



# LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH

# PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 12th May 2015**

*All published Official Reports can be found on the Tynwald website:*

[www.tynwald.org.im/business/hansard](http://www.tynwald.org.im/business/hansard)

*Supplementary material provided subsequent to a sitting is also published to the website as a Hansard Appendix. Reports, maps and other documents referred to in the course of debates may be consulted on application to the Tynwald Library or the Clerk of Tynwald's Office.*

**Volume 132, No. 15**

**ISSN 1742-2272**

**Present:**

**The President of Tynwald (Hon. C M Christian)**

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),  
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.

**Business transacted**

<b>Question for Written Answer .....</b>	<b>369</b>
1. Harbour facilities for private boat owners – Requirement of insurance .....	369
<b>Order of the Day .....</b>	<b>370</b>
2. Income Tax Bill 2015 – Third Reading approved .....	370
3. Representation of the People (Amendment) Bill 2015 – Third Reading approved .....	373
<i>The Council sat in private at 10.55 a.m.</i> .....	375

## 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 Lord Bishop will lead us in prayers.

### PRAYERS

*The Lord Bishop*

## Question for Written Answer

### INFRASTRUCTURE

#### 1. Harbour facilities for private boat owners – Requirement of insurance

The Hon Member of the Council, Mr Henderson, to ask a representative of the Department of Infrastructure:

*What plans the Department has to introduce a requirement that private boat owners who use harbour facilities should have insurance?*

**Member of the Department of Infrastructure (Mr Turner):** The Department is currently revising the Harbour Byelaws. This will include a provision requiring the owners of certain vessels moored in our harbours to have appropriate insurance.

10 I know this is an important issue to the Hon Member, who asked previously about the subject at the October sitting of Tynwald last year. Because of the demanding workload faced by the Department, it has not been possible to complete the work in time for the start of this season. However, I can assure the Hon Members that they will be kept apprised of our progress.

15 **The President:** Hon. Members, turning to our Order Paper, Item 1 is a Question for Written Answer tabled by the Hon. Member, Mr Henderson, and I see that the Answer has now been circulated.

## Order of the Day

### 2. Income Tax Bill 2015 – Third Reading approved

Mr Henderson to move:

*That the Income Tax Bill 2015 be now read a third time.*

**The President:** Item 2, the Income Tax Bill 2015, for Third Reading. I call on the Hon. Member, Mr Henderson.

20 **Mr Henderson:** Gura mie eu, Eaghtyrane.

This Bill is divided into four parts and has 12 clauses.

Clauses 1, 2 and 3 provide, respectively, for the short title of the Act, its interpretation and the expiry of the Act on the day following its promulgation.

25 Clause 4 confirms four temporary taxation orders. The first amends the tax cap regime by introducing a requirement to elect for the cap to apply for a period of five consecutive tax years but also enables Treasury to set the amount of the tax cap by means of an order.

30 The second order enables appropriate Income Tax data to be provided for economic modelling services, economic advice or statistical purposes, to... [*Inaudible*] and makes it an offence for the information to be disclosed for any other purpose, but does allow the publication of the anonymised data that has been provided for statistical purposes.

The third order introduces additional qualifying requirements for the personal allowance credit. It also ensures that a jointly assessed couple will only receive half of the payment due to a couple if only one partner qualifies for the credit.

35 Finally, the fourth order makes it compulsory for the majority of companies to file their annual return electronically, using the Government's online tax services.

Clause 5 confirms that part 3 of the Bill amends the Income Tax Act 1970, while clause 6 amends the tax cap legislation to ensure that no-one will pay more Income Tax as a result of making an election for the cap.

40 Clause 7 amends the legislation concerning international arrangements. A number of the amendments make minor grammatical changes while another makes a consequential change. The clause also substitutes section 104G to clarify the circumstances in which a Manx tax official may disclose information that has been provided under an international arrangement. It also clarifies that the information may only be used against the person who provided it in proceedings for perjury or similar offence.

45 Clause 8 substitutes the heading to part 11 of the 1970 Act and introduces a new section which provides Treasury with the power to make regulations regarding the keeping of accounting records. Such regulations will allow record-keeping requirements to apply to all appropriate entities and to be standardised.

50 They will also strengthen the Island's legislation ahead of its next Global Forum peer review. The clause also makes a number of minor changes to section 105D.

55 Clause 9 amends section 105K in part 12 of the Act in order to prevent action being taken that could prejudice or impede an investigation into an individual's tax affairs. These include a requirement not to conceal, alter or destroy items that have been requested for the purposes of an investigation or to disclose information that could prejudice the investigation. These requirements are limited to specified timescales.

The clause also removes some unnecessary wording from that section and section 105L, and makes a number of minor amendments to section 105M, which consist largely of grammatical changes and changes to improve clarity.

60 Clause 10 introduces a new part 12A consisting of three sections. The part modifies legislation in parts 11 and 12 of the Act to enable it to apply to international arrangements. This will remove the requirement for the order ratifying an arrangement to include these modifications and will ensure that the legislation applying to those arrangements is standardised.

65 The modifications will apply to all existing and future arrangements. The modifications are required to enable the Island to fulfil its obligations to exchange information in accordance with the arrangements.

Clause 11 inserts a definition of 'record-keeping regulations' into section 120 of the Act. This follows the introduction of the new section 105BB by clause 8 of this Bill, which enables Treasury to make record-keeping regulations.

70 Clause 12 makes an amendment to section 5A of the Income Tax Act 1989. This introduces a requirement for regulations made by Treasury under that Act regarding the payment of trivial commutation lump sum from a pension scheme, to be approved by Tynwald before coming into operation.

Eaghtyrane, I beg to move the Third Reading.

75 **The President:** The Hon. Member, Mr Coleman.

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

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

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

I brought up during the clauses my suspicion with regard... it is an enabling provision in this particular Bill and we see quite a lot Departments putting in enabling provisions and you question them and they say, 'It is just an enabling provision. We are not going to do that.' So you then have to ask the question, 'Well, what is it in there for?'

85 I am talking about the section about the keeping of accounting records. We all accept that businesses and entities are required to keep records, and that goes without saying, but then we see that there is a section in here with relevant persons, which I did bring up and I asked the mover what 'non-corporate taxpayers' are – we all have an idea – and it was confirmed that this includes individuals.

90 What we have basically is an enabling provision here where:

'The Treasury may by regulations... make such provisions as it appears to be appropriate about – (a) the keeping of accounting records by persons to whom this section applies,'

– which means they could now make every individual, from presumably working age – 16 or whatever – up to the time of death, keep accounting records.

95 I just think this is ridiculous and I can see this is going to start coming in, there will be rafts of bureaucracy, it will appear at some stage and people are then going to have to start keeping accounting records.

100 Most people keep a certain amount of records which they are required to do, to do with their tax affairs and everybody accepts that, but I can see things here which I think is a provision and I will be watching very carefully when these so-called regulations do appear, to see what they have in them. As I said, I am very suspicious about that.

I think the whole issue of tax is something that has obviously been discussed pretty much everywhere and the Isle of Man has to be very careful here because we are very reliant on the location of businesses here. The tax cap residents have not been without controversy. I think that has been a good scheme and it seems to have worked. There are mixed views, whether people

105 agree with it or not, whether they agree they should be paying more or some may say less, but that  
is a different argument. But I think what we are seeing now is we have got to be very careful how we  
deal with our issue of tax here, that we do not shoot ourselves in the foot.

We have just had the UK General Election; we have got Scotland likely to get its own tax powers;  
Northern Ireland – they have already been negotiating what they are up to. So there is going to be a  
110 very competitive edge and one of the things I keep saying is we should not be first off the starting  
block all the time. We need to, I think, sometimes say, ‘Well, never mind what so-and-so is saying  
about us because there are all these other countries around the world that are also in the firing line.’  
We need to do what is best for us and not end up having all the badges of honour and then finding  
that we are actually suffering financially. We have to be very careful.

115 You have got all the Caribbean countries, of course, as well which are doing extremely well and  
quite a few of them are in the firing line, and I think that we have to be very cautious when we are  
dealing with thing going forward.

A lot of this Bill is technical and is putting into place things like the temporary taxation orders, so I  
am happy to support it, but I think we do need to watch, going forward, exactly what is going on  
120 around us, because it is going to have a huge effect.

The Isle of Man made its success through the 1980s and early part of the 1990s from being a  
preferential jurisdiction for people to come and base themselves. Businesses flourished and if we do  
not watch it we will end up slowly killing ourselves off.

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

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

I just wanted to give the Third Reading my full support. I think it is practical legislation – technical  
– enabling clauses are there to give some future flexibility.

130 I think my hon. colleague, Mr Turner, and I are looking at the same pint glass which is half full  
from different directions, because I simply take the view that from the age of 16 we all keep  
personal accounting records; they are called bank statements and they are called Income Tax  
returns, so I do not particularly see an issue.

Thank you.

135

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

**Mr Henderson:** Gura mie eu, Eaghtyrane.

140 I thank the Hon. Member, Mr Wild, for his supportive comments and for a clarification on  
flexibility and enabling, which is exactly the notion behind this Bill.

With regard to record keeping, that is a sad fact of reality, Eaghtyrane; that is becoming a  
worldwide standard and something with which we should aspire to in general terms.

145 With regard to the Hon. Member’s specific query – from Mr Turner – any changes or proposed  
changes to record keeping, it is quite clear from our Explanatory Memoranda that that will go out for  
public consultation anyway, so Treasury will be calling for views on that.

I have to say, Eaghtyrane, with regard to other comments the Hon. Member, Mr Turner, has  
made, the reason this Bill is here is because we *are* watching what is going on around us – and very  
carefully so.

150 I think I said it at the Second Reading, Eaghtyrane, the international forum at the minute is  
undergoing its assessment phases 1 and 2 in other areas, other jurisdictions. We can see the issues  
and problems that are coming from that and ahead of our phase 3 assessment it seems good sense  
and pragmatic that we look at any issues and raise our standards accordingly; and that is exactly  
what we are doing.

155 We are ensuring that we remain a blue chip jurisdiction, in effect, that is attractive and attractive  
to the right business and the right kind of clientele and folk coming to live here. I think that is the  
vision of what is being proposed here.

So, without dragging on, Eaghtyrane, 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.

**3. Representation of the People (Amendment) Bill 2015 –  
Third Reading approved**

Mr Corkish to move:

*That the Representation of the People (Amendment) Bill 2015 be now read a third time.*

**The President:** Item 3, the Representation of the People (Amendment) Bill 2015. I call on the Hon. Member, Mr Corkish, to take the Third Reading.

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

This Bill provides an important step towards improving transparency and governance of the Island's election framework, ensuring that key reforms are introduced before the 2016 General Election.

It incorporates recommendations of an independent panel reform further to the post-2011 election review and amendments arising from a public consultation, the Tynwald Members' presentation and the Bill's passage through the House of Keys.

I thank the Hon. Member, Mr Cretney, for his comments at Second Reading and would like to take the opportunity to, again, place on record that the provisions relating to the registration of political parties are not a result of concerns regarding the conduct of any party.

The provisions which have been included in the Bill are as a result of a recommendation of best practice in order to increase the amount of publicly available information regarding parties which support or endorse candidates for election to the Keys.

Madam President, I would like to briefly pick up on some of the comments which were made in earlier stages of the Bill's passage.

The Hon. Member, Mr Coleman, asked whether due consideration had been given to the amendments tabled to the Representation of the People (Amendment) Bill 2011. To reiterate the response at Second Reading, although the Keys did not vote on clauses in 2011, the amendments tabled have been fully considered and incorporated into the 2015 Bill where deemed appropriate by the Council of Ministers. The provisions relating to the registration of political parties is an example of such.

The Hon. Member asked, in particular, if consideration had been given to the July 2011 Tynwald resolution that the Council of Ministers should introduce legislation to require candidates for election to submit to the Clerk of Tynwald a declaration of interests in the same manner as Members of Tynwald.

I can now advise that the Cabinet Office did not formally consider the recommendation as part of this Bill but I understand that it will form part of the more detailed consideration of electoral law after the next General Election. Without wishing to prejudice any such consideration, it is worth noting that the proportionality of requiring all candidates – not only successful ones – to declare private interests in the manner set out in the resolution will have to be carefully thought through in terms of its potential interference with an individual's rights to property and privacy.

I can say, however, in the hope that it will help reassure the Hon. Member, that one of the main motivations behind moving the amendment which resulted in the aforementioned resolution was to ensure that candidates' campaigns could not be 'bank-rolled' by wealthy individuals hiding behind a cloak of anonymity.

200 The Bill before us today addresses this concern in two important ways: first, by outlawing anonymous donations; and second, by requiring candidates to publicly declare donations received in the 12 months before a general election, including donations received whilst a prospective candidate, if appropriate.

205 Furthermore, the provisions on candidate expenses limit the amount which can be spent on a campaign so that, irrespective of the size of donations received, a candidate is prevented from spending above this limit for electoral purposes.

The Bill has sought to introduce a 'light touch' approach, particularly in relation to campaign funding and the registration of political parties, as a first step in regulating these aspects of the election process. By their very nature, therefore, these provisions will need to be reviewed and updated accordingly, although the Bill allows for certain details to be amended by regulations. For example, particulars relating to amounts and timeframes.

210 Another consequence of this approach is that the Bill does not cover every permutation in relation to donations and election expenses. I thank Hon. Members for their examples of possible election expenses and donations and how these would be treated. I would like to take this opportunity to provide a more detailed response as to how Mr Coleman's example would be handled.

215 The Hon. Member's example of a delivery vehicle displaying an advertisement for a candidate should be included as an expense and/or a donation, depending on the circumstances. The cost of displaying such a slogan on a vehicle, whether by print or by poster, would be a direct expense if it is incurred by the candidate or a donation and a notional expense if any part of the cost is paid for by another person, including if the advertisement is provided by a company.

220 However, it would be difficult to quantify the worth of any donation made as a result of a delivery vehicle carrying out regular work while displaying an advertisement, or indeed any donation made by, for example, a candidate's family member making their usual journeys in their car while displaying an advertisement.

225 Schedule 3A does define a donation or expense as being made or incurred with the intention to promote or prejudice the electoral prospects of a candidate. Therefore, a person carrying out their day-to-day activities could be interpreted as not acting with such intention and so would suggest that no donation is being made or expense incurred.

230 As Hon. Members will appreciate, addressing every possibility in terms of donations and expenses would necessitate a much more detailed and technical schedule. This level of detail would bring its own problems and would go against the grain of the 'light touch' approach of the Bill.

235 Therefore, a common sense approach will need to be taken with future changes to the evolving system made in light of practical experience as these provisions are reformed and fine-tuned. This evolution has happened in all mature democracies and was anticipated in the Independent Panel Review.

Should this Bill be read for a third time in Council today, it is proposed that the Election Regulations containing more detail in respect of the processes relating to Keys elections will be finalised with the aim of seeking Tynwald approval at the October sitting. New forms and a code of practice will also be drafted and it is acknowledged that the new provisions, particularly those relating to donations and expenses, place additional requirements on candidates and prospective candidates that they will need to understand. As such, guidance will be made available to those intending to stand for election in time for the commencement of the relevant period prior to the 2016 General Election.

245 Madam President, the next General Election is fast approaching. We have the opportunity to ensure that a fairer and more robust legislative base is in place in advance of that election.

I do thank the Hon. Members for their support and I beg to move that the Bill be now read a third time.

250 **Mr Henderson:** I second, Eaghtyrane.

**The President:** It is seconded.

The Hon. Member, Mr Wild.

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

255 As it is now part of the English language, I shall just make the comment I think this is a very good 'starter for 10'. In my view, this is evolution; it is the start of good housekeeping and, above all, corporate governance in terms of making elections more transparent and fairer. So it has my full support.

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

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

265 I thank my hon. colleague, Mr Wild, for his views. It is an evolving Bill. There is a light touch approach and what could and has happened in our voting procedures... this is to protect our Island and good governance in the Isle of Man. I thank the Hon. Member for his views.

I beg to move, Madam President.

**The President:** Hon. Members, 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.

270 Hon. Members, that concludes consideration of our Order Paper. I have had a request from a Member that we might meet in private for a few moments. With your agreement, can we do that?

*It was agreed.*

**The President:** We will now meet in private.

275

*The Council sat in private at 10.55 a.m.*