

Flood Risk Management Bill 2012
First Reading approved

2. Mr Downie to move:

That the Flood Risk Management Bill 2012 be read a first time.

The President: We turn now, Hon. Members, to the Flood Risk Management Bill. I call on Mr Downie to take the First Reading.

Mr Downie: Thank you, Madam President.

I am pleased to be able to move the First Reading of the Flood Risk Management Bill 2013, which is promoted by the Water and Sewerage Authority. Flooding is a natural occurrence, and many of the Island's towns and villages, along with critical infrastructure and agricultural land are vulnerable to flooding from surface water, sewers, rivers and the sea. Changes in our climate, such as more frequent and intense rainstorms and sea-level rise, will increase the likelihood of floods occurring in the future. The desire to build in areas at risk of flooding can also add to increased flood risk.

The risk of flooding can be managed through a wide range of measures to reduce either the likelihood of flooding or the impact of flooding when it occurs. The current flooding legislation on the Island is the Land Drainage Act 1934. As its title suggests, the existing legislation is concerned with the drainage of land, which of course continues to be vitally important for our daily quality of life.

However, the Land Drainage Act is archaic and limited in scope. The Island's capacity to deal with flooding problems relies heavily on civil law, which is practically unenforceable, as we have experienced during the prolonged rainfall over the past year. New legislation is urgently needed to ensure that drainage systems are managed in a way that does not cause problems for others and to provide a sound legal framework for the full range of measures needed to reduce the likelihood and impact of flooding.

The Bill that is now before us is a substantially redrafted version of the Flood Risk Management Bill which was first introduced in the other place during the 2010-11 session. The original Bill was withdrawn in order for concerns of the Manx National Farmers' Union to be explored and, wherever possible, addressed.

The Flood Risk Management Bill 2013 repeals and replaces the Land Drainage Act 1934, and introduces a number of new provisions. The Bill comprises 11 parts, and I will briefly describe the main principles.

The Bill will establish the Water and Sewerage Authority as a flood risk management authority for the Isle of Man. Whilst recognising the continued importance of land drainage, the Bill empowers the Authority to manage the risk of flooding from all sources, including storm tide surges, surface water run-off and flooding from rivers and other watercourses.

The Bill carries forward and modernises a number of provisions from the Land Drainage Act. It will enable the Authority to maintain or improve existing flood risk management works and watercourses, and construct new works. It enables the Authority to designate works or watercourses that it considers to be of major importance in terms of flood risk management. The Bill empowers the Authority to make byelaws with the approval of Tynwald.

An important and entirely new provision enables the Authority to deal with any emergency flooding event on the Island, and to enter into arrangements with other public bodies, including the emergency services, for them to respond to flood incidents.

The Bill will also enable the Authority to carry out flood defence works on behalf of private landowners on a rechargeable basis or, if appropriate, to take over responsibility for private flood risk management works.

Madam President, to ensure that the legislation is effective, the Authority will be empowered to take appropriate enforcement action, backed by criminal law and balanced by the right of appeal to a new Flood Risk Management Tribunal.

Flood risk management will become a material consideration for planning purposes, by requiring the Department of Infrastructure to consider the extent to which development may create a significant risk of flooding.

Finally, the Bill amends the Sewerage Act 1999 in two important respects. Firstly, unless the development has been granted planning permission, it enables the Authority to refuse consent for a connection between a private drain and a public sewer, where this would create an additional risk of flooding.

Secondly, there is an enabling provision for the Authority to introduce sewerage charges, which would be subject to the approval of Tynwald.

Madam President, I beg to move the First Reading of the Flood Risk Management Bill.

The President: The Hon. Member, Mr Crowe.

Mr Crowe: I beg to second, Madam President, and I just have a few comments to make.

As the hon. mover says, this Bill replaces the Land Drainage Act 1934, which has been in existence now for 79 years. As the mover says, it is archaic and limited in scope. I think as we get into the detail, we will be able to see the changes from the current legislation, to bring it up to date.

The only question I would raise at this point, as we get into the clauses, there may be other issues I would want to raise, but could the hon. mover just refer to clause 1, about the mapping system and will the Water and Sewerage Authority be using the digital mapping system that the MEA used for transmission cable, the Post Office for post codes, the Land Registry for title deeds and ownership, and planning permissions, where there is a flood risk?

So again, I think this is one of the core issues, going forward, that people would not wish to build on land where there was a flood risk. With those few comments, I would just ask for the mover's comments.

Thank you.

The President: The Hon. Member, Mr Butt.

Mr Butt: Thank you, Madam President.

As the last speaker has just said, this replaces Acts from the 1930s, 1940s and 1950s, the Land Drainage Acts. It is probably long overdue.

Members will remember, perhaps, we had surveys done by the old DoLGE, Department of Local Government, some six or seven years ago and they had a presentation where that talk about flood events being one in a hundred years could be reduced to as much as one in seven years. That was about seven years ago. I think, since, in those seven years, the weather patterns have show that actually that was perhaps optimistic and that in fact, we are likely to be prone to more flooding than even was estimated seven years ago.

So this Bill is a worthy Bill to perhaps combat what might happen in the future. I suppose the question for the mover is will it be enough, if things turn out to be even worse than has been predicted?

So I will support the Bill, the First Reading.

The President: The Hon. Member, Mr Braidwood.

Mr Braidwood: Thank you, Madam President.

I am also supportive of the Bill. We have seen throughout the Island, in certain areas, where development has taken place and there has been flooding. Sulby is one, in Millrace; we have seen it down at the Silverburn estate as well, where extra bunds have had to be put on the river, before it was designated. That was at the cost of the developer.

The hon. mover did mention that the Authority can refuse connection to the stormwater drains, to stop any development, because there have been cases where culverts, particularly in Douglas with the development in Douglas and Onchan, once the ground is covered over, there are problems then that the drains cannot take the additional water because it cannot soak into the ground. If that were the case on development, the cost, if the Authority refused to connect any properties, then the developers should have to put additional drainage systems in, to be able to cope with any developments and not for it to go onto any Departments of Government.

The President: The mover to reply.

Mr Downie: Thank you, Madam President.

First of all, I would like to thank my hon. colleague, Alan Crowe, for seconding the First Reading today.

The mapping systems, clause 15, the Authority will be obliged to keep proper records of all designated flood risk management works or watercourses which will be open for inspection by the public free of charge.

It is hoped that as the system is rolled out, all this will be incorporated in Government's quite sophisticated mapping system, so that everyone is aware of where these high risk areas are. The Bill will also highlight the corridors, the river corridors and watercourse corridors, which are now 9.1 metres in width. There are some changes coming in there.

I think at the end of the day, nobody will be able to when the Bill was being brought in, that they are ignorant of any of these areas that are going to be designated. I think that is the most important thing.

Mr Butt made reference to the surveys by DoLGE. I think those of us who have seen what has happened even in the last few months, I do not think, in my lifetime, I have ever seen so much standing water on the Isle of Man – areas that have been susceptible to long-term flooding. We have, I am sad to say, neglected lots of our traditional watercourses and our run-off areas and so on. I think when this is Bill is actually introduced, it will provide a much better and easier to understand framework for how we deal with our flood

risk management and how we deal with land drainage in general.

Mr Braidwood: yes, under the old system, it has been very difficult for the authorities to refuse access to the drainage system and there is a clause in this Bill, where the authorities can object, and they can force a developer to provide adequate drainage without just passing everything onto the person lower down, as being one of the problems that has caused difficulties in the past.

I had a very useful meeting last Friday with the Authority and what has already been highlighted is that there will be two amendments required to be moved to this Bill already, because reference was missed out of some of the planning provisions to the Council of Minister. So, over the next week or so, I am going to have those properly dealt with them and I am looking for a... well, I think I have found a Member of Council who is pleased to move them forward. But we will get to that bridge when we come to it.

So, the Bill has been a long time coming. It was started really in 2010-11, so we have finally arrived at where we are today, but I think, around this table we would all agree, it is badly needed. The legislation that we have got at the moment is outdated, it is almost unworkable, and in supporting the First Reading of this Bill today, I think we are breaking new ground and hopefully will finish up with a piece of legislation that is fit for purpose for years to come.

I thank Members for their support and beg to move the Bill is read for its first time.

The President: The motion is that the Bill be read a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.