

3. BILL FOR THIRD READING

**3.1. Abortion Reform Bill 2018 –
Third Reading approved**

Dr Allinson to move:

That the Abortion Reform Bill 2018 be read a third time.

The Speaker: Item 3, Bill for Third Reading, Abortion Reform Bill 2018, and I call on Dr Allinson to move.

Dr Allinson: Thank you, Mr Speaker.

790 I stand today to ask this House to allow the Abortion Reform Bill 2018 to receive its Third Reading.

I would like to thank all Hon. Members for their engagement in the substantial debate around the Bill, their amendments, suggestions for improvement and their support as it has progressed through the clauses stage.

795 Some Hon. Members have found this process difficult due to the pre-stated opinions about abortion and their own honest, moral and ethical views. I would like to thank them for their ability to question those views and work towards a compromise which will improve the access for women's healthcare on the Island.

800 I would also like to thank the Tynwald office staff and the Attorney General's office for the extensive research and legal advice that has gone into supporting this important piece of legislation.

I apologise to you that you do not have the complete final copy of the Bill before you, which is being prepared for the Legislative Council as we speak, but I would like to outline the changes to the draft Bill we have agreed to and the implications for these.

805 The long title of the Bill has been altered to read:

A BILL to restate the law relating to abortion with amendments to make provision about access zones for premises where abortion services and related counselling are provided and for premises occupied by those providing such services and counselling; and for connected purposes.

This was to allow for the inclusion of Part 3 of the Bill as moved by the Hon. Member for Douglas North, Mr Peake, which establishes access zones for hospitals and other premises where terminations are performed or counselling is provided. It also enables access zones around GP surgeries and the homes of healthcare professionals, should they become necessary.

810 At our last sitting there was concern from some Members about how this relates to existing obligations to international human rights legislation. I have discussed these concerns with the Attorney General's office and have been reassured that, in their view, the legislation we have agreed upon is compatible with the European Convention on Human Rights.

815 We have agreed further inclusions to the interpretations of this legislation with clear statements about the definitions of 'serious impairment' and 'serious social grounds'. There have been numerous changes to some of the terms and phrases used, to ensure that they are correct and consistent through the Bill, and particular scrutiny about clause 8, which deals with conscientious objection by medical and nursing staff.

820 I would like to thank the Member for Douglas East, Mr Robertshaw, for his amendment which created a new clause 2, which outlines the clear duty of a medical professional following a termination.

Clause 11(4) has been removed. This stated that a pregnant woman would not commit an offence if she took a relevant product to procure her miscarriage or solicited or incited another person to supply her with this. An amendment was passed to then clearly state that nothing in

825 the previous clauses obliges a relevant professional or pharmacist treating a pregnant woman to notify a constable that the woman has taken a relevant product. This was moved to ensure that women could be honest with healthcare professionals and ensure that they were treated safely.

The Bill is designed to ensure access to safe abortion services for those women on the Island who need them through placing a duty on the Department of Health and Social Care to provide
830 balanced, impartial and non-judgemental counselling before and after termination. It creates the space and opportunity for women to be supported in making the right decision for themselves and their family.

Mr Speaker, I beg to move that this House take the Third Reading of the Abortion Reform Bill 2018.

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The Speaker: I call on the Hon. Member for Douglas East, Miss Bettison.

Miss Bettison: I beg to second and reserve my remarks.

840 **The Speaker:** Hon. Member for Douglas East, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

I would like to thank the mover of the Bill for his kind words insofar as they apply to those of us who have found this Bill difficult; I appreciate that very much. I would also commend the
845 mover for the exemplary fashion in which, in a way, he has brought this Bill forward; his patience is quite remarkable and a lesson perhaps to us all. (**A Member:** Hear, hear.)

But I have to say that ... and I go back to the opening remarks I think I made at the Second Reading, where I expressed deep concern about the way the debate over this Abortion Bill in the public arena had ended up being two armies, as it were, at odds with each other: in the extreme,
850 the pro-life group, who had little regard for the other side, and the pro-choice group, who equally had little regard for the opposite view. I had always hoped – and I hope my efforts in this have shown that I have been willing to contribute and engage thoroughly and fully in this debate – that in the end the importance that surrounded the introduction of this Bill, which was very necessary insofar as it needed to modernise our abortion laws, which were way behind the
855 curve ... that somehow or other out of all of this we could find a sense of balance between the two sides in a way that had not been exhibited or outlined in the public debate. Although I agree with the mover that we have achieved quite a lot in our long and careful deliberations, we have not ended up with that balance that I hoped that we would find. I am probably finding being in here today the most difficult day in my eight or nine years in the Keys, being part of this process
860 this morning, because I think we have not found that balance.

We have rightly found need and import attached to recognising the rights of a woman, particularly in the first trimester. We understand that in a late third trimester abortion the matters really then are subject to UK laws, not ours, but it is the area in the middle, the second trimester and particularly clause 6 and the relationship to the definition of the word 'health',
865 where I think we have lost our way, and that clause in particular and linked to clause 3 is confusing and not fit for purpose. We have rightly, to repeat myself, recognised the rights of a woman here, but what we have not done, what we have failed to do completely and utterly, is to recognise that in there we had to retain some rights and protection for the unborn baby, and we have not done that.

870 Therefore, for that reason and that reason alone, I have to vote against the Third Reading. Thank you, Mr Speaker.

The Speaker: Hon. Member for Douglas South, Mrs Beecroft.

875 **Mrs Beecroft:** Thank you, Mr Speaker.

I too would have liked to have supported this Bill at this stage to go forward to Legislative Council and I am disappointed that I cannot, because everybody, as the previous speaker has said ... There have been so many debates on this and so many amendments and everybody has worked really hard to get it right, but I actually do not think we have. There were two areas for me where I did not get the legal clarification that I needed to allow me to support this Bill because there are different ways of interpreting the legislation and we should not be producing legislation that is woolly and open to interpretation. We should not be doing that if we knowingly are doing it. It happens in error and then people end up in court fighting over it. That is the last thing that you want with legislation regarding abortion. You do not want to be going to court fighting over wording in legislation that should have been sorted at the time.

We have spent a long time and there has been an awful lot of debate on it, and I think to have allowed a week to get the legal opinion of our Attorney General ... I am just focusing on my points but I know there were others that others had concerns about, but my two main points ... I think another week to get it as right as we possibly can before we send it to Legislative Council for their debate on it and for them to scrutinise what we are sending to them would have been the right thing to do, because if my interpretation is correct then I cannot support the Bill. If it is not, I will happily stand and say, 'That's wonderful, I can support it,' because that would give the safeguards between that crucial 14 and 24 weeks which the previous speaker has referred to.

I am not going to go into all the details of the two areas because these have been debated long and hard over the weeks, but I would just like to put on record the two that are still seriously concerning me. Again, it is interpretation of 'health'. It says here it 'means a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity'. It is the 'social' bit. We have no definition for that. Everybody thinks it means something different. To my mind, how can you say that that is what health is when just the word 'health' crops up over and over again in the other areas of the Bill and you have to take in the social well-being wherever it refers to health, because that is the interpretation of it? If we have not got a meaning for it and everybody thinks it means something different, we are just setting ourselves up for a fall and we are setting people up to go through misery because we are not being clear on what the law means.

The other area that causes me serious concern is clause 6(7). It says:

This subsection applies if, according to the pregnant woman, there are serious social grounds justifying the termination of the pregnancy.

It does not say 'according to the woman and with the agreement of the medical professional involved'. If it did, that would be a different matter, but it is not clear; it is just her. I think we are in danger of allowing legislation to go through where we are giving a right to a pregnant woman to say according to her – it is not according to anybody else – there are serious social grounds justifying the termination of the pregnancy. Her GP, or whoever it is that she is seeing, may not agree with her but the law is giving her that right. He or she, the medical professional, does not have to continue, because it says that they 'may', so there is no onus on them. They can say, 'No, I don't agree, I'm not going to provide this,' but you are actually in law giving the woman a right to something which ... if all the medical professionals disagree with her she has the right to a termination, according to the law, but we are not giving the wherewithal to carry it out, as far as I am concerned. I do not think it should be just according to her. I think a medical professional should actually have to agree with her. There should be that link between them that they discuss it. Everybody should be discussing it with their medical professional and it should be a mutually agreed situation where they think, 'Yes, this is the right thing that we are doing.' But that 14 to 24 weeks is crucial and we agreed that the hurdles have to be higher and yet we are saying that she does not have to have agreement from anybody; it is purely her decision on serious social grounds. Again, everybody's interpretation of that is slightly different, even though that has been firmed up by amendments.

925 I genuinely have such serious concerns about those two particular points. I just do not think
we have finished our work here. It is not our job to be sending legislation up to Legislative
Council for their scrutiny that we know is flawed. We have had two different legal opinions
completely opposite. The only legal opinion that counts on the Isle of Man for these sort of
things, before it is law, is the Attorney General and we have not had his opinion. This House
would not wait one week to get that opinion. I think that was wrong and I do not feel
930 comfortable agreeing to this Bill in its current form without the Attorney General telling me this
is okay, there is protection there for the unborn child and there is help for the woman who
needs it.

For those reasons I am very sorry, but I cannot support the Bill today.

935 **The Speaker:** Hon. Member for Douglas Central, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I would like to use this Third Reading to add congratulations to the hon. mover and seconder
for this legislation which has attracted lots of attention around this Island, and indeed beyond
940 this Island, and I hope the hon. mover and seconder and everybody else involved will accept
those congratulations.

The three substantive points I want to make are questions to the hon. mover in his summing-
up remarks. The first one is: does he agree with me that the political issues in this Bill are now
settled properly in this House of Keys? And, in so settling those issues, does the hon. mover
945 want to agree with me that in so doing the maturity of so many Members of this House, of this
Court, have been demonstrated, and in fact the fact that this Hon. Court in both its Branches is
working is being demonstrated through the passage of this Bill?

The second point is, would the hon. mover agree with me that the six or so legislative
drafters that we have working in the Attorney General's Chambers, and the people who are
950 behind them who brief them in terms of the political interface between political decisions and
legislations, their professionalism to some extent is being questioned here? And would he like to
join with me – speaking as Chair of PSC, but I am not doing in that capacity, I am just doing it as a
person who is particularly sensitised to the issues – to say, the legislative drafters, the people
behind them, have worked diligently, professionally to actually put together in good faith to the
955 best of their professional skills and abilities, this legislation which this Hon. House, I hope, is
going to pass to the other Branch so that we can move onwards towards Tynwald Hill this
summer, hopefully?

And thirdly, with the hon. mover agree with me that when we get to the Legislative Council
upstairs, we would still need to do a few things? We will have the Attorney General there who
960 can move any official amendments to make sure the legislation is absolutely squeaky clean to
give the Deemsters and whoever else later on wants to construe it the best possible chance of
construing it quickly and efficiently. And secondly, I raised some issues last week to do with
sentencing and to do with the offences, the defences, the penalties which were brought to my
attention by a constituent and that is the sort of detail I would hope the Attorney General, the
965 Lord Bishop, Mr President and the eight indirectly elected Members can focus on, rather than
the political issues.

Thank you very much, Mr Speaker, Hon. Members.

The Speaker: Hon. Member for Douglas East, Miss Bettison.

970 **Miss Bettison:** Thank you, Mr Speaker.

It has been an absolute privilege and an honour to me to work with Dr Allinson and other
Members of this Hon. House to get this important piece of legislation to this stage. It was exactly
461 days ago that leave to introduce was granted in this Hon. House for this. In that time around
170 women will have had to seek abortions in other jurisdictions if they can afford to, or try and

975 induce an abortion by unsafe means. The UK national press only yesterday highlighted the DIY home abortion videos found on YouTube.

We must ensure this follows its passage carefully through our legislative system with appropriate, detailed scrutiny but without unnecessary delay. The higher we make hurdles, the more we push women into desperate circumstances that only they can fully understand and appreciate, to access abortions through those unsafe means. There should be hurdles, but they have to be reasonable, and I think we have spent a lot of time in this Hon. House scrutinising those hurdles to ensure that they are reasonable.

The World Health Organisation rightly point out that restrictive abortion laws do not restrict abortion, they simply restrict *safe* abortion and that is a critical point that we must remember today. I think, Members here, I would urge to support the Third Reading of this Bill to avoid unnecessary delay and to ensure that we continue in the vein of clear and cohesive scrutiny that we have shown is possible in this House, in the Upper Chamber.

Thank you.

990 **The Speaker:** Hon. Member for Middle, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

I rise following some of the other Hon. Members to thank the Hon. Member for Ramsey for the admirable way that he has brought this Bill through the House. Throughout what has been a difficult debate at times he has shown great courage, determination and patience to carefully manage this Bill's progress. Hon. Members, Dr Allinson has indeed proved himself to be an asset to this House and the people of this Island.

Hon. Members, I do have a question for Dr Allinson and that regards the Legislative Council. Would he agree with me that it would be completely wrong for the Legislative Council to in any way stymie the will of the elected House with this legislation? We would certainly welcome any careful refinements but the will of this House is clear and this legislation should progress without delay.

Thank you.

1005 **The Speaker:** Hon. Member for Ayre and Michael, Mr Cannan.

Mr Cannan: Thank you very much, Mr Speaker.

I will be supporting the Reading today, the Third Reading. It was always my clearly stated wish before the last election that we brought about and supported reform, and in doing so today obviously I accept the hon. mover's assurances and indeed their reassurance to me that he has rechecked with the Attorney General the accuracy of the access zone legislations. And on that basis I accept that there are no elements that will be found to be lacking in that legislation.

And whilst, although I do agree there are one or two areas that maybe have needed some tightening up, particularly around the social wellbeing elements that were in the Bill, nevertheless I will be supporting it today and seeing it on its passage through the Legislative Council and onwards to ultimately Royal Assent.

The Speaker: I call on Dr Allinson to reply – sorry, Hon. Member for Onchan, Ms Edge.

1020 **Ms Edge:** Thank you, Mr Speaker.

I am rising today to fully support the Third Reading of this Bill, but what I do have concerns about is the questioning from our Hon. Member from Douglas South with regard to the interpretation of 'health'. We have a medical professional that has brought this Bill forward, who completely understands the interpretation of 'health', as all of our medical professionals I hope do, or else when I am accessing the Health Service I would have a great concern. So I find it quite incredible after 461 days to be raising that.

I also feel that we have a duty of care to every woman on the Isle of Man to be able to make that decision to go to her medical professional to access any service that she requires through this Abortion Bill.

1030 I will be supporting Dr Allinson in this Bill today.

The Speaker: Hon. Member for Ramsey, Dr Allinson, to reply to the debate.

Dr Allinson: Thank you, Mr Speaker.

1035 I would to thank all of the Members for their comments, both today and previously, and congratulate them for the way this whole debate has been handled, with the dignity that it deserves.

1040 If I can turn to the comments that Members have made today: Mr Robertshaw talks about two armies opposed to each other. One of the humbling things over the last year has been I actually have not seen that. I have seen some very minority groups opposed to abortion who have been protesting, as is their democratic right, but I have also seen a groundswell of public support for abortion law reform and that this debate, that we have had here, has also enabled people to debate between each other and actually express their own experiences, sometimes for the first time, of the hardship they have gone through. If nothing else, if this debate has managed to breakdown some of the stigma and the shame that is sometimes associated with seeking abortion I think it has achieved its aim.

1045 Mr Robertshaw also talks about finding a sense of balance and I am sorry that he does not agree that we have done that as well as we can. Some of these are very difficult issues and trying to get the balance with them is very hard, but I think this House has done as much as humanly possible to do this before it then goes on to the other place.

1050 Mrs Beecroft talked about fighting over wording. We have discussed this Bill word by word, line by line, and I think this has been sorted out. She also talks about advice from the Attorney General and why didn't we wait a week? We are a week on and, as I said in my opening address, I have given this House the reassurance that I have received from the Attorney General, but he will then look at this again in another place to go through that again.

1055 She makes the comment in clause 6 that the woman has a 'right' to abortion. No, this Bill is about giving that woman the choice. Subsection (3) talks about the services which:

...may be provided, upon request by or on behalf of the pregnant woman if the registered medical practitioner attending her is of the opinion, formed in good faith...

1060 There are lots of ifs and buts and judgement there, from the medical professional, that she satisfies the conditions for abortion. And so I am certain that we actually have got those words right.

She says that she thinks that the Bill is flawed. I do not think it is. I think the time and the effort that has gone in, both in this House and in the population to get the Bill that is right for the Isle of Man – not a copy of UK legislation, not a cut and paste of anyone else's but something that is right for us – has been done and that time was well worth spending in this House.

1065 Mr Thomas, I would like to thank him for his comments. He asked three questions of me: whether the political issues are now settled? Yes. We have moved on – as a House, as a Government, as a nation – a long way from January last year, when there was a debate whether we even needed to have abortion reform. There were arguments that we did not need to have any change in legislation at all and people voted against me having the right to bring a Private Member's Bill. That was then, this is now. We have all agreed unanimously that abortion, on request, up to 14 weeks, should be allowed on the Isle of Man. That is a major sea change. We have also agreed that the rights of those who have conscientious objections to providing that service should be enshrined in legislation and that counselling before and after termination should be a duty of the Department to provide. We have also built in, in terms of that

1075 counselling, that as much information relevant to that woman should be provided from
whichever source is relevant. So I think our legislation goes an awful long way, far more than the
UK legislation.

He also makes the point about the staff of Tynwald, the legislative drafters, who do an
incredibly difficult job creating our laws on our policy and our debates, basing that on evidence
1080 but also comparing that with other jurisdictions, particularly in the United Kingdom and
particularly in Westminster. I think when we get to the point where our political debate
questions their integrity we have a problem. If that is our only argument that the drafters have
got it wrong and that our policies are not correct, we have a problem, as a Government. And so I
would like to give my thanks again to the members of the Attorney General's office who have
1085 worked tirelessly on this Bill, not only for me but for many of those people – bringing
amendments, asking for clarification on a whole range of issues that it raises.

He also talks about the next stage. We are not passing this Bill as a law now; we have done
our job as best as we can, as lay Members and are now passing it on to the Legislative Council
who do a different job. They scrutinise the legislation; they try to make sure that it provides for
1090 the policies that we have discussed and agreed upon and they also will ensure that it is legally
correct and will not only stand the length of time it needs, but also be robust against legal
challenges and will get Royal Assent, will be able to be accepted by Her Majesty. So I think that is
an extremely important point that this Bill now is out of our hands, as it should be. It goes for
independent scrutiny and will then come back to this House.

1095 I would like to thank Miss Bettison for her continued support during the process of writing
and progressing this Bill. She did stress the ongoing hardship Isle of Man women are
experiencing on a daily basis on accessing safe abortion. I think, whilst it is very easy for us to
talk about, 'We will wait another week, we will wait another months, we will wait another year.'
During that time period we know women are having to make the journey to go across. We are
1100 exiling women, to have medical services that could be provided on this Island, elsewhere at
significant financial cost to themselves and their families but also without the support that they
should have. That right to support – if you want to talk about rights – that right to support, that
right to counselling and that right to care that we are abdicating to another jurisdiction.

I would like to thank Mr Shimmins for his comments, but would like to point out that the
1105 courage, determination and patience is not due to me. It is due to the women of the Isle of Man
who have waited now 50 years, since the 1967 Act, and have waited for this House to actually
pass decent legislation. **(A Member: Hear, hear.)** And it is their courage, determination and
patience that I am in awe of.

You also made the point about Legislative Council and some concerns about them stymieing
1110 or delaying this Bill. I do not think that will happen because I have trust in our legislative process
and also trust in their role to scrutinise this Bill even further than we have done but in a different
way. They bring different attributes, they are not MHKs, they are Members of the Legislative
Council, with the legal and ethical backing of that, and I have every confidence that they will
make a good job of advancing this Bill.

1115 Mr Cannan, I would like to thank you for your support and fulfilling your commitment that
you made at the last election to back legislation. I would also like to thank Ms Edge for her
support and what comes down to trust. I am more than aware that when I stand up with those
two little letters 'Dr' in front of my name, it gives me an element of trust from people, and I will
do as much as I can, both during this process and the rest of my term, to live up to that trust and
1120 not abuse it. I think that is very important.

I am grateful to this House for allowing me to bring this Bill forward. Our strong democratic
process means that we can pass important legislation carefully and with full scrutiny and within
a decent, reasonable timescale with full public consultation. The Isle of Man faces many
potential threats and opportunities as the world and our relationship to it changes over the next
1125 few years. My hope is that through collaboration, understanding and working together – as we
have done on this Bill – Tynwald can meet these future challenges for the good of the nation.

Mr Speaker, I beg to move that this House takes the Third Reading of the Abortion Reform Bill 2018.

1130 **The Speaker:** Hon. Members, I put the question that the Abortion Reform Bill 2018 be read for a third time. Those in favour, please say aye; against, no. The ayes have it.

A division was called for and electronic voting resulted as follows:

FOR

Dr Allinson
Mr Ashford
Mr Baker
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

AGAINST

Mrs Beecroft
Mr Robertshaw

The Speaker: With 22 votes for, 2 against, the ayes have it. The ayes have it.