

Note: This letter by FB was written in response to a letter by Alec Samuels commenting on an earlier article in the New Law Journal (1981.003) written by FB. The full article and subsequent correspondence are included in 1981.003

The Jamaica Schedule

Dear Madam,

I am most grateful to Alec Samuels for his comments (May 14) on my article of April 2. The passages in which I advocated use of the Jamaica Schedule were closely-reasoned, and perhaps not easy to follow. Since I am anxious there should be no misunderstanding of a proposal that would be of great utility to statute users, I will try to answer Mr Samuels's points as briefly as is possible in a letter.

Mr Samuels says that while textual amendment of the principal Act so as to insert commencement dates has advantages, 'The clutter of commencement dates written into every section would become rather unpleasing and unnecessary'. So it would, but that was no part of my proposal. The Jamaica Schedule forms an entirely separate historical file, updated as necessary by textual amendment. It leaves the sections of the Act uncluttered, and need be referred to only where necessary.

The advantages of the Jamaica Schedule are as follows.

1. All the commencement dates of an Act (including commencement dates of any amendments to the Act) are in one place separate from the substantive provisions.
2. All the transitional provisions (of the Act and amendments) are in one place, namely the same place as the commencement provisions.
3. Where any sections of the Act are repealed, the repeal dates can also be inserted by textual amendment into the Jamaica Schedule.
4. The commencement, transitional and repeal provisions are always up-to-date. They are part of the Act, so they are authoritative and one does not have to search elsewhere for them.
5. The Jamaica Schedule goes into detail, and can be more illuminating than a simple commencement date.

The last point is important to those who desire clarity. Merely to say that a provision comes into force on a certain date does not always make clear exactly what activities are governed by it. Litigation may then be necessary. There are many examples of this in the reports. Here is just one. Section 1 of the Defective Premises Act 1972 came into force on 1 January 1974. It imposes certain obligations on 'a person taking on work for or in connection with the provision of a dwelling'. In *Alexander v Mercouris* [1979] 3 All ER 305 the Court of Appeal was called on to decide whether these obligations applied where a building contract was made before the commencement date but the work was not completed until after it. With a Jamaica Schedule, the litigation would have been unnecessary. The Schedule would have said: 'Section 1 applies to work taken on after December 31, 1973'.

Mr Samuels discusses the computer aspect. He seems to think that here the Jamaica Schedule has no advantage over a cumulative statement in the latest commencement order. This overlooks the following factors:

1. Such a statement is not authoritative. It is expressed not to form part of the order.
2. It is not complete, because it does not include parts of the Act not brought into force by order. Nor does it include transitional or repeal provisions.

3. It needs to be asked for. Mr Samuels talks of 'the touch of a button', but as computer users will confirm the operation is not that easy. The updated Jamaica Schedule is part of the Act and can be accessed by bringing up the Act.

4. Searching for and inspecting cumulative statements takes more on-line computer time and is therefore more expensive. Operational cost is a vital factor delaying the availability of computer search and retrieval facilities to the ordinary practitioner.

I hope I have said enough to show that the Jamaica Schedule offers concrete advantages to the profession. If it were not so I would not waste people's time proposing it.

Yours faithfully,

FRANCIS BENNION

Hove