

## 5. CONSIDERATION OF CLAUSES

### 5.1. Insurance (Amendment) Bill 2017 – Clauses considered

Mr Cannan to move.

**The Speaker:** We turn now to the consideration of clauses and the first one is the Insurance (Amendment) Bill 2017. I call on Mr Cannan to move.

**Mr Cannan:** Mr Speaker, as outlined in the Second Reading, the Insurance (Amendment) Bill 2017 amends the Insurance Act 2008 to enable the implementation of an enhanced regulatory framework for insurance business carried on or in or from the Island, which is both appropriate and proportionate to the Island's significant insurance sector and consistent with relevant international standards. This is for the purpose of maintaining the Island's reputation as a well-regulated and responsible jurisdiction.

Such a framework will, for the most part, be implemented by secondary legislation, with the overarching reason for the changes proposed in the Insurance (Amendment) Bill 2017 being to enable this. However, in light of the fact that the Insurance Act 2008 was a consolidation of legislation rather than a full revision, a number of other amendments are also proposed to clarify and update existing provisions, to enable the Isle of Man Financial Services Authority to be more flexible and responsive, to provide greater administrative efficiency and to address any anomalies.

The provisions of the Bill will be brought into operation by Appointed Day Orders at such time as the underlying secondary legislation has been consulted upon and is also ready to come into operation.

I will refer to the Insurance (Amendment) Bill 2017 as 'the Bill' and the Insurance Act 2008 as 'the Act' from now on. I will also refer to the Isle of Man Financial Services Authority as 'the Authority' and any references to 'regulated entities' should be understood to include insurers, insurance managers and insurance intermediaries.

Turning to Part 1, clause 1 provides for the short title of the Bill.

I beg to move that clause 1 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 1 stands part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 2, Mr Cannan.

**Mr Cannan:** Clause 2 provides for the Bill's commencement.

The Bill will come into operation on days specified in orders made by the Authority. The Authority may bring into effect different provisions on different days and may also bring into effect the same provisions at different times for different sectors of the industry.

I beg to move that clause 2 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 2 stands part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Cannan.

**Mr Cannan:** Clause 3 provides for the Insurance (Amendment) Act to expire on the day after the last provision is brought into operation.

I beg to move that clause 3 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 3 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mr Cannan.

**Mr Cannan:** Clause 4 provides interpretation of the abbreviation of the Insurance Act 2008.

I beg to move that clause 4 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 4 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 5, Mr Cannan.

**Mr Cannan:** Clause 5 deals with the capital requirements of authorised insurers and provides the framework for the implementation of a risk-based capital regime in secondary legislation, whereby the capital an insurer is required to hold is correlated to the risks to which it is exposed. This more robust framework provides enhanced policyholder protection and is essential for compliance with relevant international standards.

Clause 5 also substitutes the existing section 12 of the Act by a new provision which requires an authorised insurer to establish and maintain two capital requirements and to hold capital resources to meet those requirements. These are: a minimum capital requirement, which I will refer to as the 'lower capital level' below which no insurer will be regarded as viable to operate effectively; and a solvency capital requirement, which I will refer to as the 'higher capital level', above which, on a routine basis, supervisory intervention in relation to capital requirements will not be expected.

The assets which may be considered for the purpose of meeting the requirements are 'eligible capital resources' and will be defined in regulations.

I beg to move that clause 5 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second and reserve my remarks.

**The Speaker:** The question is that clause 5 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 6, Mr Cannan.

**Mr Cannan:** Clause 6 also deals with the capital requirements of insurers and inserts four new sections into the Act which relate to the duties of authorised insurers in this area and the consequences of breaching the capital requirements.

Section 12A imposes a restriction on making a distribution, including a dividend, where this would cause the higher capital level to be breached.

Section 12B requires an insurer to inform the Authority where an insurer's capital resources fall below either the lower or the higher capital level or where the insurer becomes aware of a substantial risk of this occurring within the next three months.

Section 12C sets out the Authority's powers where the insurer's capital resources fall below the lower capital requirement. Under this provision the Authority may either require the insurer to submit a remedial scheme or else it may present a petition for the winding up of the insurer.

The new section 12D sets out the Authority's powers where an insurer's capital resources fall below the higher capital requirement. In these circumstances the Authority may either require the insurer to submit a remedial scheme or else withdraw the insurer's authorisation to accept new business.

These amendments provide the framework for a more robust capital regime and are required for compliance with relevant international standards.

I beg to move that clause 6 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** I beg to second, Mr Speaker.

**The Speaker:** The question is that clause 6 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 7, Mr Cannan.

**Mr Cannan:** Clause 7 addresses the consequences of breaching the capital requirements and amends section 13 to reflect the fact that there are now two capital levels, a higher and a lower.

In the event of a breach of either level, where requested by the Authority, an insurer must submit a remedial plan for the purpose of restoring compliance with those levels; provision is made for the timing of submission and implementation of a remedial scheme and the submission of reports to the Authority in relation to the scheme; if an insurer fails to submit a scheme which is acceptable to the Authority as a result of a breach of the lower level, the Authority may apply to wind up the insurer; and if an insurer fails to submit a scheme which is acceptable to the Authority as a result of a breach of the higher level, the Authority may withdraw the insurer's authorisation in respect of new business.

I beg to move that clause 7 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** I beg to second, Mr Speaker.

**The Speaker:** The question is that clause 7 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 8, Mr Cannan.

**Mr Cannan:** Clause 8 repeals section 19 of the Act which sets out requirements in respect of the assets to be held in the long-term business fund. The concept of the long-term business fund will no longer exist under the new capital framework, with the new framework providing equivalent policyholder protection by a different mechanism.

I beg to move that clause 8 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** I beg to second, Mr Speaker.

**The Speaker:** The question is that clause 8 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 9, Mr Cannan.

**Mr Cannan:** Clause 9 repeals section 20 of the Act which sets out provisions for the use of long-term business assets. These provisions are now redundant given the removal of the concept of the long-term business fund.

I beg to move that clause 9 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 9 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 10, Mr Cannan.

**Mr Cannan:** Clause 10 amends Schedule 3 to the Act.

The existing provisions prohibit long-term insurers from being wound up voluntarily and give priority ranking to the policyholder creditors of long-term insurers. These are now extended to apply also to non-long-term insurers and their policyholder creditors. This is to prevent *all* insurers from avoiding their obligations to policyholders by winding up and to ensure that their policyholders are treated fairly in a winding up situation. Furthermore, international standards expect equivalent provisions in this area to be applied to all types of insurance business.

It is, however, recognised that there may be certain classes of insurance companies where it is not possible for an insurer to confirm absolutely that all its obligations have been extinguished and so provision has been made to enable the Authority to exempt such companies. The detail of this will be set out in regulations with due care taken that this does not have an adverse outcome for policyholders.

A number of consequential amendments are made to reflect the new provisions for capital requirements and the removal of the long-term business fund.

I beg to move that clause 10 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 10 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 11, Mr Cannan.

**Mr Cannan:** Clause 11 amends Schedule 2 to the Act which deals with the transfer of long-term business.

The independent actuary who is required to prepare a report on the transfer must be approved by the Authority. This is to enable the Authority to take action where it has concerns about the independence of that person.

Clarification is provided that long-term business carried on by authorised insurers is only capable of being transferred to other authorised insurers, that is, insurers incorporated on the Island.

Also the Authority is provided with the discretion to determine if court sanction for a transfer should be required where the proposed transfer is between insurers which are incorporated outside the Island, and where at least one of those insurers has a branch operation on Island. This is in response to feedback from the legal advisers of insurers who wish to avoid a costly court process where a court process has already been carried out in another jurisdiction with standards equivalent to those on the Island.

I beg to move that clause 11 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 11 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 12, Mr Cannan.

**Mr Cannan:** Clause 12 amends section 21 of the Act to clarify that the power to make regulations to apply the provisions for the transfer of business under Schedule 2 to non-long-term insurers allows 'exceptions and adaptations' as well as 'modifications' to those provisions. This clarifies for the avoidance of doubt that the Authority may prescribe requirements for non-long-term insurers as required by international standards in a way that is appropriate for that type of business.

I beg to move that clause 12 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 12 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 13, Mr Cannan.

**Mr Cannan:** Clause 13 inserts a new Part 4A into the Act. This provides the Authority with powers to introduce a new framework for the supervision of insurance groups where it is deemed appropriate for the Authority to be the group supervisor.

Since the financial crisis of 2008 there has been increasing regulatory focus on the need to complement supervision at the level of the individual insurer with oversight at the level of the group, and to assess the potential impact of other entities in a group on an insurer's policyholders. A 'group supervisor' is nominated to facilitate this, which is responsible for having oversight at group level.

The Authority already has certain powers in respect of insurance groups; it can, for example, request information from any member of a group if this is required to enable the Authority to carry out its functions under the Act. These new provisions, however, provide a more formal and transparent framework which will set out requirements more clearly for insurers and provide additional information to the Authority on a regular basis, thus enhancing policyholder protection as well as enabling the Island to demonstrate compliance with international standards to external assessors, group supervision being key to this.

The new provisions set out: definitions for the purpose of this Part; the matters the Authority will consider when determining if it is appropriate for it to be the group supervisor of an insurance group; the duties of the Authority in respect of the 'designated insurer' which is the Authority's conduit to the insurance group; the requirement for a register of insurance groups to be maintained by the Authority; powers to exclude a company from, or include a company within, an insurance group, where it is appropriate to do so; the power for the Authority to withdraw from its role as group supervisor where there is good reason to do so; the functions of the group supervisor; the power to make regulations in relation to group supervision; and the requirement for an actuary to be appointed to an insurance group which includes at least one insurer carrying on long-term insurance business.

These provisions provide sufficient discretion for the Authority to implement a group supervision framework in a way which is both consistent with international standards and proportionate to the Island's insurance industry. For example, it is not anticipated that group supervision will be applied to captive arrangements where there are no third-party policyholders at risk.

I beg to move that clause 13 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 13 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 14, Mr Cannan.

**Mr Cannan:** Clause 14 amends section 14 of the Act and allows more latitude in relation to the timescales for the submission of financial information to the Authority. This is to address ad hoc situations where adherence to the fixed timescales is not possible for practical reasons or where a different timescale is considered appropriate to address a specific supervisory risk.

I beg to move that clause 14 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 14 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 15, Mr Cannan.

**Mr Cannan:** Clause 15 inserts a new Part 6A which sets out requirements in the Act for registered insurance managers and insurance intermediaries.

It inserts a new section 27A in respect of the accounts of those entities; this section specifies what should be provided to the Authority and when it should be provided. This mirrors existing requirements for insurers.

I beg to move that clause 15 stands part of the Bill.

**Mr Thomas:** Hear, hear.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 15 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 16, Mr Cannan.

**Mr Cannan:** Clause 16 amends section 18 in order to update a reference to the professional body for actuaries. It also allows the requirements in respect of an appointed actuary to be applied to non-long-term insurers by regulation, with appropriate modifications. This will enable the Authority to implement regulations to require a non-life insurer, where appropriate in light of the nature of its business, to have actuarial expertise or to have access to such expertise.

This will provide an independent assessment of the level of reserves calculated by an insurer. It should therefore provide for a more robust and reliable process and is also a requirement of international standards. As this requirement will be implemented by regulation, it will of course be debated with industry and be subject to public consultation.

I beg to move that clause 16 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 16 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 17, Mr Cannan.

**Mr Cannan:** Clause 17 creates a new offence where an existing offence under the Act is committed with the consent of, connivance of, or is attributable to neglect on the part of an actuary. This reflects the key role of the actuary to an insurer.

I beg to move that clause 17 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 17 stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Clause 18.

**Mr Cannan:** Clause 18 inserts a new section 15A into the Act. This provision requires an auditor to report material breaches by an insurer of the act or legislation made under it to the Authority where an auditor becomes aware of this in the course of its duties. This is a requirement of international standards and mirrors existing provisions in the financial Services act 2008.

I beg to move that clause 18 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 18 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 19.

**Mr Cannan:** Clause 19 inserts a new section 27B. It requires registered insurance managers and insurance intermediaries to appoint auditors and requires the authority to be notified where a decision is taken not to reappoint an existing auditor. This mirrors existing requirements for insurers.

I beg to move that clause 19 stands part of the bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 19 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 20.

**Mr Cannan:** Clause 20 inserts a new section 27C into the Act. This provision requires an auditor to report material breaches by an insurance manager or intermediary of the Insurance Act or legislation made under it to the Authority, where an auditor becomes aware of this in the course of its duties. This mirrors the provisions introduced for insurers in clause 18.

I beg to move that clause 20 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 20 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 21.

**Mr Cannan:** Clause 21 makes a number of amendments to section 29 which deals with the requirement for key functionaries of regulated entities, such as directors and managers, to be fit and proper.

Firstly, the requirements of this section are applied to a new role, the principal control officer. This is the individual responsible for the key control functions of an insurer, which are internal audit, compliance and risk management. This recognises the importance of this role and is a requirement of international standards.

Secondly, the requirement for the form of notice required by the Authority to be set out in regulation is removed. This enables the Authority to more easily tailor the form of notice to the person completing the form.

Thirdly, the authority may agree in writing a timescale for the submission of the notice required under this section which is different to that specified rather than simply shorter. This provides the Authority with additional flexibility to respond to situations where there are practical difficulties in complying with the requirement.

Fourthly, the definition of 'manager' is amended so that it applies to a corporate entity as well as an individual, and to a person who in practice works for a regulated entity but who is not directly employed by that entity. This reflects industry practice.

A consequential amendment is also made as a result of a new provision, the issue of warning notices, which is introduced by clause 40 and which I will discuss in due course.

I beg to move that clause 21 stands part of the Bill.

**The Speaker:** Mr Peake.

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



**The Speaker:** The question is that clause 21 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 22.

**Mr Cannan:** Clause 22 amends section 30 which sets out requirements where a person ceases to be a key functionary, such as a director or manager. Section 30 is amended to apply it also to a principal control officer, this being a new role introduced by clause 21. It also removes the requirement for the form of notice to be provided to be set out in regulations.

I beg to move that clause 22 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 22 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 23, Mr Cannan.

**Mr Cannan:** The Hon. Member for Ramsey has left the room – I will speed up! *(Laughter)*

Clause 23 inserts a definition of ‘principal control officer’ in section 54(1).

I beg to move that clause 23 stands part of the Bill.

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

**The Speaker:** The question is that clause 23 stand part of the Bill. Those in favour, please say aye; those against, no –

**Mr Cannan:** Clause 24! *(Laughter)*

**The Speaker:** The ayes have it.

Clauses 24 to 64 is it, Mr Cannan? *(Laughter)*

**Mr Cannan:** Clause 24 also amends section 29 which deals with fit and proper matters and applies the requirements to company secretary. This highlights the requirement in respect of insurers and extends it to apply to insurance managers and intermediaries. It reflects the important nature of the role of company secretary.

I beg to move that clause 24 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 24 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 25.

**Mr Cannan:** Clause 25 also amends section 30 which deals with persons ceasing to be key functionaries in respect of a regulated entity and applies those requirements to a company secretary.

I beg to move that clause 25 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 25 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 26.

**Mr Cannan:** Clause 26 inserts a new section 17A which imposes requirements on authorised insurers to establish, implement and maintain corporate governance frameworks to ensure that the insurer is soundly and prudently managed. This provides an explicit overarching provision supporting more detailed governance requirements which already exist in secondary legislation and reflects the increased focus in more recent times on the importance of good governance.

I beg to move that clause 26 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 26 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 27.

**Mr Cannan:** Clause 27 inserts a new section 27D which imposes requirements on registered insurance managers and insurance intermediaries to establish, implement and maintain corporate governance frameworks to ensure that the insurance manager or insurance intermediary is soundly and prudently managed.

This provides an explicit overarching provision supporting more detailed governance requirements which already exist in secondary legislation for insurance managers and which will be introduced for insurance intermediaries. It reflects the increased focus in more recent times on the importance of good governance.

I beg to move that clause 27 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 27 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 28.

**Mr Cannan:** Clause 28 makes a presentational change to the wording of section 5 in respect of the authorisation of insurers. It also makes it clear that the prohibition from carrying on insurance business without authorisation applies when a person carries on insurance business in or from the Island, or holds itself out as such.

I beg to move that clause 28 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 28 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 29.

**Mr Cannan:** Clause 29 amends section 6 to remove the reference to the requirement to detail in regulations the information to be sent to the Authority in respect of an application for authorisation as an authorised insurer. This is not required as the existing provisions already give the Authority the ability to simply require the information.

In addition, provision is made for a person other than the applicant to provide the information.

I beg to move that clause 29 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 29 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 30.

**Mr Cannan:** Clause 30 amends section 7 of the Act. It expands the categories of person who must satisfy the Authority about their fitness and propriety to include the applicant itself and the actuary where the application is in respect of long-term business.

It permits the Authority to require those who manage an applicant to have adequate knowledge as well as experience of the insurance business in question; and it allows the authority to require an applicant for authorisation to give an undertaking about future conduct. This recognises more formally the Authority's ongoing practice to obtain written assurances in relation to applications.

I beg to move that clause 30 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 30 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 31.

**Mr Cannan:** Clause 31 inserts a new section 10A which allows the Authority to impose requirements on an authorised insurer in relation to the discontinuation of its business where that insurer proposes to surrender its authorisation. This is to ensure that an insurer makes appropriate arrangements in respect of any existing liabilities to policyholders authorisation can be surrendered.

I beg to move that clause 31 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 31 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 32.

**Mr Cannan:** Clause 32 makes a presentational change to the wording of section 23 in respect of the registration of insurance managers. It also makes it clear that the prohibition from carrying on insurance management without registration applies when a person carries on insurance management business in or from the Island, or holds itself out to be an insurance manager. This mirrors the provision for insurers which is introduced by clause 28.

I beg to move that clause 32 stands part of the bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 32 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 33.

**Mr Cannan:** Clause 33 also makes a presentational change to the wording of section 24 in respect of the registration of insurance intermediaries. It also makes it clear that the prohibition from carrying on insurance intermediation without registration applies when a person carries on such business in or from the Island, or holds itself out to be an insurance intermediary. This mirrors the provisions for insurers and insurance managers introduced by clauses 28 and 32.

I beg to move that clause 33 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 33 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 34.

**Mr Cannan:** Clause 34 amends section 25 of the Act.

It allows a person other than an applicant for registration as an insurance manager or insurance intermediary to provide documents and information where this is agreed by the Authority.

It also requires an applicant for registration to be a body corporate as this is deemed to offer a better level of consumer protection than that offered by a sole trader.

It also requires an applicant for registration to have a manager with an adequate knowledge of the applicant's business as well as experience; and it allows the Authority to require an applicant for registration to give an undertaking about future conduct. This recognises more formally the Authority's ongoing practice to obtain written assurances in relation to applications.

I beg to move that clause 34 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 34 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 35.

**Mr Cannan:** Clause 35 repeals subsection (7) of section 26, removing the requirement for a registered insurance intermediary to re-register annually. This reduces the administrative effort for both the Authority and registered intermediaries.

I beg to move that clause 35 stands part of the bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 35 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 36.

**Mr Cannan:** Clause 36 inserts a new section 26A which allows the Authority to impose requirements on a registered insurance manager or insurance intermediary in relation to the discontinuation of their business where they propose to cancel their registration. This is to ensure that insurance managers or insurance intermediaries make appropriate arrangements for their clients before their registration can be cancelled.

I beg to move that clause 36 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 36 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 37.

**Mr Cannan:** Clause 37 amends section 31 of the Act which allows the Authority to direct an insurance manager or insurance intermediary to maintain specified assets in the Island or in a specified bank and to prohibit them from being removed without the consent of the Authority. This power currently applies only to authorised insurers, but is deemed to be a relevant enforcement power to be able to apply to insurance managers and intermediaries for the purpose of consumer protection.

I beg to move that clause 37 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 37 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 38.

**Mr Cannan:** Clause 38 amends section 27 of the Act which is in respect of the winding up of insurance managers and intermediaries. The new subsection provides that in any proceedings to wind up an insurance manager or intermediary, evidence that the company was insolvent at the close of the period to which the last produced accounts relate is evidence that the company is unable to pay its debts until the contrary is proved. This mirrors the provision already in place for insurers and provides additional clarification.

I beg to move that clause 38 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 38 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 39.

**Mr Cannan:** Clause 39 substitutes the existing definition of ‘insurance intermediary’ in section 54(1) with a new definition. The effect of this is to clarify that intermediation business must be for remuneration to come within the scope of regulation.

I beg to move that clause 39 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 39 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 40.

**Mr Cannan:** Clause 40 inserts a new group of sections, sections 29A to 29E, into the Act making provision for the imposition of prohibition notices and the issue of warning notices by the Authority where there are concerns relating to an individual’s fit and proper status.

The new sections 29A to 29D deal with prohibitions and specify who may be subject to such a prohibition, what functions the prohibited person may be prevented from carrying on, the process that must be used to impose a prohibition, and the requirement to publish a list of prohibitions.

Prohibitions may be applied to any individual, unlike a section 29 direction which can only apply in respect of those roles which must be notified to the Authority. A preliminary notice of the intention to impose a prohibition must be given and the individual has the right to make representations and to appeal against the prohibition if it is imposed.

This enables the Authority to prevent individuals who may, for example, have committed fraud or theft, from continuing to be involved in the business of a person regulated by this Act and thus enhances policyholder protection.

Section 29E permits the Authority to serve a written warning notice on a person who is, or has been, an actuary to an insurer, a director, chief executive, company secretary, controller, manager or principal control officer of a person to whom the part applies.

It specifies the circumstances in which the Authority may issue a warning notice, the contents of a warning notice, the effective period of a warning notice, and the persons to whom the Authority may disclose the circumstances surrounding a warning notice. A warning notice may be issued where a situation is perhaps not so serious as to justify actions under section 29 and/or section 29A, prohibitions, but where there are concerns and where remedial action is deemed necessary.

I beg to move that clause 40 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 40 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 41.

**Mr Cannan:** Clause 41 amends section 35 of the Act, the effect of which is to enable a public statement to be made where a person is in contravention of a prohibition. This is consequential on the new provisions on prohibitions introduced by clause 40. It also clarifies that the prior written notice to be sent to the person concerned and also applies where the Authority passes information about an insurance intermediary to an insurer if it appears desirable for the protection of a client or any client of the intermediary.

I beg to move that clause 41 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 41 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 42.

**Mr Cannan:** Clause 42 amends section 38 of the Act, the effect of which is to enable the Authority to apply to the High Court to grant an injunction in respect of prohibitions imposed. This is consequential on the new provisions on prohibitions introduced by clause 40.

I beg to move that clause 42 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 42 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 43.

**Mr Cannan:** Clause 43 inserts new sections 39A and 39B which apply to insurers, insurance managers and insurance intermediaries.

Section 39A enables the Authority to petition the High Court for the appointment of a receiver where the High Court is satisfied that the appointment is in the public interest; it is necessary for the protection of the interests of policyholders, customers and creditors; it is necessary for the orderly winding up of the business; or it is necessary for the affairs and property relating to the business of a regulated entity to be settled or disposed of in an orderly manner. This provides the Authority with additional power to ensure fair treatment of policyholders, customers and creditors in a winding up situation.

Section 39B enables the Authority to make an order prescribing circumstances in which the Authority may apply to the High Court for the appointment of a business manager to manage the affairs of a person regulated under this Act.

This provides the Authority with an additional power to create and deal with regulated entities where the Authority has concerns about the way in which the person is being managed which could ultimately adversely impact its policyholders or clients.

The powers introduced by clause 43 mirror existing provisions in the Insurance Act 2008.

I beg to move that clause 43 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The Hon. Member for Ramsey, Mr Hooper.

**Mr Hooper:** Just one very small comment on here, Mr Speaker. The hon. mover has referred to policyholders, customers and creditors, but the wording in clause 39A refers only to:

customers, creditors or others ... who have had dealings

I would just like some clarification that actually it definitely includes policy holders.  
Thank you.

**The Speaker:** The mover to reply.

**Mr Cannan:** Good to hear from you! *(Laughter)*

I can tell the Hon. Member that absolutely, it is for fair treatment of policyholders, customers and creditors in a winding up situation.

If there is a technicality associated with that interpretation I will come back to the Hon. Member after this just to be certain in his mind and my mind that that is absolutely correct. But the intent is that it is for policyholders, customers and creditors.

I beg to move.

**The Speaker:** The question is that clause 43 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 44.

**Mr Cannan:** Clause 44 amends section 33 of the Act to clarify that the Authority has the power to require a person regulated by the Act to refrain from taking an action as well as to take an action.

I beg to move that clause 44 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 44 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 45, Mr Cannan.

**Mr Cannan:** Clause 45 amends Schedule 5 to the Act.

A new paragraph 1A is inserted to enable the Authority to require information from a number of persons, including current and former persons regulated under the Act, and any other person the Authority has reason to believe has information relevant to the discharge of the Authority's functions. This new provision allows the Authority to appoint an independent expert to investigate all such persons on its behalf and to make a report.

An amendment is also made to paragraph 2(1) to explicitly state that when requesting information the Authority may specify the individual who is to provide it and the period in which it is to be provided.

This recognises more formally the Authority's ongoing use of requiring information to be provided by independent experts and the accountability of those providing information.

I beg to move that clause 45 stands part of the Bill.

**The Speaker:** Mr Peake.



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

**The Speaker:** The question is that clause 45 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 46.

**Mr Cannan:** Clause 46 adds four gateways to Schedule 6 of the Act. These gateways permit the transfer of restricted and confidential information between the Authority and other specified bodies.

The new gateways relate to the Department of Economic Development, the Gambling Supervision Commission, the Collector of Customs and Excise and the Pensions Ombudsman.

I beg to move that clause 46 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 46 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 47.

**Mr Cannan:** Clause 47 amends section 22 of the Act to allow insurers which are based in jurisdictions other than the Island, with a branch operation on Island, to carry out non-insurance business in those jurisdictions. This amendment corrects an anomaly in the existing legislation.

I beg to move that clause 47 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 47 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 48.

**Mr Cannan:** Clause 48 amends the definition of 'senior manager' in section 37 such that 'an employee' is substituted by 'an individual working for or on behalf'. The effect of this is that it includes individuals not directly employed by the insurer, insurance manager or insurance intermediary but whose functions are all performed in relation to that person.

I beg to move that clause 48 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 48 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 49.

**Mr Cannan:** Clause 49 makes a number of amendments in respect of fees.

An additional paragraph is inserted in subsection (1) which is consequential upon the removal of the requirement for insurance intermediaries to re-register annually; also a new subsection is inserted which enables the Authority to make regulations to provide for the payment to the Authority of fees in relation to exceptional work it may have to carry out for a specific regulated entity. This is in the interest of treating all insurers in an equitable fashion; and also an amendment is made to subsection (2) to substitute 'Authority' with 'Treasury' such that unpaid moneys are to be collected by the Treasury rather than the Authority. This is to correct an inconsistency in this section.

I beg to move that clause 49 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 49 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 50.

**Mr Cannan:** Clause 50 amends section 48 to permit the registers of authorised insurers, permit holders, registered insurance managers and intermediaries to be kept electronically and to also permit the holding of records in relation to former persons as well as current. Provision is also made to have copies of a register supplied in legible form in certain circumstances. This reflects current practices.

I beg to move that clause 50 stands part of the bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 50 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 51.

**Mr Cannan:** Clause 51 inserts a new section 48A which clarifies for the avoidance of doubt that contracts of insurance are not to be regarded as void or unenforceable by reason of section 40 of the Gaming, Betting and Lotteries Act 1988, and that any security given in respect of such a contract is not illegal consideration for the purposes of section 41 of that Act.

The requirement for this amendment arose as a result of the implementation of a framework for the authorisation of a new class of insurer, an insurance special purpose vehicle.

I beg to move that clause 51 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 51 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 52.

**Mr Cannan:** Clause 52 amends section 52 of the Act by widening the category of statements whose inclusion in a book or document attracts criminal sanctions. Now misleading statements as well as false statements are caught. This mirrors provisions in the Financial Services Act 2008.

I beg to move that clause 52 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 52 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 53.

**Mr Cannan:** Clause 53 inserts a new definition for a 'holding company' to clarify that reference should be had to the definition of 'subsidiary' which refers to the definitions in the Companies Act 1974 and the Companies Act 2006.

I beg to move that clause 53 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 53 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 54.

**Mr Cannan:** Clause 54 amends the definition of 'insurance business' by inserting a paragraph to enable the Authority to set out in regulation that specified contracts are included within the definition of insurance business. This will allow the Authority to prescribe that contracts such as those under the insurance special purpose vehicle framework referred to earlier can be explicitly understood to be contracts of insurance and not wagers.

I beg to move that clause 54 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 54 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 55 and Schedule 1.

**Mr Cannan:** Clause 55 abolishes the Collective Investment Schemes Tribunal, the Retirement Benefits Schemes Tribunal and the Insurance Tribunal and transfers their functions to the Financial Services Tribunal. It brings Schedule 1 into effect, which sets out transitional arrangements in this respect.

I beg to move that clause 55 stands part of the Bill.

**The Speaker:** Clause 55 and Schedule 1.

**Mr Cannan:** And Schedule 1.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 55 and Schedule 1 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 56.

**Mr Cannan:** Clause 56 amends the definition of 'controller' to reduce the threshold shareholding from 15% to 10% and to clarify that the definition also includes a person who is able to exercise significant influence over the management of a regulated entity and a person with the power to appoint directors to the board or other executive committees of the regulated entity and/or to remove them. This is in line with international standards for insurance business.

I beg to move that clause 56 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 56 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 57.

**Mr Cannan:** Clause 57 amends schedule 7 to include new matters in respect of which regulations may be made and to make amendments to existing matters in respect of which regulations may be made.

A new paragraph 1A is inserted to enable provisions in the Act to be amended by regulation. This will enable the Authority to be more responsive to the need for changes.

Also a new paragraph 1B refers to a new subsection which is inserted by clause 58 and which requires Tynwald approval before amendments to the Act by regulation can come into operation. This provides an additional safeguard and responds to feedback received in the consultation process.

Also paragraph 2 is amended to enable any exemptions from authorisation or registration to be subject to conditions. This is to provide the Authority with some regulatory reach over an exempted entity.

A new paragraph 5A is inserted to enable the authority to specify in regulations any matter in respect of which a discretion may be exercised.

A new paragraph 8A is inserted to enable provisions of the Act to be applied to partnerships, limited liability partnerships, protected cell companies, companies incorporated under the Companies Act, incorporated cell companies or incorporated cells with appropriate modifications.

A new paragraph 14A is inserted to enable the Authority to require persons regulated by the Act to publish information, the details of which will be put in regulation. This is required by international standards.

I beg to move that clause 57 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 57 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 58.

**Mr Cannan:** Clause 58 amends section 50 by inserting a new subsection (5) which requires any regulations which amend the Act to be approved by Tynwald prior to coming into operation.

I beg to move that clause 58 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 58 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 59.

**Mr Cannan:** Clause 59 amends section 54(1) to insert a definition of 'person' such that it includes unincorporated bodies as well as corporate bodies. This is consequential upon an amendment to the definition of 'person' in the Interpretation Act 2015 which limits it to corporate bodies. Limited partnerships may also be authorised or registered under the principal Act and so the definition of 'person' needs to include unincorporated bodies.

I beg to move that clause 59 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 59 stands part of the Bill. Those in favour please say aye; those against, no. The ayes have it. The ayes have it.

Clause 60.

**Mr Cannan:** Clause 60 amends the Financial Services Act 2008 to insert a new definition in section 48 to include unincorporated bodies as well as corporate bodies. This is consequential upon an amendment to the definition of 'person' in the Interpretation Act 2015 which limits it to corporate bodies.

I beg to move that clause 60 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 60 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 61.

**Mr Cannan:** Clause 61 amends paragraph 4 of Schedule 4 such that any references to 'the Department' in the Companies (Transfer of Domiciles) Act 1998 should be construed as references to 'the Authority'. This clarifies provisions in Schedule 4 in respect of the Authority's role and addresses a situation inadvertently created by the implementation of the Transfer of Functions (New Departments) (No. 2) Order in 2010.

I beg to move that clause 61 stands part of the Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 61 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 62.

**Mr Cannan:** Clause 62 amends section 105 of the Interpretation Act 2015 to prevent the repeal of Schedule 10 to the Act and ensure the continued application of the Life Assurance (Compensation of Policyholders) Regulations 1991.  
I beg to move that clause 62 stands part of Bill.

**The Speaker:** Mr Peake.

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

**The Speaker:** The question is that clause 62 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 63 and Schedule 2, Mr Cannan.

**Mr Cannan:** Clause 63 introduces Schedule 2, minor and consequential amendments.  
Part 1 introduces a number of amendments to the Act which firstly are consequential upon other changes, which have already been commented on, notably in the area of offences and interpretation; or, alternatively, are very minor changes.  
Part 2 introduces amendments to the Act and to a number of other Acts as a result of the transfer of the functions of the Collective Investment Schemes Tribunal, the Retirement Benefits Scheme Tribunal and the Insurance Tribunal to the Financial Services Tribunal. Those other Acts affected are the Legal Aid Act 1986, the Retirement Benefits Schemes Act 2000, the Tribunals Act 2006, the Collective Investment Schemes Act 2008, the Financial Services Act 2008 and the Designated Businesses (Registrations and Oversight) Act 2015.  
I beg to move that Schedule 2 stands part of the Bill.

**The Speaker:** I think the motion is that clause 63 and Schedule 2 stand –

**Mr Cannan:** Clause 63 and Schedule 2 stand part of the Bill.

**The Speaker:** Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
My apologies, I should have allowed you to second that, Mr Peake.

**Mr Peake:** I beg to second. *(Laughter)*

**The Speaker:** I am getting ahead of myself.  
Now it is clause 64 and Schedule 3, Mr Cannan.

**Mr Cannan:** Clause 64 introduces Schedule 3, repeals, which sets out those provisions which have been repealed as a result of the changes which have already been commented on.  
I beg to move that clause 64 and Schedule 3 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** The question is that clause 64 and Schedule 3 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Apologies there for a bit of clause-blindness.  
Right, that concludes the consideration of the Insurance (Amendment) Bill.