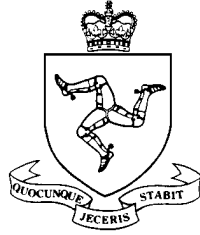


LEGISLATIVE COUNCIL
Y Choonceil Slattyssagh



ORDER PAPER
Claare Obbyr

Douglas
Tuesday 1st March 2011
at 10.30 am

PUBLIC SITTING

1. Children and Young Persons (Amendment) Bill 2010

For third reading.

- Mr Butt

Amendments made by the Keys are attached.

2. Anti-Terrorism and Crime (Amendment) Bill 2010

For second reading

- Mr Crowe

Amendments made by the Keys are attached.

3. Social Services Bill 2010

For third reading.

- Mr Butt

Amendments made by the Keys are attached.

4. Housing (Miscellaneous Provisions) Bill 2010

For second reading

- Mr Crowe

Amendments made by the Keys are attached

5. Broadway Baptist Church Bill 2011

For first reading

- Mr Braidwood

6. Debt Recovery and Enforcement Bill 2010

For first reading

- Mr Turner

Amendments made by the Keys are attached

7. European Union (Amendment) Bill 2010

For first reading

- Attorney General

8. Road Races (Amendment) Bill 2010

For first reading

- Mr Callister

JONATHAN KING
Clerk of the Legislative Council
Cleragh y Choonceil Slattysagh

IN THE COUNCIL

CHILDREN AND YOUNG PERSONS (AMENDMENT) BILL 2010

AMENDMENTS MADE BY THE KEYS

Clause 5

Page 8: For the marginal note to clause 5 substitute “Consequential and minor amendments to Children and Young Persons Act 2001.”.

New Clause

Page 9: line 6 at the end add the following new Clause –

“6 Consequential amendment of the Child Custody Act 1987
In section 20(1)(a) of the Child Custody Act 1987¹ (orders under the Children and Young Persons Act 2001 that are custody orders for the purposes of Part 1) after “section 11” insert “or 17A”.”.

¹ c.11.

IN THE COUNCIL

ANTI-TERRORISM AND CRIME (AMENDMENT) BILL 2010

AMENDMENTS MADE BY THE KEYS

Clauses 25 and 26

Page 58, line 22, for Clauses 25 and 26 substitute –

“Sections 50 and 51 substituted and section 51A inserted

25. For sections 50 and 51 substitute –

“Freezing orders: general

50. (1) A freezing order is an order which prohibits persons from making funds available to or for the benefit of a person or persons specified in the order.

(2) The order must provide that these are the persons who are prohibited–

(a) all persons in the Island, and

(b) all persons elsewhere who are either–

(i) ordinarily resident in the Island, or

(ii) are bodies incorporated under the law of the Island.

(3) The order may specify the following (and only the following) as the person or persons to whom or for whose benefit funds are not to be made available–

(a) the person or persons the Treasury reasonably believes to have taken or to be likely to take the action referred to in section 51;

(b) any person the Treasury reasonably believes has provided or is likely to provide assistance (directly or indirectly) to that person or any of those persons;

(c) such person or persons as the authority making the request under section 51(4) specifies that the freezing order to be made in response to that request shall apply to.

(4) A person may be specified under subsection (3) by–

(a) being named in the order, or

(b) falling within a description of persons set out in the order.

(5) The description must be such that a reasonable person would know whether he fell within it.

(6) Funds means financial assets and benefits of every kind, including (but not limited to) –

(a) cash, cheques, claims on money, drafts, money orders and other payment instruments;

(b) deposits, balances on accounts, debts and debt obligations;

(c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;

(d) interest, dividends or other income on or value accruing from or generated by assets;

(e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;

(f) letters of credit, bills of lading, bills of sale;

(g) documents providing evidence of an interest in funds or financial resources;

(h) any other instrument of export finance.

(7) A freezing order may be made in respect of funds regardless of whether they are owned or held by more than one person.

Power to make final freezing orders

51. (1) The Treasury may make a freezing order (to be known in this Part as a “final freezing order”) if—

- (a) both of the conditions in subsections (2) and (3) are satisfied; or
- (b) the condition in subsection (4) is satisfied.

(2) The condition is that the Treasury reasonably believes that—

(a) action to the detriment of the economy (or part of the economy) of the Island or of any country or territory outside the Island; or

(b) action constituting a threat to the life or property of a resident of the Island or a resident of a country or territory outside the Island, has been, or is likely to be, taken by a person or persons.

(3) The condition is that the person (or if more than one, all of them) is—

(a) the government of a country or territory outside the Island; or

(b) a resident of the Island or a resident of a country or territory outside the Island.

(4) The condition is that the Treasury—

(a) has received a request to make a freezing order from an authority outside the Island which appears to the Treasury to have the function of making requests to freeze funds; and

(b) considers it appropriate in the circumstances to make the order.

Power to make interim freezing orders

51A. (1) The Treasury may make a freezing order (to be known in this Part as an “interim freezing order”) if –

(a) the Treasury reasonably suspects that—

(i) action to the detriment of the economy (or part of the economy) of the Island or of any country or territory outside the Island; or

(ii) action constituting a threat to the life or property of a resident of the Island or a resident of a country or territory outside the Island, has been, or is likely to be, taken by a person or persons; and

(b) the condition set out in section 51(3) is satisfied.

(2) The Treasury may not make more than one interim freezing order concerning the same person in relation to the same, or substantially the same, evidence.

26. Section 52 amended

For section 52(1) substitute –

“(1) An interim freezing order ceases to have effect –

(a) at the end of the period of 30 days starting with the date on which it was made, or

(b) on the making of a final freezing order concerning the same person, whichever is the earlier.

(1A) A final freezing order ceases to have effect at the end of a period of 1 year starting with the date on which it was made.”.

Clause 57

1. Page 86, marginal note to clause 57, delete “minor”.

2. line 25, insert -

“(1A) In section 3, after the definition of “financial restrictions proceedings” insert -
“ “interim direction” means a direction given under section 4A;”.

(1B) After section 4 insert -

“Conditions for giving interim direction by Treasury

4A. (1) The Treasury may give an interim direction to a person mentioned in paragraph 1 of the Schedule if either of the following conditions is met in relation to a country.

(2) The first condition is that the Treasury reasonably suspects that there is a risk that terrorist financing or money laundering activities are being carried on-

- (a) in the country;
- (b) by the government of the country; or
- (c) by persons resident or incorporated in the country,

and that this poses a significant risk to the national interests of the Island.

(3) The second condition is that the Treasury reasonably suspects that-

- (a) the development or production of nuclear, radiological, biological or chemical weapons in the country; or
- (b) the doing in the country of anything that facilitates the development or production of any such weapons,

poses a significant risk to the national interests of the Island.

(4) The Treasury may not give more than one interim direction to the same person in relation to the same, or substantially the same, evidence.

(5) The Schedule has effect in relation to interim directions as it has effect in relation to directions save that in paragraph 9(3) the reference to “one year” is to be read as referring to “30 days”.

(1C) After section 10 insert -

“Civil penalty: relevant person circumventing direction requirements

10A. (1) The enforcement authority may impose a penalty of such amount as it considers appropriate on a relevant person who has intentionally participated in activities knowing that the object or effect of them was (whether directly or indirectly) to circumvent a requirement of a direction imposed under Part 2 of the Schedule.

(2) In subsection (1) “appropriate” means effective, proportionate and dissuasive.

(3) A person on whom a penalty is imposed under this section is not liable to be proceeded against for an offence under section 13A in respect of participation in the same activities.”.

(1D) After section 13 insert -

“Offences: relevant person circumventing direction requirements

13A. (1) A relevant person who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent a requirement of a direction imposed under Part 2 of the Schedule commits an offence.

(2) A person guilty of an offence under this paragraph is liable –

(a) on summary conviction, to a fine not exceeding £5,000;

(b) on conviction on indictment, to custody for a term not exceeding 2 years or a fine or both.

(3) A person who is convicted of an offence under this section is not liable to a penalty under section 10A in respect of participation in the same activities.”.

3. Page 86, line 33, insert –

“(3A) In section 23 –

(a) for subsections (3) and (4) substitute –

“(3) On such an application the High Court may make such order as it considers appropriate.”;

(b) in subsection (5) delete “Without limiting the generality of subsection (4),”.

4. Page 88, line 16, insert –

“(4A) In paragraph 3 of the Schedule –

(a) in sub-paragraph (1), after paragraph (c), insert –

“or

(d) a body corporate that is a subsidiary of a body corporate within paragraph (a) or (c)”;

(b) after sub-paragraph (5) add –

“(6) In this paragraph “subsidiary” means a body corporate (whether or not incorporate under the Companies Acts 1931 to 2004) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the Companies Act 1974 shall apply with the necessary modifications.”.

IN THE COUNCIL
SOCIAL SERVICES BILL 2010
AMENDMENTS MADE BY THE KEYS

Schedule 2

1. Before paragraph 1 insert –

“A1 If a person is ordinarily resident in the Island before section 6 comes into operation that section shall have effect in relation to that person as if for subsection (1)(b) there were substituted –

“(b) is ordinarily resident in the Island: or”.”.

2. Page 19, section 31 and page 25, in Schedule 2, for paragraph 4 substitute –

“4.(1) An Endowment Committee constituted in accordance with the Third Schedule to the 1951 Act shall be treated as continuing in existence despite the repeal of that Schedule –

(a) until it has filed a statement under section 2 of the Charities Registration Act 1989 [c.11]; or

(b) for the period of one year from the commencement of Schedule 4 of this Act,

whichever is the earlier.

(2) If an Endowment Committee has not filed a statement as mentioned in sub-paragraph (1)(a) within the period mentioned in sub-paragraph (1)(b) –

(a) it shall be treated as being dissolved; and

(b) its funds shall vest in the Department and shall be held on trust for purposes relating to social care services or carer support.

(3) If an Endowment Committee has filed a statement as mentioned in sub-paragraph (1)(a) within the period mentioned in sub-paragraph (1)(b), the Third Schedule to the 1951 Act shall continue to have effect as an instrument establishing or regulating that Committee, and may be varied or revoked by the High Court in the exercise of any of its powers under the Charities Act 1962 [XIX p.632] or of its inherent jurisdiction relating to charities.

(4) However, the Department may, at any time within the period mentioned in sub-paragraph (1)(b), make a scheme in relation to an Endowment Committee as if it were a social services trust within the meaning of Schedule 1.”.

IN THE COUNCIL

HOUSING (MISCELLANEOUS PROVISIONS) BILL 2010

AMENDMENTS MADE BY THE KEYS

On page 4, for lines 35 to 39 substitute –

“(2) Until the coming into operation of the first scheme under this section the Historic Buildings Conservation Scheme 2011 and (insofar as it continues to have effect) the Historic Buildings Conservation Scheme 2005 have effect as if each were such a scheme, but not so as to make any person guilty of an offence in respect of anything done or omitted to be done before the coming into operation of this section.”.

On page 24, in line 31 for “section 32(1)” substitute “section 32(2)”.

On page 44, in Schedule 2, paragraph 2(2)(b) for “paragraph 4” substitute “paragraph 5”.

IN THE COUNCIL
DEBT RECOVERY AND ENFORCEMENT BILL 2010
AMENDMENTS MADE BY THE KEYS

Page 2, line 14, for clause 4(2) and (3), substitute -

“(2) However, no licence is required if the person —

(a) is acting in the normal course of business as either a Coroner or lockman,
or as an advocate; or

(b) is the creditor or an employee or relative of the creditor.

(3) In this section -

“employee”, in the case of a body corporate, includes an officer or member of
the body corporate;

“relative” means husband, wife, civil partner, brother, sister, ancestor or lineal
descendant.”.

Page 3, line 25, clause 7(2), for “may”, in both places where it occurs, substitute
“must”.

Page 3, line 32, clause 7(3), for the first “may” substitute “must”.

Page 4, line 9, clause 9(1), for “may” substitute “must”.

Page 7, line 18, clause 14(2), for “may” substitute “must”.