



LEGISLATIVE COUNCIL
Y Chooneil Slattyssagh

VOTES AND PROCEEDINGS
Reaghyssyn as daaltyn

DOUGLAS
TUESDAY 8TH APRIL 2008
at 10.30 am

PRESENT: The Honourable President of the Council, HM Attorney General, Mr Butt, Mrs Christian, Mr Crowe, Mr Downie, Mr Lowey, Mr Turner and Mr Waft with the Clerk of the Council.

1. Questions

Questions 1 and 2 were answered orally.

2. Constitution (Amendment) Bill

Motion made –

That the Council do agree with the Keys' amendments and that the Bill do pass.

– Mr Turner

Motion carried.

3. Agricultural (Miscellaneous Provisions) Bill

Motion made –

That the Council do agree with the Keys' amendments and that the Bill do pass.

– Mr Butt

Motion carried.

4. Financial Services Bill

- Motion made – that Clause 1 and Schedule 1 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clause 2 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clause 3 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clause 4 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clauses 5, 6, 7, 8 and 9 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clauses 10 and 11 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clauses 12, 13 and 14 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clause 15 and Schedule 2 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clauses 16 and 17 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clause 18, Schedule 3 and Clause 19 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clauses 20, 21, 22 and 23 do stand part of the Bill.
– Mr Downie
- Motion carried.
- Motion made – that Clause 24 and Schedule 4 do stand part of the Bill.
– Mr Downie
- Motion carried.

Motion made – that Clause 25, 26, 27 and 28 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Clause 29 do stand part of the Bill.
– Mr Downie

Amendment moved –
Page 23, line 7

For “section 4(1)” substitute “section 4(1)(a)”.
– Mr Crowe

Amendment carried.

Clause 29 as amended carried.

Motion carried.

Motion made – that Clause 30, Clause 31 and Schedule 5 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Clauses 32, 33, 34 and 35 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Clauses 36, 37, 38, 39 and 40 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Clauses 41 and 42 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Clauses 43, 44, 45, 46, 47 and 48 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Clause 49 and Schedule 6 do stand part of the Bill.
– Mr Downie

Amendments to Schedule 6 moved – see Annex.
– Mr Crowe

Amendments carried.

Clause 49 and Schedule 6 as amended carried.

Motion made – that Clause 50 and Schedule 7 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Clause 51 and Schedule 8 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Clauses 52 and 53 do stand part of the Bill.
– Mr Downie

Motion carried.

Motion made – that Standing Order 4.3(2) be suspended to the extent necessary to allow the Third Reading of the Financial Services Bill to be taken at this sitting.
– Mr Downie

Motion carried.

Motion made – that this Bill be now read a third time.

Amendment moved –

Page 24, line 9
delete “and may, if it thinks fit, make a reasonable charge for advice given under this section at any person’s request”.
– Mr Turner

Amendment withdrawn.

Amendment moved –

CLAUSE 23

Page 18, lines 16 to 32

For subsection (4) substitute –

(4) If it appears to the Commission to be desirable in the interests of the customers or potential customers of a permitted person to do so, it may also exercise the powers conferred by subsection (1) –

(a) in relation to any body corporate which is or has at any relevant time been –

(i) a holding company, subsidiary or related company of that person;

(ii) a subsidiary of a holding company of that person;

(iii) a holding company of a subsidiary of that person; or

(iv) a body corporate in the case of which a shareholder controller of that permitted person, either alone or with any associate or associates, holds 50% or more of the shares or is entitled to exercise, or control the exercise of, more than 50%, of the voting power at a general meeting; or

(b) in relation to any partnership of which that permitted person is or has at any relevant time been a member.

– Mr Attorney General

Amendment carried.

Third reading carried.

5. Collective Investment Schemes Bill

Motion made – that this Bill be now read a second time.

– Mr Downie

Motion carried.

6. Insurance Bill

Motion made – that this Bill be now read a second time.

– Mrs Christian

Motion carried.

Motion made – that Clause 1 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clause 2 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clause 3, Schedule 1 and Clause 4 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clauses 5, 6, 7, 8, 9, 10 and 11 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clauses 12 and 13 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clause 14 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clause 15 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clauses 16 and 17 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clause 18 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clauses 19 and 20 do stand part of the Bill.

– Mrs Christian

Motion carried.

Motion made – that Clause 21 and Schedule 2 do stand part of the Bill.

– Mrs Christian

Motion carried.

JONATHAN KING
Clerk of the Legislative Council
Cleragh y Choonceil Slattyssagh

FINANCIAL SERVICES BILL

Amendments made to Schedule 6

Page 62 : in paragraphs 5 and 6, for “fiduciary services”, wherever occurring, substitute “corporate services or trust services”.

Page 63 : after paragraph 9 (and after the heading “Income Tax Act 1970 (XXI p.260)”) insert –

9A. In section 11A(2)(b), for “a banking institution within the meaning of the Banking Act 1998” substitute “the holder of a licence under section 7 of the Financial Services Act 2008 in respect of deposit taking.

9B. In section 13E(1)(a), for “section 3 of the Corporate Service Providers Act 2000” substitute “section 7 of the Financial Services Act 2008 in respect of the provision of corporate services”.

and renumber the subsequent paragraphs accordingly.

Page 63 : after paragraph 10 insert –

“Advocates Act 1976 (c.27)

10A. In section 29, in the definition of “bank” for “a bank duly licensed under the Banking Act 1975” substitute “the holder of a licence under section 7 of the Financial Services Act 2008 in respect of deposit taking”.

and renumber the subsequent paragraphs accordingly.

Page 63 : for paragraph 12 substitute –

12. For section 12A(2)(b) and (c) substitute –

“(b) a deposit taking or insurance company, or

(c) a permitted person authorised to undertake investment business or to provide services to collective investment schemes under the Financial Services Act 2008.”.

Page 64 : after paragraph 16 insert –

16A. In section 28D, for “as defined in the Banking Act 1975” substitute “under the Financial Services Act 2008”,

and renumber the subsequent paragraphs accordingly.

Page 64 : for paragraph 17 substitute –

“17. For section 1(2)(c) and (d) substitute –

“(c) a licenceholder within the meaning of section 7 of the Financial Services Act 2008 whose licence permits the licenceholder to advise or procure any person in the Island to become, or offer to become, a participant in a scheme of the same class as the scheme to which the advertisement refers, or in respect of which the advice or procurement under subsection (1) is given.”.

Page 65 : after paragraph 20 insert –

“20A. In section 30(6)(e), for “section 13(1) of the Banking Act 1975” substitute “the Financial Services Act 2008”,

and renumber the subsequent paragraphs accordingly.

Page 65 : in paragraph 21, for the substituted paragraphs (a) to (c) substitute –

“(a) in the case of a trustee or manager of a scheme, a person who is the holder of a licence under the Financial Services Act 2008 which permits them to undertake that regulated activity;

(b) in any case, such other classes of permitted persons (within the meaning of the Act of 2008) as may be prescribed;”.

Page 65 : in paragraph 25(b), for “banking business under the Financial Services Act 2008” substitute “deposit taking under the Financial Services Act 2008”.

Page 66 : in paragraph 26, for “banking business” substitute “deposit taking business”.

Page 66 : in paragraph 27, delete the words “in respect of investment business, banking business or the provision of corporate services”.

Page 66 : for paragraph 28 substitute –

“28. For section 26 substitute –

“26. Exclusion of deposit taking business under the Financial Services Act 2008

The carrying out by a credit union of transactions permitted by its rules shall not be treated as deposit taking business, and accordingly a credit union shall not be treated as a deposit taking institution, for the purposes of the Financial Services Act 2008.”.

Page 66 : after paragraph 28 insert –

“28A. In section 29(1), in the definition of “authorised bank” for paragraph (a) substitute –

“(a) the holder of a licence under section 7 of the Financial Services Act 2008 in respect of deposit taking;”.

Post Office Act 1993 (c.20)

28B. In section 11(4), in the definition of “bank” for paragraph (b) substitute –

“(b) the holder of a licence under section 7 of the Financial Services Act 2008 in respect of deposit taking;”.

and renumber the subsequent paragraphs accordingly.

Page 66 : for paragraph 30 substitute –

“30. In section 7A(6)(a), for “in the Island (within the meaning of the Investment Business Act 1991)” substitute “or services to collective investment schemes in the Island (falling under the Financial Services Act 2008)”.

Page 66 : in paragraph 33(a), after “in respect of investment business” insert “or services to collective investment schemes”.

Page 66 : in paragraph 33, after subparagraph (a) insert –

“(b) in paragraph 2(3)(a), for “section 3” substitute “section 7”;”,

and renumber the subsequent sub-paragraph accordingly.

Page 67 : in paragraph 33(b), in the substituted subparagraph (5) –

(a) after “in respect of investment business” insert “or services to collective investment schemes,”; and

(b) after “knowingly transacts investment business” insert “or services to collective investment schemes”.

Page 67 : for paragraph 36 substitute –

“36. In section 44 –

- (a) in subsection 1(c), after “insolvency” insert “, financial services”;
- (b) in subsection (1)(h), for “section 21 of the Financial Supervision Act 1988” substitute “section 25 of the Financial Services Act 2008”;
- (c) in subsection (5)(b)(iii), after “relating to” insert “financial services,”;
- (d) in subsection (6)(b), for “, the Investment Business Act 1991 or the Banking Act 1998” substitute “or the Financial Services Act 2008”.

Page 67 : after paragraph 37 insert –

“37A. In section 10A(3), for “section 3 of the Corporate Service Providers Act 2000” substitute “section 7 of the Financial Services Act 2008 to carry on the regulated activity of corporate services”,

and renumber the subsequent paragraphs accordingly.

Page 67 : for paragraph 38 substitute –

“38. In section 29 –

(a) in subsection (3), for “licensed banking institution” substitute “licensed deposit taking institution”;

(b) for subsection (7) substitute –

“(7) In this section “licensed deposit taking institution” means the holder of a licence under section 7 of the Financial Services Act 2008 in respect of deposit taking.”.

Page 67 : in paragraph 39(a), for “banking business” substitute “deposit taking”.

Page 67 : in paragraph 39(b), for “investment business which is a regulated activity” substitute “any regulated activity”.

Page 67 : after paragraph 39 insert –

“39A. In paragraph 4(2) in Part 2 of Schedule 1, for “banks, investment business” substitute “financial services”,

and renumber the subsequent paragraphs accordingly.

Page 68 : For paragraph 41 substitute –

“41. In paragraph 1(1) of Schedule 4, in the definition of “financial institution” –

- (a) for head (a), substitute –
 - “(a) a person who carries on the regulated activity of deposit taking under the Financial Services Act 2008;”;
- (b) for head (d), substitute –
 - “(d) a person who carries on the regulated activity of investment business or services to collective investment schemes under the Financial Services Act 2008;”.

Page 68 : For paragraph 42 substitute –

“42. In paragraph 6(1) of Schedule 6 –

- (a) for head (a), substitute –
 - “(a) a person carrying on the regulated activity of deposit taking under the Financial Services Act 2008;”;
- (b) for head (d), substitute –
 - “(d) a person carrying on the regulated activity of investment business or services to collective investment schemes under the Financial Services Act 2008;”.

Page 68 : after paragraph 42 insert –

“Fiduciary Services Act 2005 (c.5)

42A. In section 3, for “section 2 of the Corporate Service Providers Act 2000” substitute “section 4 of the Financial Services Act 2008”,

and renumber the subsequent paragraphs accordingly.

Page 68 : after paragraph 43 insert –

“Companies Act 2006 (c.13)

44. In section 74(3), for “Fiduciary Services Acts 2000 and 2005 which does not exclude acting as registered agent” substitute “Financial Services Act 2008 which permits that person to undertake the regulated activity of acting as a registered agent”.

45. In section 77 –

- (a) in subsection (1), for “Fiduciary Services Acts 2000 and 2005” substitute “Financial Services Act 2008”; and

(b) in subsection (2)(b), for “Fiduciary Services Acts 2000 and 2005” substitute “Financial Services Act 2008”.

46. In section 91(7)(a), for “Fiduciary Services Acts 2000 and 2005” substitute “Financial Services Act 2008”.