



Isle of Man
Government

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Department of Home Affairs

FIRE AND RESCUE SERVICE BILL 2013

SUMMARY OF RESPONSES TO THE CONSULTATION

June 2014

1 Fire and Rescue Service Bill 2013

- 1.1 The purpose of the Bill is to repeal existing legislation and replace the current Acts with one that deals with the functions and appointment of the Isle of Man Fire and Rescue Service on the one hand, and the duties of various parties, including the Department, to promote and secure fire safety within premises on the other.
- 1.2 Significant changes include moving away from the issue of fire certificates and regulations setting out prescribed safety measures, to a requirement on persons to be responsible for taking their own measures to ensure fire safety within their premises.
- 1.3 In terms of the Isle of Man Fire and Rescue Service (IOMFRS) the proposed change in legislation reflects the fact that fire officers do not just deal with fires but also attend road traffic incidents, flooding and other environmental events. In these days of greater cross-Government working the legislation proposed that the Council of Ministers be given a role in determining any other kinds of emergency for which the Service may be required to perform duties.

2 The consultation

- 2.1 The Department published the draft Bill and Impact Assessment for consultation on 10th January 2014 and the consultation closed on Monday 10th March 2014.
- 2.2 The consultation document, in line with the Isle of Man Government's Code of Practice on Consultation, was sent directly to various persons or organisations, including the following –
 - Tynwald Members
 - Attorney General
 - Local Authorities
 - Chief Officers
 - Isle of Man Chamber of Commerce
 - Isle of Man Law Society
 - Isle of Man Construction Forum
 - Isle of Man Employers Federation
 - TUC
 - Estate agents
 - Landlords Association
 - Liberal Vannin
 - Manx Labour Party
 - Positive Action Group
 - Third Sector Forum
- 2.3 This document was also published on the Isle of Man Government's consultation website, made the subject of a press release, and was the subject of a radio interview by the Chief Fire Officer.

3 Outline and summary of responses to the consultation

- 3.1 The Department received nine responses to the consultation, of which –
- four were from Government Departments;
 - two were from Local Authorities;
 - two were from members of the public; and
 - one was from a private company.
- 3.2 In general, the majority of these responses were supportive of some or all of the legislative changes proposed by the Department, although concerns were raised in response to the consultation questions and specific aspects of the Bill. A summary of the responses to the questions and these concerns, along with the Department's responses, is provided below.

4 Question 1:

Do you agree that the Department should be able to charge for the performance of certain functions and if so, what kind or classes of function? Should they be based on full cost recovery?

- 4.1 The five respondents to this question gave qualified support to the Department imposing charges for some non-emergency functions. However, concern was expressed over the potential consequences of charging for providing fire safety education and emergency services. One respondent suggested charges should only be made on services requiring IOMFRS attendance while another respondent, in a slightly different way, suggested charges should only be made for services specifically requested.

5 Question 2:

Clause 51 currently provides for a means of resolving disputes through the appointment of an arbitrator by agreement –

- (a) *do you think provision for dispute resolution outside of court is workable? If you do not think this provision is workable, it would be helpful to know why and receive your thoughts as to what alternatives the Department should consider.*
- (b) *if you feel provision for dispute resolution outside of court is likely to be beneficial, do you think there should also be provision for mediation? or*
- (c) *should the provision be redrafted so that the Department is responsible for dispute resolution, as is the case with the Northern Ireland legislation?*
- 5.1 Feedback from the five respondents to this question indicated support for arbitration or a mediation stage. Four of the respondents were of the view that arbitration and mediation should be conducted by a party independent from the Department.

6 Question 3:

Do you agree that it is appropriate for officers of the Isle of Man Fire and Rescue Service to be responsible for promoting and enforcing fire safety in all non-domestic premises including places of work?

If you do not agree with the proposal to give primary responsibility for fire safety in the workplace to fire and rescue officers it would be helpful to understand why and to receive your alternative proposals with an explanation of how they would be more effective and efficient.

- 6.1 Of the three respondents who submitted comments relevant to this question, one respondent agreed it is appropriate for officers of the IOMFRS to be responsible for promoting and enforcing fire safety in all non-domestic premises including places of work.
- 6.2 However, the other two respondents expressed concern this would either overlap or add another layer of bureaucracy regarding the existing work undertaken in this area by other areas of Government.

7 Question 4:

In line with broader Government policy, as an alternative to all offences being prosecuted through the Courts, would you support provision for fixed penalty notices to be imposed for certain (if so please specify which), or all, offences?

- 7.1 One respondent supported fixed penalty notices (FPNs) for a range of minor offences as specified in the legislation. Two other respondents opposed FPNs due to the circumstances of each offence being so different as to make it unjustifiable to provide for a FPN system as a consequence of an offence.
- 7.2 Finally, another respondent, while supporting the introduction of FPNs in principal, expressed concern about the introduction of FPNs for offences in the Bill that have significant overlap with separate offences elsewhere that are not subject to FPNs.

8 Interpretation [clause 3] and regulation making powers [clauses 44 and 45]

- 8.1 One respondent suggested that sheltered accommodation should fall within current legislation on flats and houses in multiple occupation. This legislation should be retained and thus these premises would fall outside of the provisions of this Bill.
- 8.2 This respondent noted the Bill's potential application to care homes for adults, children's homes, as defined under the Regulation of Care Act 2013, and day care centres, and sought clarification on this point.
- 8.3 Finally, this respondent also sought clarification relating to Fire Service plans for future secondary legislation in order to assist it in assessing the full impact of the proposed legislation, e.g. evacuation procedures for smaller residential and respite homes and requirements for sprinkler installation in flats.

9 Extraction of water [clause 15]

- 9.1 One respondent, while recognising the necessity for such powers, invited the Department to consider the potential risk of damage to fish spawning grounds (a possible criminal offence) and consult with the Department of Environment, Food and Agriculture regarding the extraction of water from natural water courses in non-emergency circumstances.

10 Impersonating a IOMFRS officer [clause 30]

- 10.1 One respondent supported the maximum penalty for this being increased to £5,000 as the offence is as serious as the other offences listed.

11 Duties in relation to other relevant premises [clause 39]

- 11.1 One respondent requested that care be taken not to impose undue burdens on volunteer (unpaid) directors of management companies in respect of fire safety duties.

12 Duty to undertake risk assessments [clause 40]

- 12.1 One respondent suggested that if there is a move away from Fire Certificates then a public register of responsible persons for companies should be introduced. This would allow the Fire Service to have a clear understanding of the person responsible for fire safety and risk assessments.

13 Resources to support education and the enforcement of the legislation

- 13.1 One respondent expressed concern the Fire Service lacks the resources to enforce the present legislation and questioned whether resources will be given to ensure new legislation is enforced. This respondent suggested there was a need to invest in resources (as per the Northern Ireland website) to provide information on how to meet the requirements of the new legislation.

14 Enforcement of legislation

- 14.1 One respondent expressed concerns about the risk of inconsistency in the imposition of standards through reviews of risk assessments not meeting the same standard. This respondent suggested the Fire Service liaise and make appropriate agreement with key stakeholders on enforcement of the proposed legislation, particularly with regard to fire safety for vulnerable persons in the community.

15 Removal of the Fire Service from building control process

- 15.1 One respondent suggested Fire Service involvement at this stage is duplication and better value could be gained by having Fire Service involvement in preparing regulations and policy on building control.

16 Outcome of the consultation

- 16.1 The Department, having considered the responses to the consultation, will seek to engage with key interested parties with a view to developing the Bill further, or revising it accordingly. Subject to the outcome of such engagement, the Bill will be amended or revised before being submitted to the Council of Ministers for authority to print and introduce into the House of Keys. The timeline for this process will be highly dependent upon the outcome of those discussions.

26th June 2014
Department of Home Affairs



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