

#### 4.1 Foreign Companies Bill 2013 – Second Reading approved

**The Speaker:** Item 4, Bills for Second Reading.

The first of those is the Foreign Companies Bill 2013 and I call on the mover, the Hon. Member for Ayre, Mr Teare.

**Mr Teare:** Thank you, Mr Speaker.

This Bill is the Foreign Companies Bill 2013. The Bill will replace part XI of the Companies Act 1931 with separate and stand-alone legislation.

Whilst the Bill refers to foreign companies, the scope of application is wider than just companies; the Bill applies to other types of legal persons such as foundations and limited partnerships with separate legal personality. The Isle of Man is unique, and has been for many years, in having legislation applying to foreign companies operating out of the jurisdiction. The register of foreign companies has, over the years, become known as the 'F-Register'.

The Bill proposes to simplify the current regime. It will continue to apply to all foreign companies that have established a place of business in the Island or own land in the Island. The Bill now makes provision for companies that meet neither of these criteria to simply make an election for the legislation to apply to them. In some cases the requirement for foreign companies to register under this legislation is simply good common sense; it is a matter of public protection. One example of this would be where a foreign company has established a real trading presence in the Island; another would be where a foreign company owns land in the Island but has no other presence on the Island, a bit like an absentee landlord.

Accidents can and do happen. It is important for the Manx public to be able to identify who it is that they need to contact in the event of some problem connected with a foreign company. Some companies may make the election to apply the legislation to themselves to demonstrate a nexus with the Island. This might include circumstances where a company required a VAT registration. It could also be where a company seeks to import into the European Union via the Isle of Man and qualifies for end use relief on import taxes and duties.

The Bill is evidence of the Island's continued commitment to transparency. The opportunity has been taken to significantly reduce the level of bureaucracy and red tape that currently surrounds the F-Register. Under part XI of the 1931 Act, companies must notify the Companies Registry of all changes within the company. While this may have been appropriate when it was first drafted, it now often results in the Island's Registry holding far more information than the jurisdiction of incorporation. In some cases, the level of disclosure is in conflict with what is required and allowable in the home jurisdiction.

It is for this reason that the bulk of the information that will need to be filed going forward relates to those matters that allow for the company to be properly identified in the home jurisdiction. The rationale for this is simple: if the home jurisdiction does not require the information, it is not for the Island to enforce transparency on others. We can and will, however, continue to ensure that business in the Island is conducted in an open and transparent manner. Essentially, you are providing a portal, while ensuring that information relevant and important to the Island's residents is collected.

After lengthy consultation, the scope of application of the Bill has been agreed and now encompasses only what it needs to. In addition to this, for the first time, there is clarity about when a foreign company must or may register. Placing the Foreign Companies Bill 2013 outside the companies legislation now also brings certainty to what provisions of Manx law apply to foreign companies. Essentially, if it does not appear in the Bill, it does not apply.

In keeping with the intention to reduce the bureaucracy and red tape involved in the F-Register, the Bill has a modest 27 clauses, which are divided into three parts.

Mr Speaker, I beg to move the Second Reading of this Bill.

**The Speaker:** Hon. Member for Middle, Mr Quayle.

**Mr Quayle:** Thank you, Mr Speaker.

I beg to second and reserve my remarks.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, obviously whatever can be done to try and help the Island's economy in our troubled times has to be supported.

There is one thing I am a little bit concerned about... and I understand the concerns about having these companies if they do not need the information in other jurisdictions – why should we be keeping information on these foreign companies? – but I do think that it does weaken our case, when we look at the likes of the issue of Delaware in the United States, if we are seen to go backwards on the transparency issue, as far as the Bill is concerned. I would like to know the Minister's view on that.

I also would like to know, whilst it might actually improve the present *status quo* as far as a foreign company holding land on the Island... I have to say, even allowing for the concerns one has as far as the property market at the present time, maybe we should not be encouraging any foreign company owning or having the right to own property on the Island. Many countries in the world actually do not allow that to happen and they have to be based on the Island to do so. I would like the Shirveishagh Tashtee's viewpoint on that.

On clause 13, the appointment of a liquidator... and it would be the laws under the jurisdiction outside of the Island, and I know that we have not got a wonderful track record when it comes to liquidation and people getting their money back, but what I am concerned about is will there be any preferential treatment, as far as assets that are in this jurisdiction, as far as creditors are concerned; and what is the Treasury Minister's viewpoint as far as that issue is concerned, allowing for the fact that we will more likely end up getting the bad name for this company and yet we seem to be wanting to do the Pontius Pilate by allowing the laws of the jurisdiction outside the Island as far as liquidation is concerned. What sort of ring-fencing can we have?

The other issue that I am interested in... I note that there has been an amendment under the schedules as far as the Timeshare Act 1996. Will this have any effect as far as the present time, where Manx residents are unable to purchase timeshare accommodation? What exactly does this actually do, apart from change the legislation? I would be interested in the mover's response to that.

**The Speaker:** I call the Hon. Member to reply. Mr Teare.

**Mr Teare:** Thank you very much, Mr Speaker.

I would just like to thank my seconder and also Mr Karran for the issues which he has raised.

He says that this is a backward step on transparency, and as I said in my opening comments, sir, it is not up to us to force our views on anybody else. What we have demonstrated is, through our proactive response to the international agenda, that the Isle of Man has and continues to be at the forefront of openness and transparency.

He also said that we should not encourage foreign companies to own Island land and property. The Isle of Man has an open economy, and if we did, for example, exactly what he is looking for, it would, in effect, prevent some companies who are not incorporated in the Island from setting up businesses here. They may wish to purchase a factory or an office, for example, to support their business on the Island. If they were not able to do that, then they may not be able or may not wish to proceed with their business on the Island.

He then referred to clause 13, the receivership clause. I would have to take further advice on that, but normally we are not able to implement ring-fencing. We will have to consider ring-fencing

when it comes to bank resolution, and that is a topic which is currently being discussed under the proposed change to UK banking structure.

He then went on to mention Manx residents unable to purchase timeshare accommodation. This is news to me and I would welcome further clarification and more details from him outside this Hon. Chamber.

With that, Mr Speaker, I beg to move that the Second Reading of this Bill now be taken.

**The Speaker:** The motion is that the Foreign Companies Bill 2013 be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.