

TAX LAW REWRITE CONSULTATIVE COMMITTEE

MINUTES OF THE COMMITTEE MEETING HELD ON 24 FEBRUARY

Note by the Secretary

I attach the minutes of the meeting of the Consultative Committee, held on 24 February 2009.

JACKIE BARTLETT
Secretary to the Consultative Committee

**MINUTES OF THE MEETING OF THE CONSULTATIVE COMMITTEE HELD ON 24
FEBRUARY 2009 IN THE JAMES PENNETHORNE ROOM, SOMERSET HOUSE, LONDON**

Present:

Robina Dyall (Chairman)
Colin Campbell
Terry Hopes
Russell Chaplin
Adam Broke
Francis Sandison
Keith Gordon
Mary Fraser

In attendance:

John Sellers
Steve Batterby
Brian Jones

Secretary: Jackie Bartlett

Apologies and welcome

1. Apologies had been received from Malcolm Gammie and Bob McInerney.
2. Brian Atkinson had sent his apologies and indicated that he wished to resign from the Committee. The Chairman expressed thanks for his contribution to the work of the Committee.

Item 1: Minutes of the meeting held on 4 November

3. The minutes of the meeting on 4 November had already been circulated. There were no comments and the minutes were agreed as a true record.

Item 2: Matters arising

4. There were none.

Item 3: Paper CC/SC(09) 03: Response documents (4) (Bills 6 & 7)

Paper CC/SC (09) 04: Response documents (5)

5. The Committee thanked the project for providing this record.
6. The project confirmed that it had not yet issued response documents to papers CC/SC (08) 38, 42 and 43. In some instances the deadline for response documents fell after publication of the draft Bill and although comments had been taken account of, the majority would be dealt with as part of the response to the draft Bill.

Item 4: Bills 6 & 7: Paper CC/SC (08) 54: Long funding leases of plant or machinery

7. The project explained that work on putting Bills 6 and 7 together was currently in progress. Any responses received would be dealt with either in the draft Bill or together with responses to the draft Bill as appropriate.

Item 5: Paper CC/SC (09) 01 – Tax avoidance: companies in partnership

8. The project confirmed that the document referred to in paragraph 2 was published by HM Treasury in response to an original consultation paper dated December 2007.

Item 6: Paper CC/SC (09) 02 – Bills 6 & 7 update

9. The project said that work was progressing well on both Bills and no slippage of the planned publication date of 3 March was anticipated. Assuming no problems, hard copies would be available around 10 March and would be sent to Committee members. The project mentioned that the deadline for responses was 29 May. It would be helpful if complete responses could be sent by this date.
10. Some clauses would not be in either draft Bill and the likely subjects were listed in paragraph 12 of the paper. The project did not expect the number of clauses to be significant.
11. In Appendix E of Bill 7 there would be an updated list, similar to that included in ITA 2007, of the main IT and CT provisions that will remain in ICTA 1988.
12. The project said that in particular it would be grateful for comments on the 'landscape tidying' provisions that have been included in Bill 7.
13. The Committee raised concerns about the Bills being produced alongside the proposed changes in the taxation of foreign dividends. The project said that it was aware of this and explained that, as on other matters, it was something that had to be worked around.
14. In response to a question raised by the Committee, the project confirmed that the legislation on Controlled Foreign Companies had not been included. It is anticipated that Bill 7 will be a vehicle for future legislation dealing with international matters. There was a discussion regarding how provision for future legislation could be made in the Bill. The project said that, as it could not anticipate what shape any future legislation would take, there were difficulties with this. The project confirmed that after the rewrite Bills the remainder of ICTA 1988 will stay as it is.
15. The Committee asked if there was a programme for consolidation in the future. The project said that there is no formal programme but the Law Commission has responsibility for the UK Statute Book and, in conjunction with the departments responsible for particular areas of legislation, keeps the prospects for consolidation under review. It is anticipated that future additions to legislation would be put into the suite of rewrite Acts, which would tend to reduce the need for consolidation.

Item 7: Other matters: Future of the project

16. The project confirmed that a letter was issued to stakeholders in January asking for responses by the end of March. The letter made it clear that the rewrite of whole Acts had been ruled out but asked whether recipients wanted rewriting to continue and, if so, for suggestions for particular areas that might benefit from the rewrite approach. It also sought views on those suggestions already made. The project said that responses so far had been mixed.
17. The Committee asked if there were any plans within HMRC to rewrite TMA 1970. The project said that a New Management Bill had been considered and work was done between 2005 and 2007 after which it was discontinued. Some aspects have been included in the Review of Powers and there were no plans to review TMA further until after the Review is complete. Large parts of TMA would be affected by this and Tribunals reform.
18. If there is no clear outcome from the consultation, support will have to be measured for any proposed rewrite. There were also potential difficulties associated with 'carving out' particular areas of legislation for attention. Any future rewritten provisions would be likely to be included in further rewrite Bills.
19. There was a discussion about areas of legislation that were not being rewritten. "Ring fenced" subject areas that were highly complex and used by relatively few people were sometimes excluded because they were not cost-effective to rewrite. The Committee commented that some relatively recent legislation was unclear, perhaps because the work had been rushed.
20. The future of the Committees was discussed and the project confirmed that they would continue to have a role in considering proposals for corrections and changes provided for in the rewrite Bills, up until 2013. The schedule of meetings would be flexible to reflect this.

Item 8: Any other business

21. The project confirmed that Bill 5 was progressing smoothly through the Parliamentary stages and thanked the Committee for its help. The project had received a request through a Consultative Committee member for one minor change in the law to be included in the Bill by way of an amendment, but as all such changes require thorough research and consultation, it was not possible to recommend the amendment. The suggestion was, however being considered by policy colleagues.
22. The project confirmed that the initial omission of the table of origins and destinations from the Parliamentary website was simply an oversight.
23. The Committee commented that it did not sit well with the project's emphasis on consultation, when a considerable number of unpublished amendments were considered in private at Joint Committee. This was not the case with Finance Bill amendments.
24. The project explained that Joint Committee was a Select Committee whereas the Finance Bill Committee was a Public Bill Committee. The rules for the two kinds of committee were different. The issue was a matter for the House authorities who had in the past insisted on the established practice and procedure being followed.

25. The Committee commented that the sections on loan relationships and derivative contracts in the Bill were very different from the version that appeared in the draft Bill. The project said that external working groups made up of private sector specialists who used the legislation had been providing comments since the publication of the draft Bill and changes had been made as a result.
26. The Committee expressed their appreciation of the project's prompt and comprehensive replies to queries on the Bill.
27. The project said that some members of the Bill 5 team would shortly be leaving the project. The Committee extended their appreciation and good wishes to Luke Connell, Satnam Singh and Travis Morton. The Committee also thanked Barry Mahoney for his contribution to the work and wished him well in retirement.
28. The next meeting is on **2 June 2009**, the Secretary will advise members of the venue nearer the time.

JACKIE BARTLETT
Secretary to the Consultative Committee