

4. CONSIDERATION OF COUNCIL AMENDMENTS

4.1 Beneficial Ownership Bill 2017 – Council amendments approved

The Speaker: We turn to Item 4, Consideration of Council Amendments. Mr Cannan.

Mr Cannan: Mr Speaker, I would like to thank Hon. Members for supporting the suspension of Standing Orders to allow the Council amendments to be considered at this sitting.

From the outset I am happy to confirm that the Treasury is fully supportive of the amendments. As Hon. Members will no doubt recall, the requirement in the Bill for all entities to appoint a nominated officer has been opposed quite vigorously by sections of industry, particularly the Association of Corporate Service Providers, the ACSP.

The Government's overriding policy objective has been to ensure that there is a single point of responsibility for compliance with the Bill's main requirement: submitting beneficial ownership to the central database. The position of nominated officer established by the Companies (Beneficial Ownership) Act 2012 was viewed as the most appropriate way of achieving this objective.

In the period following the Bill's passage through the House, it became increasingly clear to me that we had to work harder to try and find a workable solution to balance the concerns of industry and the Government's policy objective, particularly as the matter would be closely scrutinised in the Legislative Council.

Mr Speaker, the two amendments before us today are the necessary first steps to finding that workable solution. Taken together, they create a power for the Treasury, by order and subject to the approval of Tynwald, to exempt a legal entity or class of legal entities from the requirement to appoint a nominated officer.

Without limiting the ability of an order to amend or modify the application of the Act or to include such consequential or other provisions as the Treasury considers necessary or expedient, any order made pursuant to the amendments may disapply provisions of Part 2 of the Bill in relation to a legal entity to which this Act applies or to a nominated officer.

For the benefit of the House, I would like to say a little bit more about the second step – how Treasury intends to use this order-making power. It is proposed that the order would apply to legal entities in receipt of corporate services provided by holders of a class 4 licence as prescribed by the Regulated Activities Order 2011. In effect, it will cover those entities in receipt of corporate services provided by a licensed corporate services provider.

For those entities covered by the order and therefore exempt from the requirement to appoint a nominated officer, it is proposed the responsibilities in the Bill which currently rest with the nominated officer will instead be transferred to the licensed corporate services provider providing those services.

Whilst the Treasury's support for the amendments has not changed, I can advise that the proposed parameters of the draft order, as outlined by the Hon. Member Mr Henderson in the Legislative Council, have been subject to further internal consideration, in particular with the Companies Registry regarding the practicalities of the database. They have also benefitted from the ongoing dialogue between the ACSP and the Treasury. As a result of the foregoing, the position has further evolved, particularly in respect of which sections of the Act the order will either modify or disapply.

Notwithstanding that we have not yet finalised the order, I am happy to confirm today the Treasury's commitment to bringing it into effect at the same time that the Act comes into force, subject to Tynwald approval. I am also happy to confirm that the ACSP remains comfortable with the direction of travel and we are confident that the terms of the order will be settled in the very near future. These amendments create the extra flexibility within the Bill which a number of people have sought.

In closing, I would like to thank the Legislative Council, particularly the Hon. Member Mr Coleman, who moved the amendments, and the Hon. Member Mr Henderson, for their contributions to the passage of this important Bill.

Mr Speaker, I beg to move that the amendments made by the Legislative Council be accepted, form part of the Bill, and that the Bill do now pass.

The Speaker: I call on the Hon. Member for Middle, Mr Shimmins.

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

The Speaker: Hon. Members, the motion is that the amendments made by Legislative Council be agreed. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.