

6. CONSIDERATION OF COUNCIL AMENDMENTS

6.1. Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Bill 2020 – Council amendments considered

Mr Harmer to move.

The Speaker: We turn now to Item 6 on our Order Paper and Council Amendments to the Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Bill 2020, and I call on Mr Harmer to move.

Mr Harmer: Thank you, Mr Speaker.

The Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Bill 2020 seeks to put on a statutory footing the positive operational changes to the practices and protocols which resulted from the Island's response to the global pandemic, so that they may continue to be used as part of the Government's business-as-usual functions to enhance service delivery; and stand ready to be used alongside civil contingencies provisions and the Public Health Act 1990 to enhance the Island's response during another emergency.

The Bill, having received its introduction at an additional sitting of this House on 13th October, completed its progress through this House on 27th October. I thank my hon. colleagues, Mr Speaker, for recognising the need for expediency during this process, and for the valuable debates and amendments that were subsequently carried.

I would thank Mr President, the learned Attorney and Members of the Legislative Council for their commitment in taking all stages of the Bill during the sitting on 5th November, the scrutiny during those stages and legislative insight in relation to the Tynwald procedure for regulations under both the Public Health Act and the Emergency Powers Act.

During its progress in the other place, the Legislative Council noted that the Bill makes changes to a number of pieces of current primary legislation in order to provide the next steps in the Government's approach to the pandemic, and reflected on the challenges that this Island has faced during this year in that approach. The Bill was further amended in the Council at clause 28 in relation to the Public Health Act 1990. The amendments aim to provide for a clear, collaborative policy-determination approach to the making of regulations under the Public Health Act, with early and diverse political input and oversight by the Council of Ministers.

Public Health policy was previously vested in the Department of Health and Social Care and was transferred to the Cabinet Office in April of this year, right at the height of our response to the global pandemic – not as a direct result of such, but rather to fulfil the commitment of Tynwald to recommendation 9 of the Independent Review of the Isle of Man Health and Social Care System by Sir Jonathan Michael, and therefore as part of the Health and Care Transformation Programme.

We should note that such policy collaboration will include the Director of Public Health within the Cabinet Office and the Department of Health and Social Care. These amendments may impact important routine work in relation to the health protection functions of Government; however, they are at this time commensurate with the immediacy of dealing with a pandemic or other urgent public health measures.

A minor but valuable amendment was carried in the Council to section 51Q of the 1990 Act, which deals with parliamentary procedure for approval of public documents including where such may come into operation by reason of urgency ahead of Tynwald approval. This amendment mirrors the provisions within the Emergency Powers Act 1936 and enhances the change to this section of the Act carried earlier in this House.

A new amendment to the Emergency Powers Act 1936 to enable Tynwald to amend continuation regulations made under section 4A when approving them, was tabled. The advice provided by the learned Attorney in the other place corresponded with Mr President's

understanding of the Act, that amendments to continuing regulations may be tabled during a debate at a Tynwald sitting. The amendment was moved, and carried by the Council to provide further clarity to the Act and place the matter on a statutory footing for the avoidance of doubt.

With that, Mr Speaker, I beg to move that the Council's amendments be agreed and that the Bill do now pass.

The Speaker: I call on Mr Hooper, Hon. Member for Ramsey.

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

The Speaker: Thank you.
Hon. Member for Douglas Central, Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker.

I commend the Council of Ministers for taking the time to actually interpret the excellent amendments that were moved in the Legislative Council. I really appreciate that they have been accepted.

Just two small points, for the benefit of people who will look at this in the future, for *Hansard*. My recollection is that, although the transfer of functions transferred Public Health to Cabinet Office on 1st April, I think the function was effectively then transferred back administratively for some time. So, to avoid any confusion about what happened in that period, I think that is my recollection of it and people can now look back to it.

The second point is that I just want to put on the record that there are some incredibly helpful blogs by Professor Edge, who has been of great help to a great number of Members through this period in developing constitutional law. There were a couple of word blog articles entitled 'Can you create an emergency power regulation without an emergency?' back in August, in which I am referenced, in actual fact, for having made some contributions in the Tynwald debates in July and August. I think my understanding now is if Government can amend a continuation of regulations after the period of emergency, it is logical that Tynwald can also amend them. It seems to me to be logical. I welcome further contribution to that debate from Professor Edge, because obviously he has not accepted that they were amendable after the emergency, but it seems logical that if Government can amend them so can Tynwald. So I welcome this small change.

I would have proposed this myself, but being the conservative sort of person that am, I wanted to put on the table conservative amendments. I welcome the more progressive, adventurous contribution from Legislative Council who actually looked at that with more rigour of this whole process and actually tried to understand the 1936 position and how that followed through in the Public Health Act.

Thank you very much, fully supportive; and I want to thank the Council of Ministers for their contribution. (*Interjection*)

The Speaker: Hon. Member for Middle, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

I rise to support these amendments. I would also like to thank our colleagues in Legislative Council for the diligent, careful and professional approach that they have taken (**A Member:** Hear, hear.) looking at this legislation.

It is very much appreciated, so thank you.

The Speaker: I call on the mover to reply.

Mr Harmer: Thank you. I would echo those thanks, and I would like to thank the Legislative Council and all those Members in delivering this Bill. So, with that, I beg to move.

The Speaker: I put the question that the Council amendments to the Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Bill 2020 be approved. Those in favour, please say aye; against, no. The ayes have it. *(Laughter and interjections)* The ayes –

A division was called for and electronic voting resulted as follows:

FOR	AGAINST
Mr Ashford	None
Mr Moorhouse	
Dr Allinson	
Mr Baker	
Mrs Barber	
Mr Boot	
Mrs Caine	
Mr Callister	
Mr Cannan	
Mrs Christian	
Mrs Corlett	
Mr Cregeen	
Ms Edge	
Mr Harmer	
Mr Hooper	
Mr Peake	
Mr Perkins	
Mr Quayle	
Mr Quine	
Mr Shimmins	
Mr Skelly	
Mr Speaker	
Mr Thomas	

The Speaker: With 23 for, none against, the ayes have it. The ayes have it.
Hon. Members, that concludes the business before the House today. We stand adjourned until 10.30 a.m. on 17th November 2020 in Tynwald Court.
Thank you.

The House adjourned at 3.44 p.m.