Chapter leads, especially in free trade agreements and areas that the Crown Dependencies prioritise.

30. The Department for Business and Trade already works closely with the Crown Dependencies to ensure that the UK negotiating positions consider Crown Dependency interests. Draft UK negotiating text is routinely shared with Crown Dependencies to allow early identification of compliance issues.

JSC10: Overall, we believe that the Crown Dependencies should be represented during negotiations by specifically designated officials either from the UK Government or the Crown Dependencies. (Paragraph 47).

31. The Government acknowledges its duty to seek to represent the interests of the Crown Dependencies when acting in an international capacity.
32. In each free trade agreement negotiation, the team includes a specified official with an understanding of both the Crown Dependencies' constitutional position and their trade policy interests. This official leads on chapter negotiations regarding territorial application, which defines Crown Dependency coverage in a free trade agreement. They will consult with officials from the Crown Dependencies on UK draft treaty text as negotiations progress.
33. In addition to the aforementioned chapter lead for territorial application, it is the responsibility of each UK negotiator to seek to represent Crown Dependency interests as they relate to their specific chapter. This is strengthened by a central hub in the Department for Business and Trade responsible for the overall relationship with the Crown Dependencies. Well established processes within the department ensure Chief Negotiators and Chapter Leads engage with the Crown Dependencies.
34. Through regular consultation throughout negotiations, the Government is able to accurately reflect Crown Dependencies' interests in all UK free trade agreement negotiations, taking into account the wider negotiation dynamic.

JSC 11: Taking up our predecessors' recommendation, representation of the interests of the Crown Dependencies in international relations is not optional, according to whether or not their interests are in line with those of the UK: it is the UK Government's duty. In cases of conflict, the Ministry of Justice must endeavour to find a mechanism for representation which will faithfully present and serve the interests of both parties. Having the Crown Dependencies represented during negotiations by specifically designated officials would go some way towards addressing this issue. (Paragraph 49)

35. The Government will seek to represent any Crown Dependency interests which differ from those of the UK when acting in an international capacity. This is in line with the international identity frameworks signed between the UK Government and the Crown Dependencies in 2007-2008.

36. The Government cannot, however, guarantee that it will always be in a position to represent the Crown Dependencies' views internationally where they diverge from the UK's own interests.
37. Moreover, whilst the UK Government seeks to deliver the best deal for the UK and the Crown Dependencies, we cannot guarantee that negotiating partners will agree to the preferred outcomes of the UK Government or of the Crown Dependencies, and therefore we may not be able to secure everything we initially seek.
38. The official leading on the territorial application chapter will have extensive knowledge of, and engagement with, the Crown Dependencies. This will ensure the UK negotiating team is always aware of Crown Dependency priorities for individual agreements.

JSC 12: The Department for Business and Trade's approach to the Crown Dependencies' compliance with international obligations appears to be different at Ministerial and at official level. The position outlined by Minister Hands that "they must be compliant with the international treaty" is correct.

The Department for Business and Trade should review the approach its officials are taking to ensure consistency with this. Measures taken by the Crown Dependencies to comply with international obligations are not required to mirror UK legislation but should instead reflect their unique characteristics.

Furthermore, the Department for Business and Trade must ensure that comprehensive feedback on compliance assessments completed by Crown Dependencies is routinely and promptly provided so that they can take steps to become compliant, if need be. (Paragraph 52)

The Government welcomes the Committee's consideration of the Crown Dependencies' compliance with international treaty obligations. The Department for Business and Trade remains open to the Crown Dependencies demonstrating compliance with treaty obligations in any effective way.

39. Crown Dependencies may choose to mirror UK legislation or seek extension of UK legislation to become compliant with specific treaty provisions. There are also other approaches available to the Crown Dependencies including the introduction of bespoke measures through their legislatures where necessary. The Department for Business and Trade will continue to engage with the Crown Dependencies on the different approaches to obligations across UK free trade agreements.

40. The Department for Business and Trade routinely provides feedback to the Crown Dependencies having assessed the evidence of their compliance. This includes presentations from policy officials and detailed written responses which can include independent legal advice.

JSC 13: Extension mechanisms in several free trade agreements, including the CPTPP, have already been obtained by the UK Government. It is important to proceed with activating these mechanisms so that the approach can be tested and, if necessary, refined and improved.

This should happen as soon as possible and the Department for Business and Trade and the Crown Dependencies should proceed immediately with the work necessary to ensure compliance. (Paragraph 54)

41. The Department for Business and Trade will continue to consult with the Crown Dependencies on when best to seek to activate extension mechanisms. The Crown Dependencies' positions on granting market access for the trade partner to their services and investment sectors must be developed and negotiated. The timing of the negotiations will also need to account for the domestic political circumstances, priorities, and resource constraints of a treaty partner.
42. The Government must also be satisfied that each of the relevant Crown Dependencies are compliant with the obligations of the chapters before they apply to those Crown Dependencies. The Department for Business and Trade is working closely with the Crown Dependencies on resolving outstanding compliance issues as a priority. This will aid planning to commence extension mechanism negotiations as soon as practically possible.

JSC 14: Aware that time is often of the essence when negotiating international agreements, we recommend that the Ministry of Justice and the Crown Dependencies work together to identify how the entrustment process could be streamlined, speeded up and improved, and adapt their ways of working where necessary to achieve this, with the objective of achieving a signed off letter within an ambitious timeframe.

A useful first step in helping to speed things up would be to improve understanding of the process across Whitehall and, to this end, we recommend the Ministry of Justice publishes a 'How To Note' on entrustment, accompanied by awareness-raising training for UK Government departments on the topic. (Paragraph 60)

43. The Crown Dependencies are territories for which the UK is responsible in international law and the Government is responsible for their international relations.

44. Given this, it is important that relevant Government departments are consulted and give approval before any Letter of Entrustment is issued. The time needed to conclude the consultation on each proposal will vary depending on the complexity of the subject matter.
45. The Government recognises however that the timely consideration and granting of entrustment requests, where appropriate, is important in enabling the Crown Dependencies to pursue their own interests in specified areas.
46. The Ministry of Justice will work across Whitehall, and with the Crown Dependencies, to explore how the Government can make the entrustment process more efficient and effective. The Ministry of Justice will also raise awareness and understanding of the entrustment process across Whitehall and provide clear guidance on how to handle entrustment requests from the Crown Dependencies.
47. The Government accepts the Committee's recommendation that the Ministry of Justice should produce a new 'How-To-Note' on entrustments for the Crown Dependencies and should also include this topic in its training and awareness-raising activities with other departments.

JSC 15: In line with another of our predecessors' conclusions, we strongly support the increased use of Letters of Entrustment so that Crown Dependencies can enter into their own international agreements and further develop their international personalities.

In particular, we recommend the extension of general entrustments to other types of international agreements. We understand that there are legal complexities in doing so but are not persuaded that they are significant enough to act as a barrier to issuing further general entrustments, especially when there are already two in existence. (Paragraph 61)

48. The Government notes the Committee's recommendation. General entrustments are those that authorise the Crown Dependencies to negotiate and conclude multiple agreements in certain specified categories, and with specified organisations or countries. Individual entrustments are those that authorise the Crown Dependencies to negotiate and conclude a specific one-off agreement with a specified organisation or country.
49. We recognise that general entrustments can provide greater flexibility and autonomy for the Crown Dependencies to pursue their own interests on the international stage, as demonstrated by the existing general entrustments for certain tax agreements. However, we must balance this with consideration of the UK's responsibilities for the international relations of the Crown Dependencies, and for the Crown Dependencies' compliance with

those of the UK's international legal obligations that have been extended to them. We are also mindful that entrustments are a complex and sensitive matter that involve consultation and coordination with relevant Government departments, depending on the policy area, and require consideration of potential implications for the UK.

50. We will continue to consider the use of general entrustments on a case-by-case basis, taking into account the needs of the Crown Dependencies as well as the wider context and impact of each proposal. The Ministry of Justice will maintain dialogue with the Crown Dependencies on this issue as part of its engagement on entrustment matters.

Legislation

JSC 16: We are pleased to hear that the process by which Royal Assent is granted to primary legislation from Guernsey is being streamlined, similar to that which already operates for the Isle of Man, and anticipate that, once implemented, it will avoid the delay which occurs during periods when the Privy Council does not sit. We note that a similar process could readily be implemented in Jersey, but this is obviously a matter for the Government of Jersey to determine.

In the meantime, we recommend that the Ministry of Justice explores with the Government of Jersey the potential options for streamlining their process of obtaining Royal Assent.

51. The Government appreciates the Committee's acknowledgement of the successful completion of the work to streamline the process for granting Royal Assent to primary legislation from the Bailiwick of Guernsey. The new process, which took effect on 29 February 2024, means that most Bailiwick of Guernsey laws are now recommended by the Lord Chancellor to the Lieutenant Governor, rather than The King, for Royal Assent.
52. We believe that this is a positive step towards ensuring that the constitutional relationship between the UK and the Crown Dependencies is modern and efficient.
53. We respect the constitutional preferences of the Government of Jersey, which has not expressed a desire to make a similar change to its process for Royal Assent, but remain ready to engage with them on this issue should they wish to do so in the future.

JSC 17: The inclusion of a Permissive Extent Clause (PEC) in the Fisheries Bill was extremely regrettable and contrary to the constitutional relationship.

We do not agree with the Government’s assertion that it was a “legitimate act” and “soundly within the constitutional relationship”, but rather consider it to have been a serious interference in long-established constitutional principles for short-term political reasons.

We expect that the usual approach—mandated in the Ministry of Justice’s own guidance—of consultation and consent with regards to all future PECs will now prevail. (Paragraph 71)

54. The Government agrees with the Committee that the Government should consult the Crown Dependencies in advance of including a PEC in any legislation that may affect them.
55. The inclusion of a PEC in UK legislation does not constitute legislating for the Crown Dependencies as the mere fact of a PEC’s inclusion does not have a material effect in the Crown Dependencies. A PEC is a mechanism that enables UK provisions to be extended to the Crown Dependencies in the future if either a Crown Dependency or, in exceptional circumstances, the UK thinks it necessary.
56. Where a bill covers areas wholly within the Crown Dependencies’ domestic responsibilities, a PEC would not be included in the bill without the Crown Dependencies’ agreement, save in exceptional circumstances. However, in circumstances where a bill engages the UK’s constitutional responsibilities for the Crown Dependencies, including their defence and international relations, or in circumstances where the Crown Dependencies may need to participate in UK-regulated activities, the inclusion of a PEC in a bill where the UK deems a PEC to be necessary does not require the Crown Dependencies’ agreement.
57. The Government has a responsibility to make sure it can fulfil its international obligations, which may require the ability to extend UK legislation to the Crown Dependencies in future, such as, though not exclusively, in the event of an emerging international crisis where the UK feels it may be more expedient to adopt a unified approach across the UK and the Crown Dependencies, subject to consultation with the Crown Dependencies at the time.
58. In the case of the Fisheries Act 2020, the then Government decided that a PEC was required to provide an effective mechanism to ensure the Crown Dependencies comply with the international obligations binding on them and on the UK. Any breach of international fisheries obligations could have serious consequences for both the UK and the Crown Dependencies’ fishing industries. We therefore do not agree that the inclusion of a PEC in the Fisheries Act 2020 was contrary to the constitutional relationship.

59. The UK has not activated a PEC without a Crown Dependency’s consent in over 57 years. It did so in 1967 on the grounds of the UK’s responsibility for the international affairs of the Crown Dependency in question, the Isle of Man. It is also worth noting, as the Crown Dependencies themselves acknowledge, that they do not always share the same view in relation to a particular PEC and may take different positions.
60. We are mindful that the currently published versions of the Ministry of Justice ‘Factsheet’ document, which is intended as an introductory overview of the relationship between the UK and the Crown Dependencies, and the ‘How-to-Note’ guidance on the extension of UK legislation to the Crown Dependencies document, do not fully address all the circumstances in which a PEC can be sought in a bill, in particular where a PEC pertains to matters that are not wholly within the Crown Dependencies’ own domestic responsibilities. We will therefore review and expand these documents to clarify the position, and we will also take the opportunity to emphasise to Whitehall departments the need to consult the Crown Dependencies when departments are considering the inclusion of a PEC in a bill.

JSC 18: We note the concerns raised in the evidence about the extent of the Home Office’s consultation with the Government of Guernsey on the Illegal Migration Bill.

The Ministry of Justice’s Crown Dependency team should initiate a dialogue as soon as possible between the relevant officials in the Home Office and the Government of Guernsey so that concerns can be discussed and addressed for the future.

The Ministry of Justice should review its guidance on the extension of UK legislation to the Crown Dependencies with a view to ensuring that sufficient emphasis is placed on the need for ongoing consultation—or, as the Minister said, to “remain in touch”—throughout the passage of a bill and as new versions and draft clauses are published. (Paragraph 74)

61. The Government agrees with the Committee on the importance of ongoing consultation when the UK is making legislation which affects the Crown Dependencies.
62. When bills are complex and fast-moving, however, the legislative timetable may not always allow for engagement as early or as frequently as the Government would wish. In the case of the Illegal Migration Act 2023, engagement did not happen as early as would have been preferred, but there was engagement with all of the Crown Dependencies through regular meetings, emails and sharing of draft clauses at the earliest opportunity.

63. The Ministry of Justice will emphasise the need for departments to keep the Crown Dependencies informed of developments as a bill progresses through Parliament in its updated “How-To-Note” guidance on the extension of UK legislation to the Crown Dependencies.

JSC 19. We also recommend that the Parliamentary Business and Legislation Cabinet Committee and its Chair, the Leader of the House, should include, as part of its regular scrutiny of bills before their introduction to Parliament, consideration of the extent to which UK legislation would impact the Crown Dependencies, as is already done in relation to the Devolved Administrations. (Paragraph 75)

64. The Government notes the Committee’s recommendation and recognises the importance of early engagement with the Crown Dependencies on any planned legislation.
65. The Parliamentary Business and Legislation Committee scrutinises all legislation before it is introduced into Parliament. Chapter 16 of the Cabinet Office Guide to Making Legislation states that departments must consider whether a bill has any implications for the Crown Dependencies. This will include any proposals for all or part of the bill to extend, or be capable of extension at a future date, to the Crown Dependencies and proposals to include in the bill amendments of existing UK Acts of Parliament that extend, or are capable of extension, to the Crown Dependencies.
66. All Government departments are expected to consult the Crown Dependencies at an early stage if the content of a proposed bill appears relevant to them, and before any mention of them is made in a published bill. Where a bill or part of a bill extends to the Crown Dependencies, this is set out in the bill and in the Explanatory Notes.
67. The Ministry of Justice will emphasise the importance of adhering to the Cabinet Office Guide to Making Legislation as part of its approach to educating civil servants across Government departments about the constitutional relationship between the UK and the Crown Dependencies.

The future of the relationship

JSC 20: Further consideration by us of the economic aspects of the relationship is beyond the remit of our inquiry and the Committee. However, we wish to emphasise that the UK’s taking responsibility for its own international trade policy affords a real and very significant opportunity to make the most of the economic relationship with the Crown Dependencies. They are valuable members of the British family and their important cultural and economic contributions deserve greater recognition.

We recommend that the Department for Business and Trade formally assesses their contribution to the UK's offer in trade negotiations and how their economic role can be better and more strategically promoted to potential trading partners, including the possibility of including them in the strategic approaches to free trade agreements that it publishes. (Paragraph 77).

68. The Department for Business and Trade consistently seeks improvements in products associated with trade negotiations. There are currently data limitations which make a clear assessment of the impact on Crown Dependencies unviable. The Department will consider whether publishing additional information on the Crown Dependencies in its strategic approaches to free trade agreements will support the delivery of trade negotiation objectives.