

3. Interpretation Bill 2014 – First Reading approved

The Acting Attorney General to move:

That the Interpretation Bill 2014 be read a first time.

The President: Item 3, the Interpretation Bill 2014.

I call on Her Majesty's Acting Attorney General to take the First Reading.

The Acting Attorney General: Thank you, Madam President.

I am pleased to be able to move the First Reading of the Interpretation Bill 2014 on behalf of the Council of Ministers.

The Interpretation Bill 2014, together with the Legislation Bill 2014 which I will also with your leave move for its First Reading today, are companion Bills, as they are linked.

With your leave, Madam President, I would ask to speak briefly as to both Bills at this stage as doing so might assist both my hon. colleagues in Council and also the public, to better understand their purpose separately, and together.

The main purpose of the Bills are to simplify the drafting of legislation and improve its presentation; to provide a legal basis for online publishing of up-to-date official reprints of legislation, both Acts and the statutory documents; to enable minor corrections of legislation to be made administratively; to provide for a shortened procedure for the re-enactment of Bills that are purely consolidations; and to bring together provisions about legislation, or its interpretation, or powers enabling the repeal of a number of different Acts.

The drivers for the Bills was partly the move to publish official Isle of Man primary legislation online, on a website, which will result in cost savings: firstly, savings to Government of having official reprints prepared by commercial publishers; secondly, and importantly, the cost to the public in having to purchase legislation; and then the cost of Departments themselves in preparing unofficial reprints themselves for cases where official hardcopy reprints are either not available or often, as is the case, not up-to-date.

Another driver was the need to modernise and update the current Interpretation Act 1976 and other certain Acts to make legislation easier to draft and to read. It was determined that to achieve those aims that the best approach was to have two Acts: one for interpreting legislation and one for the legislation itself and its processes. The dividing line between the two Bills, however, is not clear and so consequently they need to be considered together.

If I could, then, turn to the Interpretation Bill 2014 and its First Reading today.

The main purposes of this Act, resulting from the Bill, are to consolidate and re-enact certain existing legislation in respect of interpretation of statutes; to state what forms part of, and to state basic rules of interpreting Manx legislation; to make generic provisions about functions and powers for Manx legislation and non-legislative public documents; to shorten Manx legislation by avoiding the need for repetition; and to promote consistency in the language and form of Manx legislation.

The Act which will result from the Bill consolidates and re-enacts the Interpretation Act 1976, the Statutory Time, et cetera, Act 1883, and the Fees and Duties Act 1989. As I have said, the Act is intended to work together with the Act resulting from the Legislation Bill 2014 which consolidates and re-enacts many other existing Acts. The broad divide between the Legislation Act and this Act is that the Interpretation Act deals with interpretive and empowering provisions whereas the Legislation Act deals with the actual mechanics of legislation, that is the making, amendments, repeal and publication of legislation of all descriptions.

Madam President, I would move the First Reading of the Interpretation Bill 2014.

Mr Coleman: I beg to second, Madam President, and reserve my remarks.

Mr Downie: Yes, Madam President.

The President: The Hon. Member, Mr Downie.

Mr Downie: Yes, I do not have a problem supporting the First Reading, but I think as these are quite complex matters in my opinion, I would just like to ask first of all: is the Council of Ministers going to arrange a presentation for Tynwald Members, possibly before we sit again at the back-end?

I would also like to ask if similar legislation exists in the UK or any of the other Crown Dependencies? And would it be possible, if we are trying to iron out some of the anomalies and things that have been left since we stopped producing Juta's and updating our legislation, if somewhere there could be an interpretation which not only shows Isle of Man law, but UK law which affects the Isle of Man – we note with pensions and so on there are issues that are going on where things to do with the National Insurance Act, things to do with aviation security and so on, rather than trying to...

I think one of the problems that we are facing now is the Council of Ministers keep telling us that we want to try and keep things simpler, easier to understand, less complex. I think the reverse is actually happening and some people outside tell us that we are regulating ourselves into oblivion here, because there is so much coming through at the present time people are finding it difficult to keep on top of it all. As we are seeing, this is where mistakes get made.

I think it would be useful if, at some stage, there was an updated copy of all the current Isle of Man legislation and linked to that was the UK and perhaps EU legislation that feeds into that, so nobody could say that we have not actually got something written down.

The President: The Hon. Member, Mr Crowe.

Mr Crowe: Thank you, Madam President.

Yes, I think what struck me last night when I was reading these Bills is that it is a masterclass in legislative drafting, and it is two of the most complex Bills that I have seen in my experience as a Member of Tynwald.

Having said that I can see the purpose of all of this; both Bills, as the Attorney General says, simplify the drafting, to be able to publish online, to modernise some of the older legislation. I think it is interesting to see how this will modernise legislation and make it easier to understand and easier to print and easier for Tynwald Members and the public at large, and for advocates and whoever needs to look at Manx legislation, to make it easier for them to understand it. So we are modernising older legislation, which is a good thing.

When we get into the details we will be able to, shall we say, kick it around a bit more then.

There was just one interesting clause that jumped out at me when I was reading and that was clause 55 on page 32. What we have in subparagraph (1) is a menu of charges for offences and in subclause (7) there is another menu, and I am not sure if this is a new power or is it a restating of existing legislation, because to have it in primary legislation... and I know it is subject to change because the Council of Ministers have power under subclause (3).

I would be interested just in this particular clause as to, is this new or is it a re-stating of existing legislation?

Thank you, Madam President.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

Mr Crowe has just touched upon one of the questions that I was thinking and that was: what is new, what has changed?

If I may first of all, though, say that obviously our primary role in this place is to review the legislation that comes before us. We do, of course, have other duties with regard to when we are assembled with the other place in Tynwald and Government roles, and this was delivered to me... I only received this yesterday when it was posted out at the end of last week, and I thought it was quite a short time to come into possession of these Bills.

I think the learned Attorney did mention last week or the week before, that there was an Interpretation Bill in the pipeline. I had not realised it was coming so quickly, so I think really we could do with these Bills a little more in advance, especially as they are so detailed.

The contents of these, from briefly going through them, are obviously incredibly technical. To the outside world, I would imagine, it is not the most riveting of subject matter because it is dealing with the whole mechanics of how things work, as opposed to major policy changes that might affect the man in the street.

Nevertheless, it does do something we have been campaigning for in this place for quite some time. Our friend the Hon. Member, Mr Lowey, when he was here was always going on about simplifying, making legislation easy to read. He would quite often read out a line and say, 'What does that mean?' – it should be put more simply. So any legislation that aids the drafters to actually write down what it means that the man in the street can pick up and understand, has got to be a good thing.

So I do support the principle here of what is being brought forward.

I think it is important, as well, that the public can access the laws of the land freely. I do not think they should have to pay to go and find out what the law of their land is, and the new website is excellent in that you can do searches and find legislation. We have the benefit of knowing the system a bit better inside that we can usually find it a lot quicker, but I think we are getting there and the Legislation.im website is going to be a useful tool. Again the orders, I know, are published by the Tynwald website, so everything is heading in the right direction which can only help people.

Mr Downie mentioned 'regulating to death', 'regulating out of existence' – that is a phrase I have used quite a few times – mainly aimed at Departments, where they are looking for new powers, new regulations, and off it goes. I think that maybe this is a slightly different thing. This, hopefully, will enable things to be less bureaucratic.

So I do support what we are trying to achieve. As I said it has come before us rather quickly, normally we get the Green Bills and they are with us for a period of time before they appear on the Order Paper, so it was a bit disappointing that – apart from it being mentioned a few weeks ago – it has been so quick. But obviously I think Mr Downie has asked could we have a presentation on this to understand if there is anything in particular that is new, and if there is anything that is changed that is going to substantially change the way in which things may happen. I think that would be very useful for Members to understand because it is a very technical Bill.

Those are my comments at the First Reading, Madam President.

Thank you.

The President: Lord Bishop.

The Lord Bishop: Thank you, Madam President.

This is a fascinating Bill for anyone who loves language, as I do, or who might be described by most people as a pedant. I am intrigued – I do not understand most of it – I am intrigued by some of it; I was particularly drawn to clauses 33 and 34 on page 25:

'Words indicating a gender include other genders.'

I just wonder how many other genders there are? *(Laughter)*

Gender is defined as:

‘the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women.’

– and I do not think it knows of another sex. They do say, sometimes, the French say that there is a third sex and that is the clergy... but I can assure you that is not accurate. *(Laughter)*

The word ‘sex’, of course, means:

‘the biological and physiological characteristics that define men and women.’

I think this clause is referring to both sex and gender and there are two of each. So, for instance, looking at that I would have said that that should say, ‘Words indicating sex and gender include both sexes and genders’.

The one that follows it is interesting because:

‘words in the singular include the plural and words in the plural include the singular.’

That, I think, could be extremely dangerous unless it is looked into very carefully. I can think of a number of instances where to exchange the singular for the plural and vice versa could be a recipe for serious confusion.

Those are two that I understand; out of this Bill there is a great deal that I do not. But I wonder about producing a Bill like this which is intended to deal with detail and which might be challengeable on that very topic of detail.

Thank you, Madam President.

Mr Butt: We should be okay with sheep; sheep is singular and plural, sheep.

The Lord Bishop: Quite, yes.

The President: The learned Acting Attorney General to reply.

The Acting Attorney General: Yes, thank you, Madam President, and thank Hon. Members who spoke to support this Bill.

I have carefully noted the comments.

Through you, Madam President, if I could ask for some guidance with reference to the issue of a presentation? I am certainly very sympathetic to the proposal that that should take place.

The President: I think, Hon. Members, we did have a presentation when this new style of drafting and numbering was introduced. Clearly I think it is time for a revision, or a refresher, because new clauses I understood were marked, as on page 61, for example.

It is clear that Members would find that helpful and if that can be arranged I think Members would appreciate it, in both branches very likely.

The Acting Attorney General: Thank you very much for that, Madam President.

I certainly have every sympathy with anybody picking this up and trying to read through it – it took me two weekends to get my mind around it *(Laughter)* and I do not actually know whether I have got there yet.

I have explained the purpose of this and the understandable aims that were embarked upon when the Council of Ministers agreed to both Bills being brought forward. They are good aims and one way or another there are some benefits that can be achieved by bringing in the changes that are outlined.

I can tell Mr Downie that the issue of EU and UK statutory documents... and anything that is applied here is a matter which has caused me grave concern because certainly from the public's perspective, and even from our own perspective in Chambers, it is often very difficult, if not often impossible, to form a definitive view as to what is actually applied to the Island. That is a matter which I have raised with the Cabinet Office and what I can say is that within this legislation there are enabling provisions that will enable that to actually be brought forward.

So I can certainly take that back with an assurance that it is a problem and a concern which is shared across Government.

The fact of the matter is that there are new provisions being brought forward here and I entirely agree that it would be helpful if we could tabulate those for the benefit of Members, both in this place and in the Keys, so they can see clearly what changes have been outlined – and I will ensure that is done.

If I could then just address the question of timing, and it may in fact be something that falls on my shoulders. I was concerned to have this with Hon. Members certainly for the summer recess, so I wanted to get this here today and the impetus then within Chambers to have it published, so that you could in fact take the summer period to reflect on this. Certainly during that period I will arrange for this presentation to take place. I think that will help inform us all.

If I could then mention to the Lord Bishop that, as usual, I will take back his very learned comments on some of the points which certainly the expressions used in this legislation will cause a challenge, and I think we ought to look at them again carefully – and hopefully satisfy the Lord Bishop that we have got it right. But we will deal with that at another stage, if I may.

So, if Members are content, I would ask leave at this stage to move the First Reading on that basis, Madam President.

Mr Crowe: Madam President, there was no response to my queries.

The Acting Attorney General: I beg your pardon. That was the...

Mr Crowe: Clause 55.

The Acting Attorney General: Oh, I beg your pardon. Sorry I did have that one answered for you, if I may.

Clause 55(7) does not refer to the same matters which are referred to in subsection (1). Subsection (1) sets out a standard scale for offences punishable summarily. The purpose there is that in drafting you would be able to just simply say, 'By reference to the standard scale level 1', so that will save time and effort, and then legislation subsequently can change the rate under level 1 so we will not have to change primary legislation to deal with that.

Subsection (7) simply deals with specific amendments to legislation, which is listed. So if you are taking column 1 you have got the Credit Unions Act 1993, and in column 2 the amount which that Act at the present time will state as £20,000, and the amendment in future if this Bill goes through, will be '4 times level 5 on the standard scale'. So if you then cross-reference to level 5 it is £5,000, four times that equals £20,000.

So that is the purpose of that... and I hope that helps.

Mr Crowe: Can I just come back with... one of the questions I raised was: is the menu on clause 55 new, or is it in existence at the present time? This standard scale of 1, 2, 3, 4, 5 – is this new?

The Acting Attorney General: I beg your pardon, Madam President, that is new.

Mr Crowe: That is the question, Mr Attorney.

The Acting Attorney General: Yes, I am so sorry, yes.

Mr Crowe: Thank you for that.

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