

**Designated Businesses (Registration and Oversight) Bill 2014 –  
Third Reading approved**

**The President:** Would you care to move the Third Reading, sir?

**Mr Braidwood:** Thank you, Madam President.

Before I move the Third Reading, a point which was raised in the Second Reading and clauses by the Hon. Member for Council, Mr Wild, who actually mentioned how many designated non-financial businesses and professions there were on the Island: there are about 400, Madam President.

Thank you, Madam President. As described in the clauses reading, the Designated Businesses (Registration and Oversight) Bill 2014 seeks to provide the Financial Supervision Commission (FSC) with new duties and powers relating to the oversight of anti-money laundering and countering the financing of terrorism (AML/CFT) compliance. The Bill enables the FSC to oversee certain businesses and professions in respect of their compliance with AML/CFT legislation by: providing a system for designated businesses to register with the FSC; enabling the FSC to assess designated businesses' compliance with the AML/CFT legislation by means of onsite visits and annual returns; and providing action and enforcement powers, in the event of non-compliance with AML/CFT legislation.

The provisions of this Bill aimed to address deficiencies identified by assessors of the International Monetary Fund, during their visit to the Island, in 2008. The IMF identified that, despite the AML/CFT legislation being in place, the Island lacked a suitable AML/CFT oversight regime for designated businesses and rated the Island as only partially compliant with Financial Action Task Force recommendations 22 and 23.

The implementation of this Bill is essential if the Isle of Man is to demonstrate the effectiveness of its AML/CFT framework and be assessed as compliant with international standards by MONEYVAL assessors in their inspection of the island in the first quarter of 2016.

In moving the Third Reading, I would like to thank Hon. Members for their support in taking the legislation forward this far and I would also like to thank the Hon. Member for Council, Mr Downie, who seconded the First Reading, and Mr Crowe, who seconded the Second Reading, the clauses and, hopefully, the Third Reading.

Madam President, I beg to move:

*That the Designated Businesses (Registration and Oversight) Bill, 2014 be now read a third time.*

**The President:** The Hon. Member, Mr Downie.

**Mr Downie:** Thank you, Madam President.

I beg to second and reserve my remarks.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

Just to comment as a former career banker, I do feel that this is robust legislation which closes loopholes and brings the Island into the high ranks of international financial standards and – I shall say it tongue in cheek – stops people wandering around with carrier bags full of cash.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

I think we have to go back and look at the reason why we have to bring in this legislation. Whether it is entirely in the form that I would prefer is not the issue. What we have is, around the world, money laundering, which ultimately is to do with, involved in illegal activities – drugs, arms,

people trafficking and a lot of other things that are most unpleasant – so it is important there is a framework in place where we can catch these transactions, because, ultimately, they are leading to misery somewhere down the chain for a lot of people.

The double-edged sword, of course, is that the majority of transactions that are going on and for the majority of businesses, this is an enormous bureaucracy and is completely unnecessary to their everyday business, but unfortunately it is the few that result in lots... You have to look at a lot of airport security, the majority of people going through are just normal, law-abiding citizens. But you have to have the procedures in place to catch the minority.

But what I will say is – and I have mentioned this before, so I will keep this brief – is that we have to watch we do not bring in legislation for the sake of it and regulate ourselves out of business. We had a plea, a few weeks ago, from the Chamber of Commerce that regulation here needs to be adequate to do the job and really this is for the mover to take back to the Treasury that when considering legislation such as this, and future legislation, I think the Chamber of Commerce hit the nail on the head when they said that we do not have to rush in to be the first. We do not have to be the best, we do not have to be cutting edge and leading, but what we need is sensible, adequate regulation for our country. I think we all support that principle.

It is quite interesting that in the United States they actually have – and this comes back to my comments through the passage of this Bill about bureaucracy – they have the Paperwork Reduction Act, which came in in 1980 and then was amended in the mid-1990s. I noticed when filling out a form on entry to the United States, a few years ago, they had to declare the burden of filling out these forms was x number of minutes and maybe there is a Private Member's Bill waiting to come forward for the Isle of Man.

As I said about ways of streamlining, I know the mover said the FSC would like to streamline the process, so again for future legislation that we bring through, where there is going to be ultimately a burden on people and on businesses, all Departments, I think, should factor in exactly what they are going to do. I think it would be an interesting exercise, if you were to add up all these requirements that businesses do. What is the total burden in hours of a business or an individual in dealing with the Government every year? It would be quite interesting to know how many hours they give.

So I think although this is an important piece of legislation, which I shall be supporting at this Third Reading, I think we have to go forward looking at everything we bring through.

The regulation has to be adequate for the job and it has to be at a level that is not going to regulate us out of business. The future is, of course, we have to make sure that the information and the data we are collecting is the right data and that we do not just start making databases for the heck of it. Because a lot of this information is probably already held by the company registry and other Departments, so there should be some joined-up thinking of when there are further registrations going on, that they can simply add it to the database. With that being centrally-held by Government as an entity, then I am sure it is possible, maybe not now, but in the future.

So I will support the Third Reading at this stage, notwithstanding the comments I have made. Thank you.

**The President:** The Hon. Member, Mr. Butt.

**Mr Butt:** Thank you.

I would just like to comment, Madam President, how far we have come in recent years and it is good that we are now complying with the highest international standards.

I can remember having a phone call from a bank in Douglas, saying, 'Could you come down, please? There is a man here with a suitcase with £50,000 in it.' That was the call we got. We suspect there were many calls we did not get, where the same thing was happening, and now we have extended the anti-money laundering regulations to such an extent now that we are including estate agents. I think that estate agents, politicians and newspaper journalists – and the bankers, of course, are the lowest of the low, aren't they? We have now finally captured the estate agents. *(Laughter)*

I agree with my colleague, Mr Turner, that we have had representations to us on Public Accounts and other committees that the regulation is too onerous and it has become too extensive, and I suspect, despite consultation, we may get a few businesses saying the same about this legislation. If we want to show ourselves not to be in the business of taking in dodgy money, which we used to do, we need to make sure this legislation is used and is kept up-to-date.

Thank you, Madam President.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President.

Can I just say, while supporting this legislation, I think the implementation has to be done on a reasonableness basis because I think if you have 400 businesses sending in annual returns on the amount of cash they are dealing with, it is going to be quite some information to be processed by the FSC but a lot of this, such as estate agents, will be handling sums of less than €15,000, rent and deposits for property and so on. It is a case of to be careful that we do not create a bureaucratic minefield and that the implementation is done on a reasonable basis, that it picks out the ones where AML/CFT legislation is being breached, rather than a catch-all for everybody.

**The President:** Hon. Member, Mr Downie.

**Mr Downie:** Thank you, Madam President.

Yes, I think if we are going to be players in international finance, we have got to play by the rules and, on a daily basis now, we are seeing criticisms of banking and financial institutions – a general tightening up right across the global market. Sadly, a lot of money changing hands through terrorism, ISIS and so on, and all these other groups and organisations. Really, I think that if the Western world is serious about doing business, they have got to find ways in which they can stamp these cases out and not let money laundering and fraud and drugs money and so on – terrorism money – get into the money markets, as it were.

As far as designated businesses go, I think there is an obligation on most businesses today to make sure that they are not getting involved in activities and I am sure that when this legislation is finally enacted there will be advice available for people so that they will understand fully. There will be proper guidance notes etc produced, so they will know what is required of them as a business and I think that is the most important thing and that is where the Island has always scored, because when we have embraced legislation we have always been in the position where we have gone the extra mile and helped people rather than hindered people. With the advent of further technology, it should be a simple matter nowadays to register and to re-register and do all the other things online.

But in supporting the Bill today, I think we have got no other alternative, Hon. Members. If we do not have legislation like this, I think we will be picked off and pilloried, for all the wrong reasons, so I would urge Hon. Members to get behind it, support it and have some confidence in the people who are going to deliver the service and look after the customers in the Isle of Man: the businesses.

**The President:** The mover to reply. Oh, sorry, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I too will be supporting the Third Reading here. I think a number of other Hon. Members mentioned the appropriateness of the actual implementation versus the benefits, so I think that we have to make certain with all future legislation, to use the Euro law term, it has to be proportionate to what you are trying to solve. I believe that this is appropriate to the problem that we might be facing.

We do not know what the level of this is in the Isle of Man, because we have never looked at it. The banks might possibly be knowing about it because there will be quite high deposits of cash

coming through. But what are we talking about? We are talking about £12,000? Rarely have I ever carried £12,000 around and yet when you go through airports, there are signs saying if you have more than \$10,000 in your pocket, you have got to declare it. So it does happen and there are nefarious people out there who will make use of the fact that we would not have this type of legislation, in place.

So I support this and I think it is appropriate, and I think it is proportionate.

Thank you, Madam President.

**The President:** The mover to reply.

**Mr Braidwood:** Thank you, Madam President.

I do thank everyone who has spoken this morning. The word I wrote down was 'proportionality' and Mr Coleman has just mentioned that word.

As Mr Wild said, Madam President, we need robust legislation and compliance. I can understand Mr Turner's concerns because we did have the presentation from the Chamber of Commerce. But as I said at the First Reading, as a Treasury Member I met with the Chamber of Commerce, I have met with the Law Society before Christmas for the Budget, and even the FSC is trying to do the lightest touch possible, although to try to be transparent with the anti-money laundering legislation.

The FSC also, as I mentioned, intends to delegate the powers of inspection to professional bodies, where professional bodies can demonstrate that they meet the FSC standards relating to inspection. Where, Madam President, inspection is delegated to professional bodies, it is likely that the body will combine the review of compliance with its requirements with the review relating to AML/CFT legislation, on behalf of the FSC, resulting in designated businesses being subject to one combined visit, which will reduce any duplication of effort.

So again, we are trying to cut down on the bureaucracy. The Treasury have spoken with the FSC, particularly with regard to MONEYVAL, and that we do not want to be ahead of the game, as long as we have got a level playing field in legislation and our standards are not so high, so that other companies or businesses will go to other jurisdictions, Madam President.

So the whole point is a level playing field with our competitors, and with that, Madam President, I beg to move.

**The President:** The motion is that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.