

Company and Business Names etc Bill 2012
Second Reading approved

3.1. Mr Henderson to move:

That the Company and Business Names etc Bill 2012 be read the second time.

The Speaker: We turn to Item 3 on the Order Paper, Bills for Second Reading.

The first of those is the Company and Business Names etc Bill and I call on the Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

This Bill will apply to every body, corporated or unincorporated, seeking approval to use and register a particular name in the Isle of Man. Some clauses will apply in respect of names that have already been registered.

This Bill was drafted in response to a recommendation of the IMF. This considered that steps should be taken to address the lack of regulation and legislation surrounding the use of certain words and phrases. The report commented particularly on the words 'bank' and 'banking'. The IMF considered that the use of these words should, as far as possible, be limited to circumstances in which the activities of banking were undertaken. This Bill will replace the existing guidance on sensitive words and expressions published by the Companies Registry with legislation.

The need to take action to address the IMF's recommendation gave rise to an opportunity. It was considered prudent to review, consolidate and update the existing regime in respect of name approvals across all Acts to which this is relevant. The various Acts to which the existing regime applies span a period of over 100 years. Some of the Acts that will be amended are the Companies Act 1931 and the Partnership Act 1909.

At its most basic level, the Bill consolidates the existing regime across the various Acts into a single central piece of legislation. The Bill will also redefine the various names given to the person with authority in respect of name approvals. This is achieved through the creation of the role of the appropriate name approval authority. This term will apply across all the relevant Acts. The power is currently delegated to the Registrar of Companies through the Department of Economic Development. This will not change, but the name assigned to the role will change to a single term. Conventions that have arisen over time, such as the ability to reserve a name will be clarified and put into legislation to provide certainty.

Two new powers are given to the appropriate name approval authority under this Bill. The first of these is the absolute discretion to permit the use of a word or expression in a company name in circumstances where it might otherwise be refused. This is facilitative and could, for example, allow for corporate branding of a group of companies across various jurisdictions, including the Isle of Man. There is a safeguard against the public being misled under these circumstances. The appropriate name approval authority must enter such a name on an additional public register of all similar name approvals.

The second of the new powers relates to fees. The appropriate name approval authority is given a power to charge a fee on application for use of reservation of a name. This power does not commit the name approval authority to charging a fee and could, for example, in future be applied selectively to discourage abuses of the name reservation provision.

The Bill contains 14 clauses and one schedule. The schedule sets out consequential amendments that will be required to be made to other Acts.

This Bill, if enacted, will come into operation on one or more days appointed by the Treasury through Tynwald. The Bill has been widely consulted upon, including Members of Tynwald and including the industry. No adverse comments have been received.

I beg, sir, to move the Second Reading.

The Speaker: Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

The Speaker: Hon. Members, I put the motion that the Company and Business Names etc Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.