

**6.2. Companies (Amendment) Bill 2020 –  
Clauses considered**

Mr Shimmins to move.

**The Speaker:** We turn next to the Companies (Amendment) Bill 2020 and I call on Mr Shimmins to move.

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

With your permission, I have grouped the clauses by subject and if any Hon. Member would prefer that we consider some clauses individually, I will of course be delighted to do this.

Turning to clauses 1 and 2, Mr Speaker, clause 1 gives the Act its short title and clause 2 provides for the Act to be brought into operation by Appointed Day Order.

Mr Speaker, I beg to move that clauses 1 and 2 do stand part of the Bill.

**The Speaker:** Thank you.

Mr Cannan.

**Mr Cannan:** I beg to second.

**The Speaker:** If no Member wishes to speak, I put the question that clauses 1 and 2 stand part of the Bill and I presume the motion will be carried unless anyone indicates dissent.

No dissent being indicated, the motion therefore carries.

Clauses 3 and 4, Mr Shimmins.

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

Clauses 3 and 4 deal with amendments to allow a company operating under the provisions of the Companies Act 2006 to re-register as a company operating under the provisions of the Companies Act 1931. Turning to each one in greater detail.

Clause 3 amends the Companies Act 1931 ('the 1931 Act') as regards the re-registration process as follows.

Subsections (1) and (2) simplify the existing process for a 1931 Act company to deregister in order to re-register as a company operating under the Companies Act 2006 ('the 2006 Act'). They remove the requirement for the company to provide a certificate of re-registration under the 2006 Act before deregistration under the 1931 Act, as the registrar will already know this information.

Subsection (3) makes provision for a company operating under the provisions of the 2006 Act to re-register under the 1931 Act by inserting new sections 16B to 16E into the 1931 Act.

New section 16B establishes the powers to re-register. A company is required to re-register as the same type of company it was registered as under the 2006 Act. Additional conditions are set for companies which will be public on re-registration. An application to re-register may not be made unless notice has been given to the company's registered agent.

New section 16C sets out the application process including the information and documents to accompany an application, these include: (i) The proposed company name after re-registration; (ii) certified copies of resolutions –

**The Speaker:** Mr Shimmins, can I stop you at that point, please? Whilst you are continuing to come through, it is coming through quite intermittently. So I do not know if there is anything you can do just to improve the sound quality at your end, please?

**Mr Shimmins:** I could start again, Mr Speaker.

I am aware I am getting quite a bit of feedback from the Chamber when I am speaking. I think it may be the Chamber where the issue lies.

**The Speaker:** There is no feedback here. We will mute the Chamber mic just to make sure. But if you could continue, we will see how we get on.

Thank you, Mr Shimmins.

**Mr Shimmins:** Okay, shall I start from the beginning of clauses, Mr Speaker?

**The Speaker:** No, no, just pick up where you left off. It was just difficult to follow until that point. Thank you.

**Mr Shimmins:** Okay, that is fine. I apologise if people are struggling to understand and I am happy to start again, if required.

I will pick up from: new section 16C sets out the application process including the information and documents to accompany an application and these include: (i) the proposed company name after re-registration; (ii) certified copies of a resolution passed by at least 75% of all voting members authorising the re-registration and adopting a new memorandum of association and, if necessary, new articles; (iii) details of officers and members of the company on the date of application and its registered office; (iv) any outstanding filings and fees due under the 2006 Act.

The 2006 Act does not differentiate between public and private companies. Where a company will be a public one upon re-registration the section requires a statement confirming: (a) that at the time of the resolution the nominal value of the company's allotted share capital was not less than the minimum subscription, and each of the company's allotted shares was paid up in full in cash; (b) The company has prepared an audited and unqualified balance sheet as at a date not more than six months before the date on which the application is made, and there has been no change in the company's financial position that results in the amount of its net assets becoming less than the aggregate of its called-up share capital and distributable reserves; (c) the Company Secretary or joint secretaries are appropriately qualified in accordance with the Companies Act 1982.

New section 16D specifies the action the Department will take when it re-registers a company under the 1931 Act.

New section 16E specifies the consequences of the re-registration and states that a re-registered company does not create a new legal entity and does not prejudice or affect the continuation of the company. The new section also adds 'statement of compliance to accompany application of public company for re-registration' to the 10th schedule of the Act. This has the effect of making it an offence to wilfully make a false statement in such a declaration.

Clause 4 inserts new section 151A into the Companies Act 2006 to permit a company incorporated under that Act to re-register as a company operating under the 1931 Act. It clarifies that once a company is re-registered it must comply with the provisions of the 1931 to 2004 Acts. Any company re-registering must ensure it is structured in such a manner that it can operate under these provisions.

Mr Speaker, I beg to move that clauses 3 and 4 do stand part of the Bill.

**The Speaker:** Mr Cannan.

I am sorry, I did not hear you say anything.

**Mr Cannan:** Sorry. I beg to second, Mr Speaker.

**The Speaker:** Thank you very much.

Now, unless any Member wishes to speak I will put the question that clauses 3 and 4 stand part of the Bill, and I presume the motion will be carried unless anyone indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clauses 5, 6 and 7, Mr Shimmins.

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

Clauses 5, 6 and 7 deal with some matters arising out of the Moneyval report into the Island in 2016. These relate to the availability of company documents at the registered office of 1931 Act companies and limited liability companies, and a requirement for 2006 Act companies to advise the Companies Registrar of the details of any change of directors within one month of that change.

Turning to them in detail. Clause 5 inserts new section 11A into the Companies Act 1931, which imposes a requirement for companies operating under the provisions of that Act to maintain, and make available for inspection at their registered office, a copy of their memorandum and articles. Subsection (2) substitutes section 12 –

**The Speaker:** I am sorry, Mr Shimmins, we have lost you in the Chamber again from when you said 'subsection 12'.

Mr Shimmins, I am sorry. It would appear that most Members can hear Mr Shimmins, but I am afraid I cannot hear him in the Chamber at all.

**Mr Shimmins:** Let me try again.

**The Speaker:** I have got you there now, Mr Shimmins.  
From subsection 12, if that is okay. Thank you.

**Mr Shimmins:** Okay.

Subsection (2) substitutes section 12 of the 1931 Act to like effect.

Clause 6 amends the Limited Liability Companies Act 1996 by substituting section 4 and adding new section 4A to require a limited liability company to maintain and make available for inspection at its registered office a copy of its articles of organisation and other documents.

Clause 7 amends the Companies Act 2006 and creates a new requirement through section 95(1A) and substituting section 204 for the appointment or change of directors to be notified to the Companies Registrar within one month of that appointment or change. This clause will be brought into operation as soon as the procedure for making a notification within that timescale has been revised to make it as simple, swift and smooth as possible.

Mr Speaker, I beg to move that clauses 5, 6 and 7 do stand part of the Bill.

**The Speaker:** Mr Cannan.

**Mr Cannan:** I beg to second.

**The Speaker:** Thank you very much.

Unless any Member wishes to speak I will put the question that clauses 5, 6 and 7 stand part of the Bill, and I will presume the motion will be carried unless a Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Clause 8, Mr Shimmins.

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

Clause 8 makes consequential changes to the Companies and Business Names etc. Act 2012 to allow for company name changes arising from re-registrations.

Mr Speaker, I beg to move that clause 8 do stand part of the Bill.

**The Speaker:** Thank you.  
Mr Cannan.

**Mr Cannan:** I beg to second.

**The Speaker:** Thank you very much.

Unless any Member wishes to speak I will put the question that clause 8 stand part of the Bill, and I will presume the motion will be carried unless anyone indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

That concludes consideration of the clauses of the Companies (Amendment) Bill. The audio feed did have a few issues in the Chamber that will potentially have the effect of impacting Hansard's ability to follow it. So if I could just ask Mr Cannan and Mr Shimmins if they would possibly email a copy of their speaking notes to the Hansard Team, I am sure that would be much appreciated.

We turn now to –

**Mr Shimmins:** Mr Speaker?

**The Speaker:** Mr Shimmins.

**Mr Shimmins:** Mr Speaker, I am happy to do that, and I am sure Mr Cannan will do likewise. Can I suggest that we just have a 10- to 15-minute break to try and fix the issue in the Chamber? I am just conscious that there may be further debate that follows this Item.

**The Speaker:** Unfortunately, in terms of what is going on in the Chamber there is no reason or rhyme as to when this is happening. It is not like it is only when certain things are happening or certain settings are changed. We have got a pretty standard set-up going on here and people are just cutting out pretty arbitrarily, so we are struggling to locate the source of the problem here in the Chamber.

We will proceed but if the problem does worsen we will take a break, but at the moment it seems that we are able to cope.

**The Clerk:** Mr Speaker, just to add to that. The team is well aware of what is going on and we have many of our colleagues investigating as the debate proceeds. We have not found a solution yet, but we are not oblivious of the disruption.

**The Speaker:** No, and even when we do mute the Chamber microphone, that does not seem to catch all the problems because it did not stop Mr Shimmins breaking up later on.

So we will keep it under review and please do keep informing us if there are any issues and we will take a view on that as things proceed.