

Options in Law Revision

LAW REVISION IN THE CARIBBEAN

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There are 18 Commonwealth Territories in or near the Caribbean of which twelve have been independent for varying periods since 1962, and six are United Kingdom Dependencies. A note of the existing text of the legislation of each Territory is set out in the Appendix at the end of this paper.

2. In six of these Territories comparatively recent Revised Editions of Laws have been published in loose leaf form which can be updated by the incorporation of loose leaf supplements. The present position in each case is as follows -

	Year of Publication	Year to which Law was revised	Year to which Law has been updated
Barbados(a)	1975	1971	1978
Belize(b)	1985	1980	1980
Bermuda	1972	1971	annually(c)
Guyana	1973	1970	1976
Jamaica	1975	1973	annually(c)
Trinidad & Tobago	1981	1977	1980

(a) Statutes only. See Appendix for Revised Edition of Subsidiary Legislation

(b) Statutes only

(c) Where the updating is carried out annually it takes about 18 months for the supplementary loose leaf sheets to be prepared and printed before they can be incorporated in the Revised Edition.

3. In the Cayman Islands a continuous system of Law Revision, unique in the region, has been adopted since 1975. About 70 of the existing laws have been revised, consolidated and republished in loose leaf form in this period. All new laws are published in this form and together with the revised laws are held in loose leaf binders specially produced for this purpose. Bound annual volumes of laws are not published.

4. In the Turks & Caicos Islands the last Revised Edition of Laws was published in bound volume form in 1970.

5. In the remaining ten Territories, periods varying from 24 years in the case of Montserrat and up to 60 years in the case of St. Vincent have elapsed since the date of their last Revised Edition of Laws.

6. No Revised Edition of the Subsidiary Legislation of St. Vincent and the Grenadines has ever been published. The different methods of publishing Revised Editions of the Subsidiary Legislation in other Territories have taken the following forms -

- (1) Separate Revised Editions in bound volume form - in The Bahamas and Belize.
- (2) Separate Revised Editions in loose leaf form - in Barbados and Jamaica.
- (3) By incorporating Subsidiary Legislation, in loose leaf form, immediately after the Statute under which it was made, in the loose leaf Revised Edition of Laws - in Bermuda, Guyana, Trinidad and Tobago and the Cayman Islands.
- (4) Separate bound volumes of Subsidiary Legislation published as a part of the set of the last Revised Edition of Laws in bound volume form - in each of the remaining nine Territories.

7. In all Territories, except the seven in which a comparatively recent Revised Edition of Laws in loose leaf form has been published, it is becoming increasingly difficult to ascertain the law with certainty and despatch. In each of these 11 Territories the need for the publication of a new Revised Edition of Laws is becoming increasingly urgent.

8. In the report on the Legal Resource Needs in Small States (in respect of Bermuda and the Caribbean) by Professor Keith Patchett, to the Commonwealth Secretariat, in 1980, he stressed the need then for new Revised Editions of Laws in these territories. Professor Patchett had served, some 12 years ago, as the first Dean of the Law Faculty of the University of the West Indies in Barbados. He was very well aware of the situation in these Territories as a study of his detailed and lucid report shows. It is regrettable that so little progress has been made in this field since 1980.

9. This situation has been alleviated to a limited extent by the publication of updated consolidated and cumulative indexes of the Statutes and Subsidiary Legislation of each of these 18 Territories at regular intervals, under the West Indian Legislation Indexing Project. This is a project undertaken by the Law Library at the Faculty of Law, of the University of the West Indies in Barbados, with the assistance of the British Development Division in the Caribbean.

10. In the past, until about 1960, it was the practice in all such overseas territories for a revised edition of laws to be published at reasonably frequent intervals. In those days there were not as many laws and the cost of printing was within the financial capacity of each Territory. Today, there are a considerably greater number of laws and the cost of printing has increased enormously. From the latest estimates I have seen the cost in England of producing 250 sets of a revised edition of laws consisting of 9 volumes will amount to about £180,000. By the sacrifice of some degree of quality and stringent economies this figure could perhaps be reduced by up to 25% but even this is beyond the available resources of many small territories. From time to time, however, funds for printing may become available and it may be helpful to see what may be learned from the more recent law revision exercises that have been carried out in the region.

11. In most of the Territories now in urgent need of a new Revised Edition of Laws there are a number of laws which are archaic in both form and content. There is a need in each Territory for an overall exercise in Law Reform to ensure that when a new Revised Edition of Laws is produced it will contain more laws that are in keeping with present day requirements

than is the case at present. Technical assistance for this purpose is available from the Aid Agencies at present and the cost of the comparatively limited amount of printing concerned is not beyond the resources of most territories. If a new Revised Edition of Laws is produced in loose leaf form this exercise can be carried out over a longer period, both before and after the new edition is produced. If however the new Revised Edition is to be produced in bound volume form, as many as possible of the measures of law reform should be enacted beforehand. If enacted afterwards the new edition will quickly become out of date and much of the expense of production will have been wasted. This is one of the considerations to be taken into account when deciding whether the new editions should be in 'loose leaf' or 'bound volume' form.

12. The Revised Editions of Laws at present in force in the eleven territories now in need of a new Law Revision exercise are in bound volume form, on traditional lines. Statutes in the Revised Edition are printed according to their subject matter, in one of about 30 different sections called "Titles", bearing their subject matter heading, in a numerical series, from "Title No. 30". Statutes allocated according to their subject matter, to their appropriate "Title", are called "Chapters". Each Chapter is given a Chapter number in one continuous numerical series, running throughout the revised edition, from "Chapter No.1" to the last Chapter in the edition. The pagination in these revised editions was either on a "volume basis", in each volume of the edition, or in some cases, on an "edition basis" i.e. continuous throughout each volume to the last one in the set.

13. In revised editions in loose leaf form the pagination is neither on a "per volume basis" nor an "edition basis", but on a "per statute" basis, i.e. the first page of each statute is paginated "page 1".

14. The classification of statutes and the order in which they have been printed in the six editions published in the region in loose leaf form is not uniform and differs between territories as follows

- (a) In Barbados and Belize the traditional method has been followed. Statutes are allocated to one of about 30 different "Titles" according to their subject matter, and are enumerated as Chapters in one continuous numerical series from "Chapter No. 1" through to the last Chapter in the edition. In each territory "Chapter Numbers" under some Titles have been reserved for allocation at a later date to statutes on the same subject matter that have not yet been enacted.
- (b) In Bermuda statutes are allocated to one of about 30 different "Titles" according to their subject matter. Under each Title, statutes are not however called "Chapters" but "Items". Each statute is allocated an "Item number" in a separate numerical series under each Title, each beginning with "Item No. 1". Subsidiary Legislation under each Title is identified by bearing the Title number, and the Item number and also an alphabetical series affix e.g. "Title 1. Item 1(a)".
- (c) In Guyana and Trinidad & Tobago the use of the name "Title" has been discontinued. Statutes are placed under general subject matter headings which are not numbered. In Guyana there are 33 and in Trinidad there are 35 different, unnumbered, subject matter headings. The statutes under each subject matter heading are listed under one Chapter or the several Chapters into which each subject matter is divided. These Chapters are numbered but are not named. The numeration of Chapters is on an edition basis - in Guyana from "No. 1 - to - No. 99", and in Trinidad from "No. 1 - to - No. 90". Each statute is assigned a number within its Chapter in a numerical series starting

from "No :01" in each Chapter e.g.: "Chapter 1:15". Several "Chapter numbers" under different subject matter headings and several "Statute numbers" under different "Chapter Numbers" have been reserved for allocation later to statutes not yet enacted.

- (d) In Jamaica the use of the terms "Titles" and "Chapters" has been discontinued. All statutes in the Revised Edition are placed in alphabetical order, according to their short titles, irrespective of their subject matter. They are printed without identifying numbers and do not bear their year of enactment in their short title.

15. From this it can be seen that several different methods of classification, numeration and the layout of Statutes and Subsidiary Legislation have been used in the printing of revised editions of laws in loose leaf form in the region. An examination of each of these methods by the next territory that produces a Revised Edition in loose leaf form should enable it to decide which is most suited to its own requirements.

16. When funds are found for the production of a new revised edition of laws in territories where it is now so urgently required, a decision will have to be made whether it is to take the form of a 'bound volume' or 'loose leaf' edition. Some of the considerations to be taken into account when this choice is made are as follows:

- (a) Costs: When estimates of the original costs of each form of production are obtained, it is doubtful, in view of the total costs involved, if the differentials will be an overriding consideration. In one territory one consideration taken in favour of a "loose leaf" edition was that the production of annual volumes of statutes and subsidiary legislation could be dispensed with in future, thereby effecting a considerable saving in costs. This was a fallacy and was later admitted to be a mistake by one of the officers concerned. Annual volumes of laws are still required whichever form of production is decided upon.

Whilst the original costs of a loose leaf edition may be marginally higher than those of a bound volume edition, they do save the enormous cost of a total replacement of a bound volume edition, when some years, later, a new revised edition is required. Against this however, the lower but repeated costs, either annually or periodically, over the years of updating a loose leaf edition by supplementary pages, must also be taken into account.

- (b) Size of Volumes: Any volume of more than 500 pages tends to become inconveniently large to handle as a reference book. Larger volumes are liable to become damaged more frequently in the course of usage. There is a tendency for loose leaf volumes to be much more bulky, and so more difficult to handle, than bound volumes of the same number of pages.
- (c) Supplements: It invariably takes about 18 months or more for the preparation, printing and publication of sets of supplementary pages to update a loose leaf revised edition. The expense concerned and the unexpected delays in production that occur and the staff required for the work are all invariably underestimated.
- (d) Ease of Reference etc. A loose leaf edition of laws will always be at least 18 months out of date, owing to the minimum time

taken to prepare, print and insert the supplementary updating pages. It is not always easy to be sure of the date to which a particular statute in a loose leaf edition has in fact been updated. When, as not infrequently is the case, it is desired to ascertain the law in respect of facts that occurred some time prior to the date to which the relevant laws in a loose leaf edition have been updated, it is not possible to do so without reference to a number of other texts.

- (e) Law Reform: Where, over a period of time, measures of law reform are enacted it is much easier to incorporate these into the body of Statute Law in a Revised Edition in loose leaf form, than it is in a bound volume edition. It is not so necessary therefore for measures of law reform to be enacted before undertaking a law revision in loose leaf form, than one in bound volume form.

17. These are some of the considerations to be taken into account when a choice is made between a "loose leaf" and a "bound volume" revised edition of laws. Whilst my own preference leans in favour of bound volumes there are very cogent reasons why, in the particular circumstances of the Territories concerned, the loose leaf form may perhaps be better suited to their present needs.

18. It is in the smaller, less developed territories in the region that new Revised Editions of Laws are most urgently needed. Many of their laws have been amended so many times over the years that even with access to a complete set of these laws it is becoming difficult to ascertain exactly what the law is on certain subjects. This position is aggravated by so many of the older annual volumes of laws being out of print and copies of them no longer being obtainable or easy to locate. In some territories complete sets of the laws are not held by the Courts of Justice. In two of them, they are not even held in the Chambers of their Attorney General or by the Legislature. I personally became aware of this when I needed to gain access to complete sets of laws for the purpose of compiling consolidated indexes of their Statutes and Subsidiary Legislation.

19. In larger territories a substantial part of the costs of printing a new Revised Edition of Laws can be recovered by sales to local legal practitioners, banks, and commercial houses, and to public institutions such as Law Libraries, both within the region and overseas. This is not the case in smaller territories where practically the entire cost of production must be found by the local Government. The Governments of most small territories do not have the resources either of personnel or finance to match these needs unaided.

20. If the present position in these territories is allowed to deteriorate it will eventually imperil the maintenance of the rule of law, and there will be the danger of a breakdown in the proper administration of justice. Sooner or later, it will be necessary for outside Aid Agencies to assist those territories to produce new Revised Editions of their laws so that once again it will be possible to ascertain the law with a greater degree of certainty and despatch than is presently the case.

**The Legislation of Commonwealth Territories
in and near the Caribbean**

ANGUILLA
(Dependent)

- (1) Laws up to 4th August 1971
 - (a) 1961 Revised Edition of Laws of St. Christopher, Nevis & Anguilla (8 Vols.)(Bound)
 - (b) Annual Volumes of Laws of St. Kitts etc. 1962-1971
- (2) Laws after 4th August 1971
 - (a) Annual Volumes of Laws of Anguilla 1971-1981
 - (b) Cyclostyled Gazette Supplements 1982 onwards.

ANTIGUA & BARBUDA
(Independent 1981)

- (1) 1971 Revised Edition of Laws of Antigua (8 Vols)(Bound)
- (2) Annual Volumes of Laws 1962 onwards

BAHAMAS
(Independent 1973)

- (1) 1965 Revised Edition of Statutes (7 Vols)(Bound)
- (2) Annual Volumes of Laws 1966 onwards
- (3) 1965 Revised Edition of Subsidiary Legislation (3 Vols)(Bound)
- (4) Unbound copies of Statutory Instruments issued as Supplements with the Gazette

BARBADOS
(Independent 1966)

- (1) 1971 Revised Edition of Statutes (7 Vols)(Loose leaf)(updated to 31.12.1978)
- (2) Annual Volumes of Statutes 1979 onwards
- (3) 1983 Revised Edition of a substantial part of existing Subsidiary Legislation (to 31.12.1978) (3 Vols)(Loose leaf)
- (4) Annual Volumes of Subsidiary Legislation 1979 onwards

BELIZE
(Independent 1981)

- (1) 1980 Edition of Statutes (6 Vols)(Loose leaf)
- (2) Annual Volumes of Statutes 1981 onwards

- (3) 1962 Revised Edition of Subsidiary Legislation (4 Vols)(Bound)
- (4) Annual Volumes of Subsidiary Legislation 1963 onwards

BERMUDA
(Dependency)

- (1) 1971 Revised Edition of Public Acts and Subsidiary Legislation (7 Vols)(Loose leaf)(updated annually by loose leaf supplements)
- (2) Annual Volumes of Public Acts
- (3) Annual series of Gazettes (unbound) containing Subsidiary Legislation

BRITISH VIRGIN ISLANDS
(Dependency)

- (1) 1961 Revised Edition of Laws (7 Vols)(Bound)
- (2) Annual Volumes of Laws 1962 onwards

CAYMAN ISLANDS
(Dependency)

- (1) 1963 Revised Edition of Statutes (3 Vols.) (Bound)
- (2) From 1975 onwards all laws are being revised and replaced by individual loose leaf copies of new laws and revised laws under the Law Revision Law 1975. This process is now virtually complete
- (3) All Statutes and Subsidiary Legislation are now published in the Gazette in loose leaf form. Annual bound volumes of these laws are not published.

COMMONWEALTH OF DOMINICA
(Independent 1978)

- (1) 1961 Revised Edition of Laws (6 Vols)(Bound)
- (2) 1962-3 Supplementary Volume
- (3) Annual Volumes of Laws 1962 to date

GRENADA
(Independent 1974)

- (1) 1958 Revised Edition of Laws (6 Vols)(Bound)
- (2) Annual Volumes of Laws 1959-1979
- (3) "Peoples Laws" (1979-1983) some of which were not issued in bound volumes
- (4) Laws since 1983 issued as Gazette Supplements

GUYANA
(Independent 1966)

- (1) 1973 Revised Edition of Laws (14 Vols)(Loose leaf) updated by loose leaf supplements to 1976
- (2) Unbound copies of Statutes and Subsidiary Legislation, issued as supplements with the Gazette from 1973 onwards. No bound Volumes of Laws have been published since 1973

JAMAICA
(Independent 1962)

- (1) 1973 Revised Edition of Statutes (20 Vols) (Loose leaf) updated annually by loose leaf supplements
- (2) Annual Volumes of Statutes 1973 onwards
- (3) 1974 Revised Edition of Subsidiary Legislation (9 Vols)(Loose leaf) updated annually by loose leaf supplements
- (4) Annual Volumes of Subsidiary Legislation 1974-1978
- (5) From 1979 onwards Subsidiary Legislation published as supplements with the Gazette

MONTSERRAT
(Dependency)

- (1) 1962 Revised Edition of Laws (8 Vols)(Bound)
- (2) Annual Volumes of Laws 1962 onwards (These are incomplete and efforts are being made to print the missing volumes)

ST CHRISTOPHER &
NEVIS
(Independent 1983)

- (1) 1961 Revised Edition of Laws of St. Christopher, Nevis & Anguilla (8 Vols) (Bound)
- (2) Annual Volumes of Laws 1962-1973 (Later volumes are in process of printing)
- (3) Statutes and Subsidiary Legislation issued as supplements with the Gazette from 1974 onwards

ST LUCIA
(Independent 1979)

- (1) 1957 Revised Edition of Laws (7 Vols)(Bound)
- (2) Annual Volumes of Laws 1957 onwards

ST VINCENT &
THE GRENADINES

- (1) 1926 Revised Edition of Statutes (2 Vols)
(Bound)
- (2) Annual Volumes of Statutes 1927 onwards
- (3) Subsidiary Legislation in annual volumes 1900 etc onwards (No consolidated Edition of Subsidiary Legislation has been published)

TRINIDAD & TOBAGO
(Independent 1962)

- (1) 1980 Revised Edition of Laws (16 Vols)
(Loose leaf) updated by Supplements to
31 Dec. 1980 (still in process
of completion)
- (2) Annual Volumes of Laws 1977 onwards

TURKS & CAICOS
ISLANDS

- (1) 1969 Revised Edition of Laws (3 Vols)(Bound)
- (2) Annual Supplementary Volumes to 1979
- (3) Cyclostyled copies of Statutes and Subsidiary Legislation
published in or with the Gazette 1980 onwards

NOTES

1. General: These particulars are given in general outline and not in detailed form. Where Annual Volumes are printed it must be remembered that these are not always published at the end of each year, but, at times, several years (in some cases up to 20 years) later. In the meantime the unbound loose leaf copies of Statutes and Subsidiary Legislation issued as Gazette supplements must be retained and used for reference.
2. "Laws": This term includes both Statutes and Subsidiary Legislation unless otherwise stated.
3. "Gazettes": These, with their supplements, are published in printed form, except in the cases of British Virgin Islands, Anguilla and Turks & Caicos, where, in the absence of Official Government Printers they are published in Cyclostyled sheets.
4. The year by which a Revised Edition is known in a territory is usually the year to which the laws it contained have been updated. In some cases however it is the year of publication of the Revised Edition.