

4. BILLS FOR SECOND READING

Procedural

The Speaker: We turn now on our Order Paper to Item 4, Bills for Second Reading.

Hon. Members, since the two Bills set down for Second Reading today are closely linked, I shall allow Members considerable latitude in referring to the content of the second Bill during debate on the first Bill. It is likely therefore that debate on the second Bill ought to be much shorter.

4.1. Legislation Bill 2014 – Second Reading approved

Mr Watterson to move:

That the Legislation Bill 2014 be read a second time.

The Speaker: Turning to the Legislation Bill with those points in mind, I call on the mover, Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.

I am pleased to be able to move the Second Reading of the Legislation 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 Second Reading today, are companion Bills and they are inextricably and intentionally linked. With your leave, I would like to ask to speak briefly to both Bills at the Second Reading of the Legislation Bill, as doing so might assist both my hon. colleagues and also the public to better understand their purpose separately and together.

The main purposes of the two Bills are to simplify the drafting of Manx legislation and improve its presentation; to provide the legal basis for the online publishing of up-to-date official reprints of legislation for both Acts and Statutory Documents, which I will at times refer to as 'SDs'; enable minor corrections to legislation to be made administratively; provide for a shortened procedure for the re-enactment of Bills that are purely consolidations; and bring together provisions about legislation or its interpretation or powers enabling the repeal of a number of different Acts.

The Bills were generated within the Attorney General's Chambers. The driver for the Bills was partly the move to establish official Isle of Man primary legislation online on a website. This move has already helped to save three sets of costs: the cost to Government of having official reprints prepared by a commercial publisher, Blackhall Publishing; the cost to members of the public in purchasing copy legislation; and the cost to individual Departments in preparing unofficial reprints of legislation themselves for cases in which official hard-copy reprints were not available or up to date.

Another driver for the two Bills was the need to modernise and update the current Interpretation Act 1976 and certain other Acts to make legislation easier to draft and to read and to improve access to it.

Having researched similar legislation in a number of jurisdictions, it was decided the best structure was to have two Acts – one for interpreting legislation and one for legislation and its processes. The dividing line between the Bills, however, is not clear-cut and they will consequently have to be read together. For this reason, I will explain both now and move the Interpretation Bill formally.

With Council of Ministers' approval, the Bills were subjected to lengthy and widespread consultation and views were expressed by many contributors, whose responses were considered.

The changes made to the Bills as a result of the consultation were largely minor drafting or technical ones, which were uncontroversial and unremarkable.

Generally, by streamlining the statute book the Bills will contribute to the Government's strategic aim of reducing regulation and making access to legislation easier. They will also save time and money as the drafting, amending and printing of legislation will become more efficient.

The Bills will remove a great deal of dead wood from the statute book. They consolidate 13 existing Acts and provide for the repeal of over 100 obsolete or spent amending Acts. The Bills also provide for the ongoing repeal of future amending Acts and amending provisions once they become spent.

Chambers have been concerned about the current Filing of Statutory Documents Act 1937, which the Legislation Bill 2014 is to replace. Despite its title, that Act does not define 'Statutory Document'. Section 2 compels the maker of any public document having the effect of law to file it in the General Registry. Chambers considers that the better view is that many public documents not of a legislative character – for example, interception warrants under the Interception of Communications Act 1998 – are currently required to be made public. To fix this problem, the Bills clarify that only SDs, as opposed to public documents generally, need to be filed. A public document is only an SD if it is legislative in character.

The reprints and consolidation provisions will avoid the need for corrections or changes of a minor and totally uncontroversial nature to be made by an Act of Tynwald. The reprints provisions will enable official electronic reprints to be prepared of both the Acts and SDs, which the Reprints Act 1981 does not allow.

The Legislation Bill provides for an online electronic gazette, which is common in most other jurisdictions, and requires the notification of the making of legislation in the gazette. These measures will facilitate access to legislation and provide greater certainty about what legislation has been made.

SDs will be able to make provision by applying another law or document either at the stated time or as in force from time to time... [*Inaudible*] such documents making provisions about land or waters will be able to describe them by reference to a map, plan or register held by the responsible authority. This will reduce the need to include such documents in the SD or public document itself.

The general power to prescribe a reasonable fee but no more than the actual cost will give greater flexibility. The alternative of prescribing a specific prescribed fee typically requires ongoing amendment as costs increase. Also, it may not be appropriate for smaller matters – for example, providing copies of documents.

The provisions about statutory forms will reduce the need for detail in legislation. Administrative matters or detailed requirements can be left to a statutory form made by the administering agency. The provisions clarify that if there is a required statutory form or purpose – for example, making an application – the form must be substantially complied with; otherwise the purpose is not achieved – for example, the application is not valid and does not have to be considered.

The other provisions will shorten Acts and SDs and make them easier to draft. Some of the main improvements to achieve this are the automatic commencement on announcement of an Act's commencement and citation provisions; a standard provision that Appointed Day Orders can fix different days for different provisions; consolidated provisions for making public documents; consolidated provisions for the numbering, citation and distribution of legislation; standards but not mandatory provisions for affirmative and negative Tynwald procedures, which future Acts can apply simply by using those words rather than repeating the whole formula; a provision empowering the Council, with Tynwald approval, to change one Tynwald procedure for SDs to another; a standard default laying provision if an Act does not provide for any laying requirement for SDs; an automatic presumption that a new offence or an increase in penalty is not retrospective – this will also be useful in addressing concerns from the Ministry of Justice about European Convention on Human Rights compliance; clarification of the status of examples and notes in legislation; provisions enabling the simple expression of penalties; provisions to simplify and shorten the text of

amendments to legislation; a standard provision facilitating the charge of continuing offences; a standard provision covering the liability of officers of bodies corporate; expanded default savings and transitional provisions; the inclusion of further commonly used defined terms – for example, those in relation to Tynwald procedures such as ‘Member of a Department’, ‘Statutory Document’, ‘working day’ and ‘non-working day’; a provision that a statutory requirement to produce a document kept on a computer includes producing it in a form that is capable of being understood by the person making the requirement; the Council’s power, with Tynwald approval, to make consequential amendments to Acts and Statutory Documents in a parliamentary enactment as applied to the Island.

Mr Speaker, I have spent a little time introducing the Second Reading because the Interpretation Bill 2014 and the Legislation Bill 2014 are technical Bills and need to be considered together.

I beg to move the Second Reading of the Legislation Bill 2014.

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

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I am just wondering really what the true purpose of this Bill is and also the Interpretation Bill. What is the true purpose of it? It appears to be innocent on the face of it, in terms of tidying up the process for legislation, for storing it, for filing it and for making it accessible, but I have not read anywhere yet in it ‘subject to Tynwald approval’ and I am just wondering if the Minister could steer me towards that section, but really just give an idea to the House.

He is obviously struggling a little bit with a cold or something and having to read out a very lengthy introduction to both Bills in a very technical format, but if he can put it in layman’s language: what is he hoping to achieve with these two pieces of legislation and how will it benefit things going forward?

The Speaker: Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

The Minister and this piece of legislation, and so therefore the team behind him, deserve all the support and encouragement they get... they deserve and they should have, because it is a very important process to actually simplify and slim the legislation and work out procedures for making it better.

I have got comments in three areas. The first one is about clauses around number 30 in the Legislation Bill – and paralleled in the Interpretation Bill, as the Minister suggests – which are to do with the process of actually making sure that Statutory Documents and public documents go through properly, go through in a correct form and a legally valid form. I want to ask the Minister whether he will engage with me in coming weeks to actually see to what extent we can do things like... [*Inaudible*] the Government Departments Act, section 3, documents, to work out how they can be incorporated so that Tynwald Court and the Clerk and his officers can be involved in making sure we have public dissemination of high-quality documents, of whatever form they are, resulting from things like the Government Departments Act, section 3, and other points, especially given all the correspondence that has been going on in the newspapers for nine months or so. We need to finally address this and this might be the opportunity to do that in this part of this legislation.

The second point is in section 91. Again, I am sorry to go back to the planning process and procedures, but section 91 is a general statement about how existing Manx legislation and notices given under that legislation are actually disseminated to those who need to know about it. I hope again the Minister will engage with me to see to what extent the planning notices and the adverts of planning notices are affected and actually can inform the development of process under section 91.

It would be a great shame if we had any contradiction between what we have discovered in recent months by having initially suspended and then reinstated adverts, and discussions that are ongoing about what has to be in the notice and to what extent an advert is a substitute for a notice... is not taken into account by this legislation.

Finally, I wanted to talk about some of the things that appear in clause 98. Some of those could be quite major, so I wanted to invite the Minister to make sure that by the time we get to the clauses stage we are properly informed about things like what the implication would be in terms of abolishing the Douglas Library Act and where that idea came from. I do remember making a budget speech, I think three years ago, in Douglas Council, saying that the Douglas Council budget was illegal because it was in contradiction to the Douglas Library Act 1938, but at the time I think I was told that was rubbish. So I wonder how this piece of legislation is actually being abolished and who the initiator was.

Likewise with things like the Douglas Corporation (Pulrose Estate) Act, because that reads that Tynwald Court has to give permission to sell land in the Pulrose estate, but I do not think that is the current way that Government goes about its business. It does not involve Tynwald in the same way that it used to.

Likewise with the Tourist Act 1975 amendments and the appeal commissioner's procedures. They seem to me to have substance and I wanted to understand a bit better before we nodded them through at the clauses stage, to know a bit more about the background to each of those changes. It is not for today, Minister. I hope you will engage in the next couple of weeks in those areas.

The Speaker: Mr Quirk.

Mr Quirk: Mr Speaker, in a similar vein, on clause 91, if I could just ask the mover of the Bill... It requires regular updates and I just wonder what... Is that based on a percentage for fees? All the fees are not prescribed. I am just wondering what the fees are going to be for that.

The one that worries me a little bit more is additional powers for the Council of Ministers to be repealed. I just wonder if that is maybe some hope for backbenchers to have some swing back to having some democracy, like we have seen in the last few minutes. I just wonder whether the Minister... I am probably being a bit cheeky, actually, finding out what it is all about.

There was one other, but I cannot remember what it was. That will do.

The Speaker: Mrs Beecroft.

Mrs Beecroft: Mr Speaker, I should have caught you earlier.

Just really if the mover could clarify what we are actually giving the Council of Ministers under this legislation.

In clause 87(2) it says:

'The consent of the Council of Ministers is required for the introduction of 20 the consolidation into Tynwald as a Bill'

and I am just wondering if he could clarify a bit more as to why.

Then again, in clauses 89 and 90 it is giving various powers to the Council of Ministers, or that:

'The Council of Ministers may delegate to the Chief Minister its powers under this Act to make public documents'

and I am wondering what the rationale for those powers is.

The Speaker: I call on Mr Watterson to reply.

Mr Watterson: Thank you, Mr Speaker, and thank you to all those who have raised those queries.

To take them in order, the purpose of this Bill is really to make the legislation that comes before us simpler and to remove an awful lot of the repetition, especially in a lot of cases where there are

different ways of wording similar provisions, and to bring them all into a standard form without necessarily changing the meaning.

The Hon. Member said that she did not get as far as anything that said 'subject to Tynwald approval'. Well, I think the first reference is at clause 29 and it is peppered throughout the Bill where Tynwald approval is required. It provides the responsibility – to take up Mrs Beecroft's point – of initiating a consolidation process, but it does leave the ultimate decision to Tynwald, therefore providing appropriate oversight.

Regarding Mr Thomas's points, I am delighted to engage with him. As far as I know, section 3 notices under the Government Departments Act are Statutory Documents and so they should be covered by some of the procedures we are talking about here. But I am certainly happy to engage with him. The dissemination advert versus notice, again I will have to pick that up with him outside. Implications of appeals in clause 98 – many of these are spent Acts. In terms of who has initiated this, this has been initiated by the Attorney General's Chambers. It is also, as I said, about standardising process. I think somebody mentioned the Pulrose golf course Act, and if there is one procedure setting out how land is sold there, it brings it into line with all the other... the normal procedure for selling land – and there again, that is still subject to Tynwald oversight.

Mr Quirk raised the question about fees, and the point that I made in my opening statement is that the fees that can be charged will be no more than the cost of providing the service, so again a safeguard there that it is no more than cost. In terms of Council of Ministers' powers, I was not quite sure of the point he was making, but if he would care to clarify it with me between now and the clauses stage I will certainly make sure that I get him an answer.

Mrs Beecroft raised an issue about one of the later clauses, and again it is about consolidations, I believe, and it sets the responsibility with Council of Ministers for consolidating a Bill – and again, it is subject to Tynwald oversight.

I will be looking over the *Hansard* of this, and if I pick up any other questions I will, of course, give answers during the clauses stage; and if any Members do have any other questions or issues I am more than happy to engage with them between now and the clauses stage of the Bill.

I beg to move that the Legislation Bill be read for a second time, sir.

The Speaker: Hon. Members, I put the Legislation Bill for Second Reading: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

4.2. Interpretation Bill 2014 – Second Reading approved

Mr Watterson to move:

That the Interpretation Bill 2014 be read a second time.

The Speaker: The Interpretation Bill. Again, I call the mover, Mr Watterson.

Mr Watterson: Mr Speaker, given the cognate nature of the Bills, I would like to just formally move the Interpretation Bill, having covered the aspects of both of them in my previous opening remarks.

I beg to move.

The Speaker: Mr Skelly.

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

The Speaker: In that case, I put the Interpretation Bill to the vote. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.