

**6. BILL FOR SECOND READING**

**6.1. Local Government (Amendment) Bill 2021 –  
Second Reading approved**

Mr Baker to move:

*That the Local Government (Amendment) Bill 2021 be read a second time.*

2435 **The Speaker:** Item 6, Bill for Second Reading, Local Government (Amendment) Bill 2021 and I call Mr Baker to move.

**Mr Baker:** Thank you, Mr Speaker.

2440 I am pleased to promote this Bill on behalf of the Department of Infrastructure, as the main driver of this Bill is to facilitate the implementation of a number of recommendations of a Select Committee of Tynwald. That was the Select Committee of Tynwald on Local Authorities: Members' Interests (Petition for Redress), which had been agreed to by Tynwald previously.

2445 Implementation of the Select Committee recommendations, along with other amendments relating to access to meetings and documents, will greatly improve the governance of the Island's local authorities by making them more open and transparent to their ratepayers. Furthermore, the Bill is proposing to update enabling provisions relating to the Local Government Superannuation Scheme within the Superannuation Act 1984. The current scheme applies legislation made under the Superannuation Act 1972 of Parliament to the Island. This Act has subsequently been repealed by the Public Service Pensions Act 2013 of Parliament.

2450 The Department is not able to apply any new legislation under the Public Service Pensions Act 2013 of Parliament, as the Superannuation Act 1984 refers to the Superannuation Act 1972 of Parliament. If the Superannuation Act 1984 is not updated, the Local Government Superannuation Scheme will not be amended to include any new provisions the UK government may implement, which may be beneficial to the Island's scheme.

2455 The Bill also updates the provisions of the Local Government Act 1985 relating to joint boards and some minor amendments to other local government legislation, such as the Local Government (Miscellaneous Provisions) Act 1984.

2460 Mr Speaker, I now turn to the Tynwald procedure for local authority byelaws. My predecessor gave a commitment in the other place that my Department would review the requirement for Tynwald to approve local authority byelaws. As a result of that review, this Bill will remove this requirement. Instead, byelaws will only require departmental approval. It should be noted that currently byelaws made under the Dogs Act 1990 do not require Tynwald approval; they only require departmental approval. The change in procedure will help to streamline the approval process for local authority byelaws.

2465 The Local Government (Miscellaneous Provisions) Act 1984 specifies that a local authority shall hold and manage open space for the purpose of allowing the enjoyment by the public. The proposed amendment contained within this Bill will allow local authorities to lease or license open space to other parties, so as to manage and to use those spaces for the benefit of the community.

2470 Mr Speaker, in respect of local authority boundaries, these are well established in that people generally know where their boundaries are, or if there is some uncertainty as to whether local authority boundaries are currently established in statute. This is a consequence of updating the polling districts for House of Keys elections, which was introduced through the Polling Districts (Keys Elections) Order 2015. This Bill will clarify the status of the local authority boundaries and how those boundaries can change, either through merges or extensions.

2475 This Bill will also devolve the power to set members' expenses and allowances to the local authorities. However, the parameters on how they set those expenses and allowances would be governed by regulations made by the Department.

Finally, in light of the sale of the old Market Hall on North Quay, the Douglas Market Act 1956 is no longer required. This Bill will repeal that Act.

2480 Having outlined the broad principles of the Bill, I hope that Hon. Members will be able to give it their full support.

I beg to move that the Local Government (Amendment) Bill 2021 be read for a second time.

**The Speaker:** Hon. Member for Onchan, Mr Callister.

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**Mr Callister:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** Mr Harmer.

2490 **Mr Harmer:** Thank you, Mr Speaker.

I really welcome this Bill, particularly as there are many conflicts of interest and it deals with lots of good, solid issues that have been grumbling around the time, and I am really grateful that the issue of having to go to Tynwald on every piece of every byelaw, I think would be a great relief to the Hon. Court.

2495 Thank you, Mr Speaker.

**The Speaker:** Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

2500 The first point is that, in principle, I fully welcome local authority legislation reform. I have just got few specific questions at this stage at Second Reading. The first one is that the Public Sector Pensions Authority is being required – it must – give advice when requested by the Department of Infrastructure. I just wonder why the Department of Infrastructure, given it does not have the obvious capacity in respect of public sector pensions, why it is even still involved. Would it not be better to actually have the Public Sector Pensions Authority actually having the legal responsibility from under the UK legislation, rather than having to give advice to the Department of Infrastructure, which does not have great history and capacity in terms of public sector pensions?

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2510 The second point is that I just wonder whether the Minister is surprised that yours truly and perhaps other Members received communication from local authority commissioners saying that, as the Member whose name is on the engagement and consultation principles of Government, local authorities were not as yet convinced that the rush was necessary and they were not as yet convinced that some issues they had raised during the six or seven months, in recent times that have been going on, that concerns have been incorporated. In particular, the suggestion that is made in terms of engagement – just by way of example, because I myself have not had a chance to look and read every word of this legislation – but the point has been made is that in one of the schedules – in Schedule 3, from memory – we are actually bringing in part of the UK legislation for local authorities. Obviously in the United Kingdom local authorities are much greater than the typical rural parish commissioners. So is it fair lock, stock and barrel to bring in from UK legislation that applies to Greater Manchester, the Greater London Authority and county councils and district authorities the same legislation that applies to Andreas Parish Commissioners, never mind Santon Parish Commissioners, which last time I looked had a turnover of less than £100,000 a year?

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2525 Specifically the question is, has there been sufficient engagement and has the principle that we have got the size of local authorities and the obligations right been considered properly? I have to admit that as a person who wants local authority reform and as the architect of the policy of actually applying GDPR and the FOI and the Tynwald Commissioner for Administration to local authorities to start thinking about how they are formed, in principle I am fully behind making local authorities wake up to proper public representation and so on, but I just want to put it on record that the Minister who represents rural parishes has actually fully thought through whether the full weight of UK transparency and representation principles and responsibility to the ratepayers

2530 and those who elect them has actually been fully thought through with all the local  
commissioners, because it has certainly been suggested to me that there has not as yet been  
sufficient engagement.

Along those lines, I just wanted to ask, so it is on the record at Second Reading stage, why it  
has taken so long for Mr Hamilton's Petition that was made in July 2011 and for the Tynwald  
2535 Report that was agreed by the end of 2012-13 from memory ... why has it taken so long? I  
remember when I was responsible for local government inside the Department of Infrastructure,  
we did have plans to make it a priority immediately five years ago at the beginning of this  
administration, and it does feel to me like this has been a bit rushed at the end because it has not  
really been a priority. So I just wondered why, in simple terms, it has taken 10 years to put in place  
2540 Mr Hamilton's recommendations that were approved in Tynwald.

Just very specifically on that point, is it the Minister's intention that this Bill becomes law before  
the end of this administration, or does the Minister currently expect this Bill to come back to the  
House of Keys in the next administration, having been through the Legislative Council?

Thank you.

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**The Speaker:** Next on my list, I have the Hon. Member for Ramsey, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

I feel the questions I had were very similar to those raised by my hon. friend Mr Thomas. Why  
2550 now? It does feel like this Bill is going to have to come through the House, then come back through  
LegCo and then come back through the House again after the election, because it is quite  
substantial and does make quite a lot of changes, so I think if some further meat could be put on  
those bones, that would be greatly appreciated.

I would like to thank the Minister actually for arranging some drop-in sessions with his team. I  
2555 have not been able to attend either of them, but at least he put them on, that is definitely a step  
in the right direction. (**Mr Thomas:** Hear hear)

A couple of specific phrases in here worry me a bit, so there is language in one of the schedules  
around confidential information, so where a meeting is public and obviously the minutes are  
public, there is an ability to withhold confidential information from publication, but it is very  
2560 specifically limited to information that has been furnished to the local authority by the  
Department or by a Department, which specifically forbids it being disclosed and information  
which is prohibited under any enactment from being disclosed. It does not talk about any other  
types of confidential information, legally privileged information, commercially sensitive  
information; it very specifically references those two types. So again, I think some clarity from the  
2565 Minister on what they are trying to achieve with that.

I would also like to get a better understanding of the clauses around relevant interests. We  
passed a law very recently which codified 'relevant interests' in statute. The election is coming up,  
we have all been sent these detailed lists of what is a relevant interest per the law that exists, but  
instead of just pointing to that law, this Bill says the Department can make its own regulations  
2570 about what relevant interests are, so we could end up in a situation where local authorities have  
one set of rules and Members of the House of Keys have another set of rules about relevant  
interests. So again some clarity on why there might be a difference there.

I would also like to have a better understanding of some of the prohibitions that have been  
placed in here, so a Member of this House has an interest, we are required to declare it, but we  
2575 still may participate in conversations, debates and votes, if it is considered appropriate, but this  
places in statute that if a local authority member has a similar interest, they are prohibited from  
participating in the vote, prohibited from participating in the discussion, they may be excluded  
from the meetings. Now I am not saying one approach is better from the other, I do not know if I  
am perfectly honest, but it is strange that we are applying one set of rules to local authorities and  
2580 a different set of rules to ourselves. So again, some explanation from the Minister as to why that  
is considered appropriate.

I would also like to ask around the byelaw provisions. Changing them away from Tynwald approval seems to make sense, but there is a phrase in the law and it says, 'Where the Department has withheld approval, the local authority can come straight to Tynwald.' So what does that mean? Does it mean where the Department has sat on an application for a month, or six months, or a year? Or does it mean where the Department has actively stated to the local authority, 'We are not giving you permission for this'? I can envisage both situations happening, one where the Department says explicitly, 'No, we do not like these byelaws', and another one where the Department simply does not want to pick that particular battle at that particular time and so places the byelaws in a drawer, as a sort of pocket veto, as it were.

So again, not a criticism of his Department specifically, but these things do go on. Again, I would like to get some understanding of if I am a local authority and I am trying to get the byelaws passed, what is the time limit? What is the trigger point at which point I can then come to Tynwald directly and make that petition?

There is lots in here, I think some of it definitely looks good, some of it looks like it is going to really improve things, but I think some of this information around the detail I am not quite sure has been very well explained and certainly is not outlined in the Bill itself. So if the Minister could provide some more detail around some of these questions, I think that would be very beneficial.

Thank you, Mr Speaker.

**The Speaker:** Hon. Member for Onchan, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

I just really want to ask the Minister with regard to the public sector pensions, clause 33, where it clearly states that reasonable costs for the scheme to allow for administration and maintenance expenses etc. are to be paid out of the scheme. Does the Minister know whether there was any consideration to go a little bit further on this to do a review of the pension scheme and the contributions from Members, because clearly they are way off the mark from the reform that has been taking place within the rest of the public sector and certainly with regard to ratepayers of the Isle of Man? I think it was 28% contribution from the ratepayers. I think it might even be up to 30% now and here we are possibly passing in clause 33 that they can also now start charging for the administration, etc. I just want to know if the Department did take any of that into consideration to do some of that pension reform that is urgently required.

Thank you, Mr Speaker.

**The Speaker:** I call the mover to reply, Mr Baker.

**Mr Baker:** Thank you.

I would like to thank all Hon. Members who have spoken and all Hon. Members who took the opportunity to come to the drop-in sessions. I appreciate that diaries are extremely busy at this point in time, and it was good to see a number of Members there, but if any other Members do have more detailed questions between now and the clauses stage, I am more than happy to arrange for officers to extend the DoI's hospitality – which extended to sandwiches yesterday! *(Interjections and laughter)* So thank you for that.

Hon. Members will also recall having seen the consultation responses, which are a little bit dated, and the Hon. Member for Douglas Central has drawn attention to the fact this has been either a long drawn-out matter. What I would say to him is it may have been 10 years since that Select Committee met, but it has been a little over 10 months since I have been the DoI Minister. My intention is to push on with these things and to try and get things done.

There is a lot of value in this Bill, Mr Speaker. Some really fundamental principles came out of that episode, which many Hon. Members will be familiar with, back over a decade ago, and this Bill responds to that. It responds to it in a very positive way by really applying high standards of transparency and probity to local authorities, and the Hon. Member for Ramsey has picked up

2635 actually that it lifts the bar further than actually we have ourselves in this Hon. Court and in the other place in terms of conflicts of interest and being able to still participate in debates, etc.

2640 There is a question as to whether that then should lead to a further review of Standing Orders and provisions for here and for Tynwald but that is a separate question, Mr Speaker. I make no apologies for raising standards. I think it is really important that standards are raised and I would highlight actually that there is a difference between some of the conflicts of interest and a link to financial issues and benefits that people may obtain from them. So in local authorities, for example, where ratepayers' money is being directly spent as a result of decisions made by the board of commissioners, it is a more direct connection to the financial interests of perhaps the members. So there is an argument, and this was something that was discussed yesterday at the second of the drop-in sessions, that that higher standard is entirely appropriate.

2645 The question from the Hon. Member, Mr Thomas: are we going too far with these standards and are we in danger of expecting too much from our small authorities? What I would say he is absolutely right that this is based on local authority arrangements in the UK, but they do of course cover quite a broad range of entities in the UK, so we think automatically of the larger authorities, but actually the UK is a tiered structure and at the lower end there are some quite small authorities, even going down to parish councils, where the same principles are reflected in their rules.

2650 So it will be a challenge. Any reform is a challenge as people get used to the principles and the Hon. Member talked about Freedom of Information and GDPR. That has brought challenges to local authorities, but we have to keep modernising and keep raising the bar. We have considered the proportionality of this and we believe that it is appropriate.

2655 The Hon. Member also draws attention to comments from ... I think he talked about local authorities, plural, but I think he is really referring to a letter that was sent from Peel Town Commissioners signed by the Chairman, which interestingly was not sent to either me as Minister or the Members of the Departments or indeed, as far as I am aware, any of the Council of Ministers, including the two constituency MHKs for Peel. Now, I can only speculate as to the motivations of Peel Town Commissioners. I am not going to comment on that, but it is an unusual approach. It was sent out I think on Friday, and I am very grateful to the Hon. Members who attended the workshop yesterday and made me and the officers aware of Peel Town Commissioners' letter. All Hon. Members should have had a letter in response from me that was circulated about quarter to 10 this morning, which hopefully puts that letter into context. I will be writing to Peel Town Commissioners. I am very disappointed and I find their approach unusual, but equally, I am happy to extend opportunity for them to come in and meet myself and the officers in the Department to discuss their concerns further. However – yes.

2670 **The Speaker:** ... Minister.

**Mr Thomas:** Thank you very much, I really appreciate it. Just for the benefit of the record, I did receive the letter from Peel Town Commissioners and I know other people; but I have talked to several other local authorities who have expressed similar concern.

2675 **Mr Baker:** Okay, thank you for that clarification.

2680 Most local authorities participated in the workshops which were held in February and they made comments. Those comments were collated, they were reviewed by the officers and the officers came forward with some considered recommendations to the Department. It went through the departmental Members. Some of those recommendations were accepted; some were not.

2685 I think, Mr Speaker, we have a situation where views are diverse across local authorities and there is a range of sizes and styles of local authority. We are not going to bring forward a Bill which pleases everybody. My personal view is that for every pro, there is somebody with an opposite view, and I know that a number of local authorities are extremely welcoming of the high standards

that are expected in this Bill. But yes, I am open to talk some further, but we did make changes to the Bill to reflect the comments that were made in the three workshops and they were held post the second lockdown. They had been deferred from January and if they had been held in January, we would have been much further on with the Bill than we currently are.

2690 This is an important Bill. We felt that it was worth continuing to progress but it is not my intention, Mr Speaker, to try and accelerate this rapidly through this administration. I seek to take it through this Hon. House and to pass it up to Legislative Council for their consideration. It will, of course, then have to return of this Hon. House in due course, but I think it is still well worth pushing on because these are important principles and actually, as one Hon. Member said in the  
2695 briefing to me yesterday, but I think this is uncontroversial and so we should keep pressing. We should not just put our cue on the rack and play for time, knowing that there is an election coming up. We should use this time well, and if we do not use it well, we are just going to delay when this comes into force. Indeed the future administration may decide it is not that important, if it has not gone through into Legislative Council. So I do think it is worth pressing on, Mr Speaker.

2700 In terms of the other comments that have been made, thank you to Mr Harmer for his welcoming of the Bill and highlighting the benefits in terms of conflict of interest and also slightly shortening some of the future Tynwald Order Papers. The Onchan byelaws and the Ramsey byelaws which have gone through recently may become a thing of the past.

2705 In terms of the pension point, I am happy to speak directly to Mr Thomas and to circulate to Hon. Members further detail on that particular aspect of the Bill. However, we are where we are in terms of responsibilities, Mr Thomas, and we are trying to move forward rather than wait for perhaps some future reorganisation or restructuring. But I am always open to better ways of doing things.

2710 Ms Edge touched on the clause, particularly about this pension reform and the clause that she is referring to is to actually allow local authority reform to move forward.

So with that, Mr Speaker, I sense that it is probably about time for me to sit down, (*Laughter*) so with that, Mr Speaker, I beg to move.

2715 **The Speaker:** I put the question that the Local Government (Amendment) Bill 2021 be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, I am somewhat loth to commence the Administration of Justice and other Amendments Bill (**Mr Robertshaw:** Hear, hear.) with just two minutes to go, so with that the House is suspended and will reconvene at 2.30 p.m.

*The House adjourned at 12.59 p.m.  
and resumed its sitting at 2.30 p.m.*