

DEPARTMENT: Home Affairs

IMPACT ASSESSMENT OF: The Sexual Offences and Obscene Publications Bill 2018

Stage: Consultation

Version: 04

Date: 07/12/2018

Related Publications:

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SUMMARY: INTERVENTION AND OPTIONS

Briefly summarise the proposal's purpose and the intended effects

It is intended through the Bill to consolidate legislation currently located within four acts of Tynwald into one Bill. The Bill will therefore repeal and replace current sexual offences and obscene publications legislation with a modern, up to date, Bill addressing the range of offences that may be committed in the 21st century.

What are the options that have been considered

Option 1: Do nothing

If the Bill is not progressed the laws relating to these matters will remain in four separate Acts of Tynwald. Concerns about offences committed using/abusing electronic media will not be addressed, provision will not be made to pardon those convicted of historic homosexual offences, sentences for sexual crimes will not be placed on a more rational or equitable basis and legislation will not be adjusted to meet modern criteria regarding consent, the giving of evidence and what elements actually make up an offence.

Option 2: The Bill is progressed and enacted

In the event the Bill is progressed and enacted it will be possible to comprehensively modernise all possible legislative provision addressing sexual offences and obscene publications. The resultant legislation will also address threats posed by the abuse of social and other electronic media and enable historic homosexual offences to be pardoned and provide for records to be amended.

Link to Programme For Government:

Healthy and Safe Island – we live our lives safe from crime and danger.

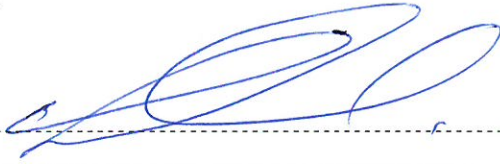
Responsible Departmental Members:

Dr Allinson MHK (House of Keys) and Ms August-Hanson MLC (Legislative Council).

Ministerial sign off

I have read the Impact Assessment and I am satisfied that the balance between the benefits and any costs or resource implications is the right one in the circumstances.

Signed by authority of the
Minister



Dr Alex Allinson, MHK
Date: 7th December 2018

SUMMARY: ANALYSIS AND EVIDENCE**IMPACT OF PROPOSAL****Resource Issues - Financial (including personnel) Statement**

The Bill does not increase or reduce costs to, or personnel employed by, Government.

The provisions relating to pardons and disregards for historic homosexual offences may have some implications in terms of the receipt of applications and verification of information for the purposes of disregarding certain former offences. However, given the figures released by the United Kingdom and Scotland, much larger jurisdictions, it is expected that the number of applicants will be proportionately fewer and therefore clearly manageable within existing resources.

Likely Financial Costs

One Off: None

Average Annual (excluding one off): None.

Likely Financial Benefits:

One Off: None.

Average Annual (excluding one off): None

Are there any costs or benefits that are not financial i.e. social:

Having all legislation relating to sexual offences and obscene publications in a single Act with a title that indicates its content, is clear and uses language considered more appropriate in the 21st century is good practice.

The offences and other provisions set out in the proposed Bill affect the most private and intimate aspect of life – sexual relationships. Whilst these may be regarded as private matters, members of our community have a right to be protected from non-consensual, abusive and harmful sexual relationships. Whilst the Bill is not expected to bring about any financial benefits it is expected to extend the protection offered by the law to all in our community whether by extending and clarifying the definition of consent, introducing the concept of offences committed through image based abuse or ensuring special provision may be made not only at the time of sentencing but also, if the offender is sent to custody, the time of release back into the community to help rehabilitate offender whilst at

the same time protecting other members of the community.

Which Business sectors/organisations will be impacted, if any, and has any direct consultation taken place?

These proposals concern sexual offences and obscene publications. Whilst it may be considered the provisions relating to obscene publications and indecency etc may impact on a certain type of business it is not considered it will impact, or at least have any negative impact, on businesses in general.

In terms of the media there may be some impact in relation to proposals relating to the reporting of cases and the anonymity of witnesses. The Department is keen to hear the views of the public, including media organisations, through the consultation process as to whether or not the proposals strike the right balance between the right of all to know and to see justice being done and those of witnesses, in certain instances/cases, to have their identities protected.

Do the proposals comply with privacy law? Please provide a brief statement as to any issue of privacy or security of personal information.

The Bill concerns intimate and private matters relating to sexual relations. It also makes provision for certain witnesses in certain cases to have the right to anonymity (or to make such an application). To that extent and in that sense the proposals engage with privacy law. In terms of the security of personal information, where a court has ordered that a person's identity be withheld or, conversely, be revealed it, must be done in accordance with law and in the interests of justice.

Has Treasury Concurrence been given for the preferred option

Treasury concurrence has not been sought as the Bill neither increases, nor decreases, revenue to Government or affect personnel matters.

Key Assumptions / Sensitivities / Risks

Key assumptions are —

1. having the legislation relating to sexual offences, obscene publications, and related matters, in one body of law (rather than spread over several disparate Acts of Tynwald) is good practice;
2. reviewing and updating existing law to ensure it meets the developing requirements of society is important;
3. there will be general public support for the introduction of such measures as pardoning those convicted of former homosexual offences, addressing offences capable of being committed via electronic means, confronting image based offending (such as those known as "revenge porn" and "upskirting") and using the most up to date and appropriate means to empower the courts and the police to determine the seriousness of offences against children; and
4. that as these kinds of offences may be committed both on and off the Island and through electronic media it will assist in enforcement etc if the provisions within the draft legislation are based, as far as is practicable, on those enacted in the United Kingdom.

Approximate date for legislation to be implemented if known

Subject to public consultation and any revision of the Bill in the light of views expressed during the consultation, the current intent would be to introduce the legislation into the

Branches in early 2019.
SUMMARY: CONSULTATION
Consultation in line with Government standard consultation process Yes
Date 1 st Consultation 2 nd Consultation
Summary of Responses: