

5.1 Foreign Companies Bill 2013 – Third Reading approved

The Speaker: Item 5, Bill for Third Reading: the Foreign Companies Bill. I call on the mover, Mr Teare.

Mr Teare: Thank you, Mr Speaker.

This Bill is the Foreign Companies Bill 2013. As I have mentioned in the previous readings, this is the first phase of a wider company and insolvency law review project.

The Bill will replace part XI of the Companies Act 1931 with separate and stand-alone legislation. The Treasury consulted extensively with industry over a protracted period. The resultant Bill updates and simplifies the existing provisions of part XI.

This Bill exemplifies the Treasury's commitment to reducing the burden of unnecessary red tape and bureaucracy wherever possible.

I remind Hon. Members that while the Bill refers to foreign companies, the scope of application is wider than just companies: it applies equally to other types of legal persons, such as foundations and limited partnerships with separate legal personality which are incorporated outside the Isle of Man.

The register of foreign companies has become known as the F-Register.

The Bill will simplify the current regime under part XI. Hon. Members will remember that the scope of application 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.

The Bill contains three parts with 27 clauses.

I will now briefly remind Hon. Members what is set out in the provisions of the Bill.

Part 1 sets out the opening provisions of the Bill. This part includes provisions for the short title of the Bill and for its commencement, as well as the interpretation of certain words and phrases.

Clause 4 defines what is meant by the term 'foreign company'.

Clause 5 brings certainty to circumstances in which the Bill applies to foreign companies.

Part 2 sets out the practical matters in respect of the registration and operation of foreign companies. This includes the following matters: placing an obligation on the Department of Economic Development to maintain a register of foreign companies; giving the Department the power to accept or refuse an application for registration; requiring an applicant for entry to the register to submit documents that comply with the legislation; requiring a foreign company to make a return to the Department annually; giving the Department the power to remove a company from the Register for failure to make this return; and requiring a foreign company to notify the Department of the occurrence of certain specified events – crucially, this part requires foreign companies to inform the Department of the address and person to whom service of process and notices can be made.

The information that must be disclosed to the Department represents a significant reduction in the information currently required at part XI of the Companies Act 1931. Information that is not absolutely necessary is no longer required.

I remind Hon. Members that this is consistent with the Treasury's commitment to cutting unnecessary red tape and bureaucracy.

Part 3 of the Bill sets out various matters under the heading 'Miscellaneous Provisions'.

There is a right to appeal a decision of the Department under this part. Both the appellant and the Department will be bound by any decision of the High Court.

Clause 19 creates the offence of giving information to the Department when this is known to be false.

Clause 20 sets out the penalties for an offence under the Bill. Provision is made to apply offences to both individuals and legal persons. This clause also provides a defence for any person who took steps and precautions to avoid the commission of the offence.

This part gives the Treasury the power to make regulations on a wide range of matters related to the detail of the operation of the Bill. An express requirement to consult is included. Any regulations made by the Treasury under this part require the express approval of Tynwald.

The Department is given the power to determine the form in which information must be submitted to it. It also has the power to set these by order. Such an order must be approved by Tynwald before it comes into operation.

Part 3 also gives the Department the discretion to determine how it stores and records information submitted to it. The Department may do so in any manner that it determines, provided any data stored by the Department can be reproduced in legible form.

Various consequential amendments are made to other legislation in the schedule to this Bill.

Clause 26 provides for the automatic repeal of this clause and schedule to which it refers on the day after the last amendment takes effect. This is simply a matter of good housekeeping to avoid unnecessary provisions remaining on the statute books.

I remind Hon. Members that the Treasury has engaged with industry for a protracted period to agree the scope of application of the Bill. This Bill now encompasses only what is absolutely necessary for inclusion on the register of foreign companies. The opportunity has been taken to significantly reduce the level of bureaucracy and red tape that currently surrounds the F-Register.

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

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

The Speaker: I put the question that the Foreign Companies Bill be read for the third time.

Mr Watterson: Those in favour?

The Speaker: Those in favour, please say aye; against, no. The ayes have it. The ayes have it.