



LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH

PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 31st March 2015

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Present:

The President of Tynwald (Hon. C M Christian)

The Acting Attorney General (Mr J L M Quinn),
Mr M R Coleman, Mr C G Corkish MBE, Mr D C Cretney,
Mr R W Henderson, Mr J R Turner and Mr T P Wild
with Mr J D C King, Clerk of the Council.

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Legislative Council

The Council met at 10.30 a.m.

[MADAM PRESIDENT *in the Chair*]

The President: Moghrey mie, Hon. Members.

Members: Moghrey mie, Madam President.

5 **The President:** The Chaplain will lead us in prayers.

PRAYERS

The Chaplain of the House of Keys

Leave of absence granted

The President: Hon. Members, the Lord Bishop has leave of absence.

Order of the Day

1. Audit (Amendment) Bill 2015 – First Reading approved

Mr Henderson to move:

That this Bill be read a first time.

The President: We turn to the only business on our Order Paper this morning. We have the Audit (Amendment) Bill 2015 for First Reading.

10 I call on the Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

Eaghtyrane, this Bill confirms Treasury's commitment to promoting more proportionate and cost-effective approaches to financial governance.

15 The Audit Act 2006 currently requires all public bodies subject to the Act to prepare accounts and be audited in accordance with the Act. However, it does currently make provision for the Treasury to be able to exempt certain of those relevant bodies from the required statutory audit.

Following the consideration of issues raised by the local government sector, and acknowledging the very significant improvements in financial compliance that had been achieved by the sector over

20 the recent years, the Treasury went out to public consultation in December 2013 in relation to the audit and accounting framework applicable to that sector.

As a part of that consultation Treasury also had a very constructive open meeting to which all the local government bodies were invited. There were three key proposals made in that consultation that are particularly relevant to this Bill.

25 Firstly, that a three-tier risk-based assurance framework be adopted for the external inspection of a relevant body's accounts, namely: (1) an independent examination by a suitably qualified examiner; (2) an assurance review by a Treasury-appointed qualified auditor; (3) a statutory audit by a Treasury-appointed qualified auditor, as is currently the case.

30 Secondly, whilst Treasury considered that such a framework could be adopted via its existing powers by making conditional exemptions, it considered that this may lead to unhelpful ambiguities, particularly in relation to the ongoing rights and responsibilities of inspectors. Consequently, the consultation proposed that Treasury's powers under the Act should be clarified to enable a more explicit and direct implementation of the framework.

35 Finally, having identified that the existing primary legislation would not permit such a framework to be adopted for the 17 Burial Ground Authorities – amongst the smallest bodies audited under the Act – it was proposed that Treasury's powers should be so extended.

40 Approximately 65% of the 52 local government bodies responded to the written consultation and they were very supportive of these proposals. Consequently, they were implemented in part by the Audit (Local Government) Direction Order 2014, which has subsequently led to over £40,000 of annual cost savings for the sector.

45 Following on from the consultation, Treasury further noted that the annual accounts timetable applicable to the Burial Authorities seemed unnecessarily onerous. It is the Burials Act 1986 that currently stipulates their year end as 31st December with a final submission of the audited accounts by 30th April. However, rates collection information, the primary source of income for the Burial Authorities, is not finalised until shortly after 31st March. This timetable appears to be unrealistic, both for the Burial Authorities and for the auditors required to audit them.

50 Accordingly, as the officers of the Burial Authorities are churchwardens, the Treasury also directly consulted with the Lord Bishop on this issue who proposed a change in the accounting year end date applicable to them. Consequently, the Bill also proposes to amend the Burials Act to change the Burial Authority year end to 31st March.

55 In summary, it is the intention of the Bill to: provide Treasury with the powers to ease the regulatory burden when appropriate for all relevant bodies brought within the scope of the Audit Act 2006, with particular consideration being given in future to the Burial Authorities; and, ease the accounting timetable for the Burial Authorities to make the proportionate assurance framework currently adopted via subordinate legislation more clearly defined and robust within the primary legislation.

60 Eaghtyrane, I would also like to clarify the position with regard to transitional arrangements for the Burial Authorities which, it is acknowledged, are not included within the Bill; however, I am advised that it is intended that, for the transition period, the Burial Authorities will have a 15-month accounting period and that the statutory mechanism by which this will be implemented is via the relevant Appointed Day Order – this is to make it simpler for the Burial Authorities to comply with the accounting periods, and give them that extra latitude and breathing space to bring their dates up to speed with what is being proposed here, Eaghtyrane.

65 I think also, Eaghtyrane, we need to clarify the term 'corporation' that is used within this particular First Reading; and just to state that there are five other existing references in the Burials Act 1986 to 'the corporation'. In the legal context when they are defined, it is obvious what that term means and in the event both 'the corporation' and 'Douglas Corporation' are clearly defined in the 1976 Act, so there is no ambiguity if a proper legal definition is required. I certainly accept, however, that only the latter term is defined in the new Interpretation Bill but this is another Bill and
70 certainly not consequent on any effects that we are considering this morning, Eaghtyrane.

So with that, Eaghtyrane, I wish to move that the First Reading be heard.

The President: The Hon. Member, Mr Coleman.

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

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

I think the Bill that is before us... they have been wanting this for a while because what we were finding is that sometimes some of these smaller authorities, the costs were so high it was almost... if it was a business it would be effectively bankrupting it because of the level of costs.

I think what we are seeing here with this Amendment Bill is keeping the level of oversight but simplifying the process and making it, hopefully, less bureaucratic.

The Bill itself is incredibly technical, because it is an amending Bill, so somebody picking it up and trying to read through it probably cannot make head nor tail of it because you need to look at the legislation that it is amending; but I think, as we debate at this Reading, the principle of what it is going to do – in the Explanatory Note where it says it is restructuring the process – is exactly what it is intended to do.

I think we need to send the message that what we are doing here is we are not removing the oversight, but we are replacing it with a different form of oversight, which is what is important; and that oversight has to be proportionate to the matter that is being dealt with.

So I give this Bill full support and, again, I think it is extremely technical and no doubt we will go into the detail as we go through the later stages; but certainly full support for this First Reading.

The President: The Hon. Member, Mr Corkish.

Mr Corkish: Thank you, Madam President.

I did have a query, I must remember not to forewarn the hon. mover in the future – it was the definition of corporation which was not referred to earlier. Whilst we may understand around this Chamber what corporation is, it is defined in the 1976 Interpretation Act but not in the 2014 Interpretation Bill. However, I think the mover has explained and I thank him for that.

The President: Mr Coleman, did you wish to speak?

Mr Coleman: Yes, thank you, Madam President.

I, too, am fully supportive of this Bill and I am fully supportive of any attempts at rationalisation and making procedures proportionate to the need.

This goes a long way to achieving both of those objectives and so I am fully supportive of this Bill.

The President: The Hon. Member, Mr Wild.

Mr Wild: Thank you, Madam President.

Just to say it feels practical and robust to myself, and it has my full support.

The President: The mover to reply.

Mr Henderson: Gura mie eu, Eaghtyrane.

I thank Hon. Members for their support and interesting comments in the commencement of this Bill through its passage at Legislative Council.

Just to pick up on Mr Turner's point: he is quite correct, Eaghtyrane, that this is not removing anything but replacing it with a proportionate response. I must say there was a considerable

consultation period for this and an open meeting as well, with the authorities, and it has their blessing and full support as far as the changes contained within the Bill are referenced.

125 Mr Corkish's query with regard to 'the corporation' was interesting as the Bill does mention that, but if a technical or legal determination is required with reference to the other Acts that mention corporation – and certainly the 1976 Act, which defines corporation *and* Douglas Corporation – I think we can demonstrate a legal clarity there if such clarity was ever required. So, for the purposes of *this* Bill that is, I am advised, acceptable and certainly if clarification were sought as a result it is
130 there.

Mr Coleman points out that it is proportionate, which it is; and Mr Wild points out that it is practical, which it is. And I would like to put on record Treasury's thanks to local authorities for their work behind the scenes in this and for the fact of bringing up to speed their account returns, and the hard work they have applied to the prior situation; and this only seems fair, as well, to look at their
135 concerns and give them something back in recognition for the hard effort that has gone in behind the scenes as well, Eaghtyrane.

So with that, Eaghtyrane, I beg to move.

The President: The motion is that the Bill be read a first time. Those in favour, please say aye; against no. The ayes have it. The ayes have it.
140

Hon. Members, that concludes our very short agenda while we await work from another place.

I wish you all a very happy Easter.

Council will now adjourn until 21st April in Tynwald, followed by a sitting in this Chamber on 28th April.
145

Thank you, Hon. Members.

The Court adjourned at 10.44 a.m.