

5.1. Foreign Companies Bill 2013 – Clauses considered

The Speaker: We turn now to Item 5, Bill for consideration of clauses.
Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would like to move:

That the clauses of the Foreign Companies Bill be referred to a Committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and to report to the House.

Whilst I am not against the Bill as it stands, what I am concerned about is that I think sometimes we need to be doing a little bit more parliamentary scrutiny on some of these pieces of legislation.

I also would like to put in consideration of the two clauses that I was unable to get into this piece of legislation: one dealing with the issue of foreign companies being prohibited from holding land in the Isle of Man; and the other was to modify the Preferential Payments Act 1908. This would prohibit foreign companies from holding land in the Island, except those that already do so.

I believe that the debate needs to be discussed some time about who should own land in the Isle of Man. When you look at many of these countries – not necessarily Third World countries, but even countries the likes of Norway and more progressive jurisdictions have restrictions on that opportunity. I believe that it is important that this sort of issue needs to be debated.

As far as the other issue, there are problems with the other issue. This would make Manx residents preferential creditors in the winding up of a foreign company in the Island. The only thing would be that they would come above the general creditors as far as the company is concerned, and I do believe that if we are to have these foreign companies working within our jurisdiction... and if they do fail, all we seem to have at the moment is all the bad press of that potential failure and the issue would be that there would be little or no chance of any person on the Island, who has in good faith done work with these companies, getting back any of their funds, as they would just end up on the long list of creditors as far as the company is concerned.

With that, Vainstyr Loayreyder, I do wish to move that the Foreign Companies Bill 2013 be referred to a committee of three and have my two clauses investigated along with the clauses that go.

I think it would do no harm for us to investigate... that we should be looking at the issue of whether we should be stopping foreign companies from being able to hold Manx law. I am fully aware that this is only a stumble in the policy as far as foreign ownership of land on the Island, but I do think that we need to be looking at that and I think it would give the opportunity to any select committee to look at other jurisdictions and how they deal with this issue.

Yes, there are arguments about whether this would affect investment on the Island, but I do feel that it is something that needs to be investigated; and whilst the Foreign Companies Bill will be more than likely unscathed by this process, it would give that opportunity for that and the issue of Manx creditors as far as foreign companies are concerned.

So I do move that the clauses and the two new clauses be part of the investigation as far as the committee is concerned and report back to a future Keys.

What I would like to see is whether there is any urgency, as far as this piece of legislation is concerned, from the mover and any implications that that would have if we were to support such a move.

The Speaker: Mr Thomas, Hon. Member for Douglas West.

Mr Thomas: Thank you very much, Mr Speaker.

Especially in the light of the last comment that the mover made, I rise to second the motion.

Initially, it was just on the principle that the Treasury is doing a thousand-clause Bill on company law and it is a good principle that, at the clauses stage, this House should set up a select committee to review some of those issues. So I am pleased to rise to support it, especially given that the mover has actually asked the Minister to assure us whether or not there is any urgency – like he assured us a month or so ago, at the beginning of the Income Tax Bill, that there was urgency, and we were persuaded to go along at probably the fastest speed in parliamentary democracy from the oldest democracy that has been in continuous existence.

The Speaker: Hon. Member, Mr Teare.

Mr Teare: Thank you, Mr Speaker.

I have to say I am exceptionally disappointed – and that is the politest way I can put it – that this has come out at the 11th hour. The Hon. Member, Mr Karran, has not come and seen me, he has not discussed it with me, he has not articulated any reasons why this should be done – and really, I feel that this could be tantamount to an abuse of process.

One of the difficulties is that this – the clauses which he is asking, if he is successful, this Hon. House to consider – could have a major impact on businesses seeking to relocate to the island.

The Hon. Member for West Douglas has asked what is the urgency. To be honest with you, there is not any urgency because a large part of this legislation is consolidation. It is putting items which are in the 1931 Act into a standalone Bill, or a stand-alone Act if it is successful. But what he is doing here is he is, in effect, trying to make it more difficult for foreign companies to operate in the Isle of Man. (**A Member:** Hear, hear.)

Let's go into that in more detail. The Independent Commission on Banking has the potential to completely restructure banking operations in the UK and also in the Crown dependencies, including the Isle of Man. That will mean that the preferred way that banks, for example, operate would be as branches of the UK parents. If a new bank wanted to come to the Island and set up and buy premises, under the terms of this Act they would not be able to do it.

We need to diversify our economy, we need to be open, and one thing that this proposed amendment would do is not to make the economy open. It is, in effect, blatant protectionism. (**Mr Watterson:** Hear, hear.) I will go on... and that is a further feature of the modification of the Preferential Payments Act. It is protectionism.

It is almost like saying we will prefer Isle of Man creditors to creditors from other jurisdictions. We need to consider the impact of that and the potential conflict with the legislation in the home jurisdiction of that company. We could well finish up with contradictory pressures upon the liquidator or the receiver of the external company.

So how is it going to be enforced? How is it going to work? It is entirely unclear.

I have to say, with respect to the Hon. Member, he has not done himself any good by not coming and talking to me beforehand. We would have had a better understanding of exactly what he is proposing, rather than, 'Here you are, just drop it in your lap, and let's get on with it.'

I do not think that this sends out a strong message at all, and if it is sending out a message it is the wrong message: we are not open for business. It is going to create uncertainty, and I would not want to do that.

We have substantial investors who are not based on the Island but do make a major contribution to the Island. There is a dichotomy here because he is framing this legislation to deal with foreign companies: what about non-resident individuals who buy property on the Island? Surely, if he is wanting to deal with companies holding property on the Island, it should be a level playing field – and this is definitely not going to do that.

I am strongly resisting this, Mr Speaker.

Mr Watterson: Hear, hear.

The Speaker: Hon. Members, we are debating the motion of Mr Karran, under Standing Order 4.10, that the clauses of this Bill be referred to a committee of three for consideration and report, and Mr Karran has made his argument, his case, as to why that should be. So what we are debating is that particular matter – whether the clauses be referred.

Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

No doubt the Minister moving the legislation is irritated by the move of the Hon. Member for Onchan, Mr Karran. Nevertheless, there is provision within Standing Orders to do just what we are doing now, and that is to have a matter like this, moved and seconded, referred to a committee of the House. It is not the first time that it has been done. In my experience, in the last 18 years it has happened on two separate occasions.

I am easy either way, but having listened to the Hon. Member for Onchan, Mr Karran, and the Minister, I now am beginning to feel that the House should give it additional scrutiny, and the reasons for that are the Minister has said (*Interjection*) there is no urgency, but then he did speculate and said that it could impact on new companies and businesses wanting to come and set up here.

There is no guarantee, given the impact, whether or not that would in fact be a negative or positive one, because in his own words we need to consider the impact of this, which tells me that Treasury have not considered the impact of not doing it.

A Member: You're just shooting yourself in the head.

Mrs Cannell: I am just going by what I am hearing in the debate so far, and I am keeping an open mind about it.

What I would say is that businesses do not necessarily need to come here to buy premises or to buy land in order to operate favourably, given our very favourable tax regime for business. That gives us the edge.

On the one hand, I see the concern that is coming from the Members in terms of trying to preserve our small Island – we are not that big; we have not got that much land – to try and preserve it from becoming used and abused, I suppose, in Government's charge to try and get new and innovative investment here. I think there has to be a sensible compromise and a sensible balance.

On the one hand, we need to preserve what we have because that is a big marketing tool. On the other hand, we need to grow, but that too has implications in terms of the infrastructure and whether this small Island can cope with continued massive population... that we have witnessed over the last 10, 15 years. All of those come into the mix when thinking about this.

Yes, it is important to establish new and upcoming technology and employment opportunities in the Island. Yes, it is very important we continue to grow, but it is equally important that all of that does not cause negative and damaging impact in the future.

For that reason alone, given the Minister has said there is no urgency with this one, I would feel more satisfied – and he should too – for an independent examination of the House by the appropriate membership that would understand this complicated foreign company legislation and also anything to do with companies *per se*. It is not my forte, I have to say. (*Interjections and laughter*) Social issues, yes. Come to me with a social issue (**A Member:** You'll learn!) and... I know all about social issues and that is where my interest lies; but the finance side and business is important and I value the contribution of those who have a background in this area in this House. So I would support the move to take it to a committee of the House.

The Speaker: I call on the mover to reply. Mr Karran.

Mr Karran: Vainstyr Loayreyder, I know that I have been here a very long time but I am amazed that the Minister for the Treasury can be so aloof of what a parliamentary process is about. He says that this is an abuse of process. The problem for years has been the fact that gradually we have not scrutinised primary legislation. Every Member of this Hon. House needs to realise that the first role of an elected MHK is the scrutiny and the moving and the passing of primary legislation, so I just fail to see how he can argue that this is an abuse of process. (**Mrs Cannell:** It's not.) This is what should be happening far more often, as far as this House is concerned, when dealing with primary legislation.

One of the things that we have is... Just like I have got limited resources behind myself to try and do the work that needs to be done on some of these very complex matters, the Minister and the Treasury are in the same situation as far as resources are concerned.

I have put this down as we are supposed to be a parliamentary democracy. I have moved that this should go to a committee and the two new clauses be part of that committee in order to give the opportunity of whether we should be looking more at how we look at primary legislation – more than just nodding it through from the UK and, to many extents, holding us hostage to fortune at a later date.

I have already explained in my moving of this why I am concerned about the Royal Assent. The situation is that we must allow for the fact that if this House is happy as far as that is concerned, then that is okay with me; but if it is not happy, then it should support the proposal as far as setting up a committee.

It concerns me with the Minister when he talks about the Banking Commission and the input of that – banks from the UK will be purely branches from the UK – which obviously must have a severe... [*Inaudible*] as far as the bankers'... Depositors' Compensation Scheme, if they are not going to be part of that Scheme but branches from another jurisdiction... that the exposure as far as that is concerned...

I made it quite clear – and obviously the Minister needs to maybe follow me in having to get my hearing sorted out. I am not saying that this is the panacea as far as stopping foreign companies from owning land. This is only part of the stumble, as I said, in that position. I believe that that does need to be looked at. I leave it to this House to decide.

I thank the Member for West Douglas for his support and the Member for East Douglas.

The bottom line has to be, when we are talking about a parliamentary democracy, by sending this Bill to a committee will it do damage – that is what we need to try and work out: would it do any damage if we were to do that? I personally have not been reassured by the mover that there will be damage by sending it to a committee.

This House will decide whether it wants to send this to a committee, but I do feel that it is important, if we are to try and resurrect the parliamentary process from being just an extension of the executive function in this House, that we start looking at the processes.

Yes, it will need a lot of hard work and maybe there will be duplication as far as the parliamentary process through a select committee looking at this actually agreeing with every part of the Bill and the two new clauses not being part of that Bill. I just think that this Hon. House should take that step and start looking at developing new processes to make sure that we do not end up being a hostage to fortune at a later date.

I so move, Vainstyr Loayreyder.

The Speaker: Hon. Members, the motion is that the clauses of the Foreign Companies Bill be referred to a committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act, to consider and to report to the House. That is the motion.

Those in favour, please say aye; against, no. The noes have it. Division called.

Just confirming, Hon. Members, it is an electronic vote. Please vote now.

Electronic voting resulted as follows:

FOR

Mr Karran
Mrs Cannell
Mr Thomas
The Speaker

AGAINST

Mr Quirk
Mr Hall
Mr Ronan
Mr Crookall
Mr Anderson
Mr Singer
Mr Quayle
Mr Teare
Mr Cannan
Mr Cregeen
Mr Houghton
Mr Henderson
Mr Robertshaw
Mr Cretney
Mr Watterson
Mr Skelly
Mr Gawne

The Speaker: With 4 votes for and 17 against, the motion therefore fails to carry and we resume the order of business, which is the consideration of clauses of the Foreign Companies Bill.

I call on Mr Teare to move clauses. Clause 1.

Mr Teare: Thank you, Mr Speaker.

This Bill is the first phase of a project to update and consolidate the Isle of Man's companies legislation.

This Bill will replace part XI of the Companies Act 1931 with separate and stand-alone legislation. This legislation will apply only to those companies or other legal persons that meet the criteria for being foreign companies.

The Isle of Man is unique in having legislation that applies to foreign companies that operate out of the jurisdiction. Whilst this is called the Foreign Companies Bill, the definition of a company under this Bill is wider than this. The Bill makes provision for other types of legal persons to be included within the definition of 'foreign company'. These include foundations and partnerships with separate legal personality. I will elaborate further at clause 4.

The Bill applies to all foreign companies whose activities fall within the definition of carrying out business from the Island to holding land in the Island. This is consistent with the current scope of application of part XI of the Companies Act 1931.

The Bill now also makes provision to permit companies incorporated outside the Island that wish to demonstrate a nexus with the Island to elect to register under the legislation.

The Bill contains 27 clauses.

Should the branches of Tynwald support this Bill, it will come into operation by order made by the Treasury.

Mr Speaker, turning to the Bill, clause 1 provides the short title of the Bill.

I beg to move that clause 1 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question that clause 1 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2, sir.

Mr Teare: Clause 2 provides for the Bill to come into operation on one or more days appointed by the Treasury.

Provision is made to allow the Treasury to make saving and transitional provisions by order.

Mr Speaker, I beg to move that clause 2 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question that clause 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

Mr Teare: Clause 3 gives definitions for certain words and expressions used in the Bill.

Mr Speaker, I beg to move that clause 3 do stand part of the Bill.

The Speaker: Mr Watterson.

Mr Watterson: I beg to second and reserve my remarks.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Teare: Clause 4 defines a foreign company as a legal person incorporated outside the Island. This definition of 'foreign company' includes other types of legal persons, such as foundations and limited partnerships with a separate legal personality.

Clause 4(2) lists the types of legal persons who can apply for inclusion on the F-Register. It does this by providing examples of Manx legal persons who would, if incorporated outside the Island, be eligible for entry on the F-Register. These include 1931 and 2006 Act-style companies and limited liability companies.

The Treasury has the power to amend this list by order. Before making an order under this clause, the Treasury must undertake consultation. An order made under this clause must be approved by Tynwald before it takes effect.

Mr Speaker, I beg to move that clause 4 do stand part of the Bill.

The Speaker: Mr Watterson.

Mr Watterson: I beg to second and reserve my remarks.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Teare: Thank you, Mr Speaker.

Clause 5 sets out those circumstances in which a company must apply for inclusion on the F-Register. For the most part, this replicates the existing requirement to register. This includes the carrying on of business from an established place of business in the Island or where a foreign company is the beneficial owner of land in the Island.

In a departure from the old part XI of the Companies Act 1931, legal persons who wish to demonstrate a nexus with the Island may now make an election to be entered on the F-Register. This is permissible, even where there is no place of business and no land held in the Island.

Clause 5(3) brings clarity to an area that has caused confusion for many years on what the definition of a place of business is. This is achieved by expressly confirming the activities that, when undertaken from the Island, do not necessarily count as carrying on business from an established place of business in the Island.

The Treasury can, after consultation, amend the circumstances and activities listed to make further additions to, or exclusions from, the requirement to register. An amendment to this clause, by way of order, is subject to the express approval of Tynwald.

Mr Speaker, I beg to move that clause 5 do stand part of this Bill.

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

The Speaker: Mr Quirk.

Mr Quirk: Just if I can ask the Minister, regarding the establishment of a place, I presume that means the registered office and therefore it would have to have a person who – if I am correct; maybe I am wrong – is domiciled on the Island?

The Speaker: The mover to reply.

Mr Teare: It would not be a registered office because, by definition, the company or the organisation will be incorporated elsewhere, and that would be its registered office. There would not be any requirement under this legislation for the person who was in the office or the branch of the organisation in the Island to be an Isle of Man national; but, of course, under employment regulations, they would be caught by the Control of Employment Act.

The Speaker: I put the question that clause 5 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

Mr Teare: Clause 6 requires the Department of Economic Development to maintain a register of foreign companies. This mirrors the current requirement under part XI of the Act. This is the public register that has become known as the 'F-Register'.

The Department must, on payment of a fee, produce a certificate stating whether or not a foreign company is registered under the legislation. This certificate will be admissible in legal proceedings.

Mr Speaker, I beg to move that clause 6 do stand part of this Bill.

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

The Speaker: Mr Quirk.

Mr Quirk: Just a minor thing. I just want to ask the Minister regarding 'available for inspection' – I presume that is by electronic means as well?

The Speaker: Mr Teare.

Mr Teare: Yes, it will, in effect, replicate what we already do. It will be available for inspection electronically. More detailed information, there would be a fee charged for; but basic information is available for general inspection.

The Speaker: I put the question that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

Mr Teare: Under clause 7, a foreign company that meets the requirement for registration must do so within one month of meeting the requirement. Again, this mirrors the existing provision under part XI of the 1931 Act.

A foreign company that elects to apply for entry to the Register must do so within one month of making the election. Failure to register when required to do so will be an offence.

Mr Speaker, I beg to move that clause 7 do stand part of this Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

Mr Teare: Clause 8 requires an application for registration to be made to the Department of Economic Development. The application must be in the approved form, include all the required details which are set out in clause 9, and be accompanied by the appropriate fee. A company that fails to include all the required details in its application for registration will commit an offence.

Mr Speaker, I beg to move that clause 8 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9, sir.

Mr Teare: Clause 9 lists the details that must be provided on application for registration. These include the name under which it is registered in the foreign jurisdiction; the jurisdiction of incorporation – the home jurisdiction; the date of incorporation; its registration number in the jurisdiction of incorporation; its business address in the Island; the address, if any, of land held in the Island; and the names and addresses of persons who are authorised to accept service of process and notices on the company.

A new provision has been included in the Bill. This takes account of those circumstances in which a company does not maintain an address as a place of business in the Island, but may own land in the Island. Where this is the case, a foreign company may elect to register the address of its registered office or principal place of business in its own jurisdiction. This addresses a deficiency in part XI of the Companies Act 1931. It was included to ensure that the Manx public is protected by being able to identify and, where necessary, contact the non-resident owners of land or buildings in the Island.

The Treasury may, by order, amend the details required to be disclosed on registration. As before, there is the requirement for the Treasury to consult before making any order under this clause; and again, any order will only come into operation if it is approved by Tynwald.

Hon. Members, I must draw your attention to the fact that the information to be included in the application for registration has been considerably pared back. In a measure designed to cut red tape and the administrative burden, the bulk of the information that must now be disclosed is that which permits identification within the home jurisdiction. This is in sharp contrast to the current position, which often sees far more information about a company held on the F-Register than on the register in the home jurisdiction.

Mr Speaker, I beg to move that clause 9 do stand part of the Bill.

The Speaker: Mr Watterson.

Mr Watterson: I beg to second, sir.

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

I just want to ask the Treasury Minister regarding the sharing of information. I presume that the information, the basic stuff, would be online but the in-depth information would not be shared with other Government Departments, other organisations, for security purposes.

The Speaker: Mr Teare to reply.

Mr Teare: In effect, the Register is a public register, so the information that is recorded as part of the F-registration process will be available to the public. It will also give details of the company's home jurisdiction and its registration details in that home jurisdiction. So any further information which may be available in the home jurisdiction would be traceable through the information provided on the F-Register.

The Speaker: I put the question that clause 9 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

Mr Teare: Thank you, sir.

Clause 10 extends the scope of the Company and Business Names etc Act 2012 to foreign companies registered in the Isle of Man.

However, clause 10(2) requires a company to apply for registration under its original name of incorporation in the first instance. All efforts will be made to accommodate the name under which it is registered in its home jurisdiction. This will apply even where there is a Manx company or other entity of the same name.

It is the intention that the Island's F-Register will act primarily as a gateway to the home jurisdiction. The maintenance of the F-Register is demonstrable evidence of the Island's commitment to openness and transparency.

A foreign company that changes its name in its home jurisdiction must register that change in the Island. The Department is given the discretion to refuse to register a company under its name in its home jurisdiction if the name contravenes section 7(3) of the Company and Business Names etc Act 2012.

Under clause 10(6), a foreign company may only carry on business from the Island under the name which appears in the F-Register. The exception to this is where a foreign company has a business name registered under the Registration of Business Names Act 1918.

It is an offense to fail to comply with the requirements of this clause.

Mr Speaker, I beg to move that clause 10 do stand part of this Bill.

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

The Speaker: I put the question that clause 10 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Teare: Under clause 11 a foreign company must have an address at which it can accept service of process and notice. In most cases, this will be the address in the Island at which the foreign company has an established place of business.

Where a foreign company owns land in the Island, the address for service of process and notice should be either at an address in the Island or, if the foreign company has no address in the Island, at an address outside the Island.

The latter is a new provision included to ensure that there will be, in all cases of Manx land owned by a foreign company, an address for service of process and notice. This is again for purposes of transparency and protection of the public. In all cases, the foreign company must ensure that there is a person appointed to accept service of process and notices.

Mr Speaker, I beg to move that clause 11 do stand part of this Bill.

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

The Speaker: I put the question: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Teare.

Mr Teare: Thank you, sir.

On receipt of an application for registration of a foreign company, the Department of Economic Development must, under clause 12, either approve the application or refuse the application.

In the case of refusal to register an application, the Department must give reasons for its decision. The reasons for which the Department can refuse to accept an application include non-payment of the application fee and illegible documents.

On approval of an application, the Department must assign the company a unique reference number and issue it with a certificate of registration.

Mr Speaker, I beg to move that clause 12 do stand part of this Bill.

The Speaker: Mr Watterson.

Mr Watterson: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 12 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 13.

Mr Teare: Under clause 13(1), a foreign company must notify the Department on the occurrence of certain events. These include a change of the address for the service of process and notices or the person authorised to accept these; the appointment of a liquidator or receiver under the laws of the foreign jurisdiction; a foreign company ceasing to exist or to have legal personality, or ceasing to need to be registered as a foreign company.

In all cases, notification must be in the approved form and accompanied by any fee payable.

The Department must be notified of any of these events within one month of their occurrence. Failing to do so will be, as it is now, an offence.

Mr Speaker, I beg to move that clause 13 stand part of the Bill.

Mr Watterson: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 13 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

Mr Teare: Under clause 14, a foreign company must, as now, make an annual return to the Department of Economic Development. Again, as now, the return must be in the approved form and accompanied by the appropriate fee.

The annual return must be made up to the company's return date, which will ordinarily be the anniversary of incorporation. It will be an offence for a foreign company to fail to file its annual return.

Mr Speaker, I beg to move that clause 14 stand part of this Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question that clause 14 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

Mr Teare: In clause 15, the Treasury is given the power to make regulations in respect of certain trading disclosures.

Regulations made under this clause should include the following: the inclusion of certain information in a foreign company's communications; and the provision and disclosure of certain information to parties doing business with the company.

This clause makes provision for the detail of what must be included in trading disclosures to be set out in the regulations. This is a new flexible approach.

The Island will be able to respond quickly to increased or decreased expectations of the information that must be disclosed. The current disclosure requirements under the Companies Act 1931 are onerous and in excess of comparable provisions in the home jurisdiction. This can mean that the Island's legislation is in direct conflict with the legislation of the home jurisdiction.

Hon. Members, this is a further reduction in red tape.

I beg to move that clause 15 stand part of the Bill.

The Speaker: Mr Watterson.

Mr Watterson: I beg to second and reserve my remarks.

The Speaker: I put the question: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

Mr Teare: Clause 16 gives the Treasury the power to require a foreign company to comply with another enactment of the Island by regulation, as if the foreign company was a company incorporated in the Island.

This clause also considers the modification of an enactment in order to secure compliance by the foreign company.

Mr Speaker, I beg to move that clause 16 stand part of the Bill.

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

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 17.

Mr Teare: Mr Speaker, under clause 17, the Department of Economic Development may remove a registered foreign company from the Register either if the company ceases to meet requirements for registration or the company fails to submit an annual return within four months after the company's return date.

The Department of Economic Development must publish notice of the removal of a company from the Register.

A foreign company that has been removed from the Register may make a further application for registration under clause 8. The re-application must be accompanied by all the outstanding returns and fees.

A foreign company seeking re-entry to the Register must do so under clause 8 and submit the appropriate fee.

Mr Speaker, I beg to move that clause 17 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

I just wonder, on a notification, is it in both jurisdictions; and what that method would be.

The Speaker: Mr Teare.

Mr Teare: The notification would be to the Isle of Man Companies Registry and it would be in a form which is prescribed by the Department of Economic Development, as tabled in the regulations.

The Speaker: I put the question that clause 17 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 18.

Mr Teare: Thank you, Mr Speaker.

Under clause 18, a person dissatisfied with a decision of the Department may appeal the decision to the High Court. The court has the power to confirm, vary or revoke the Department's decision. The court's decision will be binding on the Department and the appellant.

Mr Speaker, I beg to move that clause 18 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 19.

Mr Teare: Clause 19 provides that a person who makes a statement to the Department, which is known to be false or is made recklessly, commits an offence.

Mr Speaker, I beg to move that clause 19 do stand part of the Bill.

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

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

Mr Teare: Clause 20 sets out the penalties in respect of offences committed under the Bill.

Express provision is made to consider and include circumstances in which offences may be committed by legal persons in addition to individuals. Where an offence has been committed by a body corporate or other legal person, the officers of that body corporate will also be held liable for the offence.

This clause provides a defence for any person who took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Mr Speaker, I beg to move that clause 20 do stand part of the Bill.

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

The Speaker: I put the question that clause 20 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 21, please.

Mr Teare: Clause 21 gives power to the Treasury to make regulations about a wide range of matters concerned with the detailed operation of the Bill.

Clause 21(2) lists examples of the regulations which may be made under this clause. This includes matters such as prescribing circumstances in which a company or other legal person meets the definition of a foreign company under the legislation, the provision of information and documents in electronic form, and the exemption of persons or a class of persons from any of the provisions of the legislation.

Before making any regulations under this clause, the Treasury must consult with the appropriate persons.

Regulations under this clause will only come into operation if they are expressly approved by Tynwald.

Mr Speaker, I beg to move that clause 21 do stand part of this Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 22.

Mr Teare: Under clause 22, the Department of Economic Development may publish forms that must be used when submitting information that is required under the legislation. Any form that is required to be in the approved form must contain the required information. Any other documents required by the Department must be attached to the form.

Mr Speaker, I beg to move that clause 22 do stand part of this Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question: clause 22. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 23.

Mr Teare: Clause 23 gives the Department the power to prescribe fees by order. Before making such an order, the Department must consult with the Treasury. An order made under this clause only comes into operation if expressly approved by Tynwald.

Mr Speaker, I beg to move that clause 23 do stand part of this Bill.

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

The Speaker: I put the question that clause 23 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 24.

Mr Teare: Under clause 24(1), the Department may keep information and documents submitted to it in any form that it approves, including electronic storage. This is subject to the requirement for the Department being able to reproduce the information and documentation in a legible form.

Hard copies of information and documents submitted to the Department may be destroyed if they are being kept in a form that will allow for them to be reproduced in a legible form and/or they relate to a foreign company removed from the Register more than 10 years previously.

Mr Speaker, I beg to move that clause 24 do stand part of this Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 25.

Mr Teare: Under clause 25, the Department may, in certain circumstances, refuse to accept a document for registration. This includes circumstances where a document does not comply with the legislation, is not completed correctly or contains a material error, is not legible or is not accompanied by the prescribed fee.

If the Department refuses to accept the document, it must return the document to the person who submitted it and provide reasons for its rejection. A rejected document would be treated as having not been submitted.

Mr Speaker, I beg to move that clause 25 do stand part of this Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question that clause 25 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 26 and the schedule.

Mr Teare: Thank you, sir.

Clause 26 gives effect to the amendment specified in the schedule. The effect of this is to make consequential amendments to other legislation, as required.

It also provides for this clause and the schedule of amendments to be repealed on the day after the last provision is brought into operation. The automatic repeal will not affect the continuing operation of any of the amendments to enactments made by this clause.

Mr Speaker, I beg to move that clause 26 do stand part of this Bill.

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

The Speaker: I put the question that clause 26 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 27.

Mr Teare: Clause 27 makes provision for a company that has already registered under part XI of the Companies Act 1931 to be treated as a company that has been registered under this legislation.

Before moving this clause, sir, I would just like to thank my seconder and my colleagues in the Department of Economic Development and the Treasury for the work that they have undertaken on this legislation.

With that, sir, I beg to move that clause 27 do stand part of the Bill.

The Speaker: Mr Watterson.

Mr Watterson: Happy to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 27 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that concludes the clauses stage of the Foreign Companies Bill. It also concludes the business of the House today.

Can I remind Members of a short presentation taking place at 1.45 p.m. in the Barrool Suite on behalf of the Tynwald Management Committee regarding broadcasting Tynwald website proceedings.

The House will now stand adjourned until the next sitting, which will take place at 10 o'clock on 3rd December in this Chamber.