

4. CONSIDERATION OF CLAUSES

**4.1. Dormant Assets Bill 2018 –
Clauses considered**

Mr Shimmins to move.

The Speaker: Item 4 on the Order Paper, consideration of clauses, Dormant Assets Bill 2018, and I call on Mr Shimmins to move.

Mr Shimmins: Thank you, Mr Speaker.

1295 As outlined in the Second Reading, the main aim of the Dormant Assets Bill 2018 is to enable dormant assets held by local banks to be transferred to a central fund and, subject to their being sufficient funds retained to meet any repayment claims, to allow a proportion of the amounts transferred to be distributed to good causes in the Island.

1300 The Bill is underpinned by three core principles: firstly, the transfer of a dormant asset to the central fund should be a last resort for assets whose owners cannot be traced; secondly, customers' rights should always be protected; and thirdly, dormant assets funds should be applied for public benefit.

1305 A number of points were raised at the Second Reading of this Bill and I have since discussed these further with the Hon. Members involved. I very much welcome this constructive engagement and the progress made to resolve these issues and I will cover each of these in detail as I work through this clauses reading.

1310 I would also advise Hon. Members that a number of amendments have been tabled to this Bill today and I would encourage you to support each of these, which are listed on the Order Paper. The majority of the amendments will clarify how the Bill will work in practice and so will remove any doubt over its operation. I would like to extend my thanks to Mr Hooper and to Mrs Corlett for working with the Treasury and then moving amendments today. The Treasury Minister will also be proposing a small number of amendments. These seek to correct a minor drafting irregularity and, in addition, add further clarity in some areas whilst addressing the concerns some Members have raised about protecting customer rights where assets are transferred to the central dormancy fund.

1315 Mr Speaker, with Hon. Members' agreement, I would like to move clauses 1 and 2 together, and I will then address each of the remaining clauses in turn.

1320 **The Speaker:** I call the Hon. Member for Douglas North, Mr Peake.

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

The Speaker: The question is that clauses 1 and 2 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1325 Clause 3, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 3 provides definitions for the key terms used in the Bill and indicates where the meaning of others may be found.

1330 These definitions include that of an 'asset holder', which with particular reference to an account is anybody who under existing arrangements can seek payment of the account. To be absolutely clear on this definition, the Bill will not diminish those groups that under existing arrangements have a rightful entitlement to the account from claiming their money.

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

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The Speaker: Mr Peake.

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

1340 **The Speaker:** We turn to amendment 1 in the name of Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

1345 There are a number of amendments in here that are removing references to partial asset transfers. The aim of these amendments is to ensure that when the time limits that are outlined in the Bill are reached the banks are required to transfer in full any balances of assets that exist directly to the Fund, just to remove any potential for banks to transfer a small portion into the Fund and retain the rest for themselves. It is purely a tidying-up, clarification exercise.

This amendment in particular just removes the phrase 'the whole or any part of' from the definition of a transferred asset in the interpretation clause.

1350 Mr Speaker, I beg to move:

Amendment to clause 3

1. On page 13, in line 34 omit 'the whole or any part of'.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second.

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The Speaker: Hon. Members, putting first the amendment in the name of Mr Hooper, those in favour, please say ... As there is no debate, unless the Hon. Member wishes to respond to the amendment – okay, in which case I will put first the amendment in the name of Mr Hooper. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1360 Clause 3 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1365 Clause 4 provides the definition of an 'asset' to which the legislation will be applied. An asset is limited to any account held by a licenceholder in the Island, but this may be extended to other assets by way of an order under clause 10(1).

1370 Subsection (2) prescribes what may not be considered as an asset for the purpose of the legislation. Essentially, any assets that are subject to ongoing proceedings relating to money laundering, terrorist financing or sanctions, or any other civil or criminal matters, will not be included within the scope of the legislation.

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

The Speaker: Mr Peake.

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Mr Peake: Thank you, Mr Speaker.

I beg to second.

1380 **The Speaker:** The question is that clause 4 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1385 Clause 5 sets out the meaning of 'balance'. A balance for the purpose of this Bill is the value of an asset owing to an asset holder at any time once all adjustments have been made for interest due and charges and fees payable in accordance with the terms and conditions under which that asset is held by a licenceholder. A balance does not, however, include any amount subject to a security interest.

1390 I would reiterate here that the balance should include all interest owing to an account by a licenceholder up to the point of transfer and I would like to thank the mover of the amendment to this clause which will ensure the Bill is clear on that point.

1395 If a licenceholder miscalculates the amount of interest owing to an account and the balance is transferred to the Fund without that amount being added, the licenceholder will be liable for payment of the outstanding amount of interest. This is of course specified, for the avoidance of doubt, in clause 18 of the Bill.

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

The Speaker: Mr Peake.

1400 **Mr Peake:** Thank you, Mr Speaker, and I beg to second

The Speaker: We turn to amendments 2 and 3 in the name of Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

1405 Amendment 2: Mr Shimmins just helpfully clarified that the balance is defined as the value of an asset owing to the asset holder. Unfortunately, the Bill as originally drafted omitted the phrase 'owing to the asset holder'. Amendment 2 is simply to add that clarification in.

1410 Amendment 3: again, Mr Shimmins helpfully clarified the intention was that the value of the asset would be after any adjustments, including interest due both to the licenceholder and to the asset holder. Again, the Bill simply was not particularly clear in that respect and so removing the phrase 'to a licenceholder' adds a little bit of clarity.

Mr Speaker, I beg to move both amendments:

Amendments to clause 5

*2. On page 15, in line 4 after 'or value,' insert —
'owing to the holder of the asset'.*

3. On page 15, in both lines 5 and 9, omit 'to a licenceholder'.

1415 **The Speaker:** I call on the Hon. Member for Arbory, Castletown and Malew, Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second both amendments.

1420 **The Speaker:** I will put first amendments 2 and 3 in the name of Mr Hooper. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 5 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6, Mr Shimmins.

1425 **Mr Shimmins:** Thank you, Mr Speaker.

Clause 6 defines the licenceholders to which the legislation will apply. A licenceholder is the holder of a class 1 deposit taking licence in accordance with paragraphs 1(1) and 1(2) of Schedule 1 of the Regulated Activities Order 2011, which will essentially be any bank or building society that accepts deposits in the Island.

1430 I beg to move that clause 6 stand part of the Bill.

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker.

1435 I beg to second.

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

Clause 7, Mr Shimmins.

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Mr Shimmins: Thank you, Mr Speaker.

Clause 7 provides the definition of a 'dormant' account. In general, an account will be classed as dormant if it has been 'open' for a period of 15 years during which there has been no customer activity.

1445 An account is considered open whenever it holds a residual unclaimed balance, except where it has been closed upon the instruction of the account holder.

Subsection (2) provides that an account is not to be treated as dormant if the nature of the account is such that withdrawals are not permitted, or if such withdrawals would incur some form of penalty.

1450 I am aware that some concern has been expressed about accounts being misclassified as dormant when they are in fact 'nest eggs' or long-term savings accounts for children and I would just like to address that particular issue.

To be dormant, an account must have been open throughout a period of 15 years and during that period no transfers in, or withdrawals from the account must have been carried out. As a further protection, if the account holder holds additional accounts with the same licenceholder, any activity or contact in respect of the other accounts would preclude the inactive account as being classified as dormant.

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If an account does end up being inactive for genuine reasons, but is not in fact dormant, banks will follow their own tracing procedures within a few years of account activity ceasing, to seek to identify if the account is in fact active. Customers will have the opportunity at this stage to respond to their bank's contact.

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Notwithstanding these earlier efforts to contact a customer, the asset holder notification that must be sent before a dormant asset transfers to the Fund, provides a further opportunity for a customer to advise their bank that their account is not in fact dormant.

1465 The amendments proposed to clauses 15 and 33 should also provide more comfort on this point.

The Hon. Member for Onchan, Ms Edge, raised the points on powers of attorney and the question of capability. This is a separate matter which is not impacted by this proposed legislation. I would stress that this Bill safeguards customers' rights in perpetuity.

1470 Hon. Members, I feel it would be difficult to provide for every single potential scenario that could possibly cause an account to be misclassified as inactive, but I believe sufficient protections are built into this clause to accommodate most situations that may arise where an account is inactive for genuine reasons.

I again remind Hon. Members of the right to reclaim that customers are granted under this proposed legislation, which will continue indefinitely.

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

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker.

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I beg to second.

The Speaker: We turn to amendments 4 and 5 in the name of Mr Hooper.

1485 **Mr Hooper:** Thank you, Mr Speaker.

These two amendments, again, are tidying up amendments. On reading through the Bill I realised that some sections made references to an account holder or an authorised representative of an account holder, some sections did not. So in order to ensure a bit of consistency I had a conversation with Treasury and they correctly highlighted that in the clause that was approved earlier, clause 3, which talks about interpretation, the definition of asset holder itself already includes any potential authorised representative or anyone entitled to reclaim money on behalf of the asset holder themselves so these references for an authorised representative are implications and they are actually completely unnecessary and so in order to ensure some consistency both of these amendments simply remove that reference.

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1495 So Mr Speaker, I beg to move amendments 4 and 5:

Amendments to clause 7

4. On page 16, in line 2, omit 'or an authorised representative of the holder'.

5. On page 16 in lines 23 to 24, omit 'or the holder's authorised representative'.

The Speaker: Thank you.

I call on the Hon. Member for Arbory, Castletown and Malew, Mr Cregeen.

Mr Cregeen: Thank you Mr Speaker.

1500 I beg to second.

The Speaker: I put to you first amendments 4 and 5 in the name of Mr Hooper, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1505 Clause 7, as amended, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1510 Clause 8 deals with circumstances where a licenceholder is unable to identify the exact dormancy age of an account, or is unable to confirm whether the account is in fact dormant.

The clause gives licenceholders the opportunity to apply to the Treasury for these accounts to be considered as dormant despite their dormancy classification having not been confirmed.

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

1515 **The Speaker:** Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

1520 **The Speaker:** The question is that clause 8 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9, Mr Shimmins.

Mr Shimmins: Thank you Mr Speaker.

Clause 9 provides for the amendment of the definitions given in clauses 3 to 7.

1525 During the Second Reading, the Hon. Member for Douglas East, Miss Bettison, requested clarity on the term 'reasonable excuse', which is not otherwise defined under clauses 3 to 7.

The Attorney General's Chambers have kindly provided further explanation in a briefing which I have forwarded to the Hon. Member. It is a common term which is widespread in Manx legislation and perfectly usual.

1530 In summary, the interpretation of what constitutes a 'reasonable excuse' is determined on a case-by-case basis and will depend on the circumstances of the offence committed and the circumstances of the offending body. There is no defined list of what a 'reasonable excuse' would constitute, as what is considered a reasonable excuse will naturally vary from case to case.

1535 It is not practicable therefore to determine what might be considered by a court as a reasonable excuse in the case of offences committed by licenceholders under the Act.

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

The Speaker: Mr Peake.

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Mr Peake: Mr Speaker, I beg to second.

The Speaker: The question is that clause 9 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1545 Clause 10, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1550 Clause 10 permits the Treasury by order to apply the Act to other assets and in consequence to make other categories of persons holding such assets licenceholders for the purposes of the Act.

As I outlined in my summing up at the Second Reading of this Bill; at this time we have not explored any further options for the application of the Dormant Assets legislation in the Island. Any steps we may take will of course be subject to full consultation with the relevant licenceholders and to their being sufficient evidence that benefit will be borne through the additional asset classes.

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Any further application of the Act and consequential modification will require Tynwald approval.

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

1560 **The Speaker:** Mr Peake.

Mr Peake: Thank you, Mr Speaker.

I beg to second.

1565 **The Speaker:** The question is that clause 10 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11, Mr Shimmins.

Mr Shimmins: Thank you Mr Speaker.

1570 Clause 11 deals with the establishment and structure of the Dormant Assets Fund. It provides that the Fund shall be under the care and management of the Treasury and that it will be made up of a reserves account and a distribution account.

The reserves account will receive all amounts transferred to the Fund and will pay out amounts as required in respect of any repayment claims and any other liabilities.

1575 Funds identified for distribution must be transferred from the reserves account into the distribution account before any distribution can be made in accordance with Part 5 of the Bill.

Subsections (7) to (9) make provision for ensuring the Fund can meet repayment claims, as any deficiency in the reserves account will be made good by a transfer from the distribution account in the first instance, and, if necessary, by a transfer into the reserves account from General Revenue.

1580 Subsection (8) enables the Treasury to transfer to the Fund from General Revenue an amount
in the case the Fund is unable to meet a repayment claim. This enabling power is intended to be
a backstop to ensure repayment claims can always be met, and I can assure Hon. Members that
it is not intended that it will ever be invoked. It is, however, important that there is some
mechanism in the legislation to ensure that, if for whatever reason the Fund is unable to repay
1585 an asset holder, there is an ability to make that payment.

If any such loan was provided from General Revenue to the Fund, it would have to be repaid
once the Fund had rebuilt enough reserves to meet any further potential repayment claims, and
so to this end, the taxpayer would not ultimately be disadvantaged by the process.

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

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The Speaker: Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

1595 **The Speaker:** The question is that clause 11 stand part of the Bill. Those in favour, please say
aye; against, no. The ayes have it. The ayes have it.

Clause 12, Mr Shimmins.

Mr Shimmins: Thank you Mr Speaker.

1600 Clause 12 sets out the responsibilities and duties of the Treasury under this legislation.

Under this clause the Treasury will be responsible for the day-to-day administration of the
Fund, including dealing with transfer and repayment arrangements.

Under paragraphs (c) and (d) of subsection (1) the Treasury must always ensure enough
money is retained in the reserves account of the Fund to meet any repayment claims and any
1605 other liabilities arising.

The Treasury will also be responsible for: the preparation of distribution policies, which we
will come to later under clause 24; transferring any amounts identified for distribution to the
Fund's distribution account; and, for making amounts held in that account available for onward
distribution.

1610 The Treasury will also be responsible for the relationship with licenceholders and any
distribution organisation that is appointed.

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

The Speaker: Mr Peake.

1615 **Mr Peake:** Mr Speaker, I beg to second.

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

Clause 13, Mr Shimmins.

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Mr Shimmins: Clause 13 allows monies held in the Fund to be invested and ensures that any
interest accrued on any such investment remains within the Fund.

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

1625 **The Speaker:** Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

1630 **The Speaker:** The question is that clause 13 stand part of the Bill. Those in favour, say aye;
those against, no. The ayes have it. The ayes have it.

Clause 14, Mr Shimmins.

Mr Shimmins: Thank you Mr Speaker.

1635 Clause 14 provides that the Treasury must lay a detailed annual report on the operation of the Fund before Tynwald each year.

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

The Speaker: Mr Peake.

1640 **Mr Peake:** Thank you, Mr Speaker.

I beg to second.

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

1645 Clause 15, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 15 provides arrangements for the initial part of the annual transfer cycle, which will take place between 1st July and 31st December each year.

1650 This notice stage consists of two key parts, which are set out in subsections (1) and (2): at any time between 1st July and 30th September each year, a licenceholder must notify the Treasury of the assets they hold that became dormant during the previous July to June period, otherwise known as the previous relevant year and, in respect of those assets; a licenceholder must send out a notification to the last known contact details of each asset holder to try to reunite them with their account before it is transferred to the Fund. These asset holder notifications may be sent at any time after the asset became dormant but before the end of September.

1655 A number of Hon. Members expressed some concern during the Second Reading of this Bill about the lack of clarity over the content of the asset holder notification that must be sent under subsection (2). It was intended that the Treasury would, shortly after the introduction of this Bill, specify those requirements by way of an Order under subsection (5).

This would be consistent with the approach adopted elsewhere in the United Kingdom and also in Jersey, where this additional detail is provided in guidance notes. However, some Hon. Members remain concerned about this point and have requested that this is also specified in our primary legislation.

1665 To resolve those points, the Treasury is supporting the amendment proposed by the Hon. Member for Douglas Central, Mrs Corlett. Effectively all stakeholders wish to achieve the same outcome, it is merely a question of the way in which this is achieved.

1670 The Treasury may ask for more information about any dormant asset notified to it, and a licenceholder must respond to any such request within one month. In these circumstances the timescales for complying with the remaining sections of the annual transfer sequence may be varied.

The Treasury may decline the transfer of any dormant asset included in a notice.

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

1675 **The Speaker:** Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

1680 **The Speaker:** I call on Mrs Corlett, the Hon. Member for Douglas Central, to move amendments 6 and 7.

Mrs Corlett: Thank you, Mr Speaker.

1685 I am of the opinion that under clause 15, giving notice of a balance is not sufficient to trigger any action on the part of the asset holder and that there must be a duty to notify intent. This amendment obligates licenceholders to notify the asset holder of their intent to close an account and move assets to the Dormant Asset Fund.

With that I beg to move the amendments standing in my name:

Amendments to clause 15

6. On page 21, after line 4 insert: '(3) A notice under subsection (2) must state clearly that unless the person to whom it is given makes contact with the licenceholder, the balance of the dormant asset will be transferred to the Fund on or after a date stated in the notice.'

7. On page 21, in line 10 after 'may' insert ', subject to subsection (3),'.

1690 **The Speaker:** I call on the Member for Garff, Mr Perkins.

Mr Perkins: Thank you, Mr Speaker.

I beg to second Mrs Corlett's amendment.

1695 **The Speaker:** Turning then first to amendments 6 and 7 in the name of Mrs Corlett, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 15, as amended, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 16, I call on the Hon. Member, Mr Shimmins to move.

1700 **Mr Shimmins:** Thank you, Mr Speaker.

Clause 16 provides arrangements for the second part of the annual transfer cycle. Changes to the status of any assets listed on the notice under clause 15(1) that arise before 30th November must be applied by a licenceholder for the purpose of the transfer to the Fund.

1705 Within the month of December, a licenceholder must submit a further notification to the Treasury under subsection (1), which must confirm the dormant assets they hold that will transfer to the Fund. It follows that by the end of December the transfer of the funds must take place.

1710 To confirm, in light of the Hon. Member for Ramsey, Mr Hooper's clarifying amendment to this clause, which is supported by the Treasury, a licenceholder is required to transfer the total value of their dormant assets to the Fund unless one of the mitigating circumstances listed under subsection (5) has occurred.

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

1715 **The Speaker:** Mr Peake.

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

The Speaker: I go to amendment 8 in the name of Mr Hooper.

1720 **Mr Hooper:** Thank you, Mr Speaker.

As Mr Shimmins has just outlined, this is the same amendment as amendment number 1, simply to ensure that when licenceholders make transfers into the Fund they are required to transfer the entire balance of any assets.

Mr Speaker, I beg to move:

Amendment to clause 16

8. On page 22, in line 11, omit 'all or part of'.

1725 **The Speaker:** Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second.

1730 **The Speaker:** Turning first to the amendment in the name of Mr Hooper. Those in favour of the amendment, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 16, as amended. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 17, Mr Shimmins.

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Mr Shimmins: Thank you, Mr Speaker.

Clause 17 provides the arrangement for the treatment of dormant assets that are held in a currency other than that of the Fund currency of the Manx pound or sterling.

1740 Under subsection (2), the balance of such assets will be converted to the Fund currency by a licenceholder within two working days of a transfer taking place. The rate of conversion applied will be determined by the prevailing exchange rate that applies to the asset on the day of conversion in accordance with the terms and conditions under which it is held by a licenceholder.

Again, Treasury supports the clarifying amendment proposed to this clause.

1745 I beg to move that clause 17 stand part of the Bill.

The Speaker: Mr Peake.

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

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The Speaker: I turn to amendment 9 in the name of Mr Hooper.

Mr Hooper: Thank you, Mr Speaker.

1755 Again, exactly the same as the last amendment, just to make sure that balances are transferred in their entirety, removing any reference to 'parts' of a balance.

Mr Speaker, I beg to move:

Amendment to clause 17

9. On page 23, in line 4, omit 'in whole or in part' and in line 7 omit 'any part of'.

The Speaker: Mr Cregeen.

1760 **Mr Cregeen:** Thank you, Mr Speaker.
I beg to second.

The Speaker: Putting first amendment number 9 in the name of Mr Hooper. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1765 Clause 17, as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 18, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1770 Clause 18 sets out the rights of a holder of a dormant asset that has been transferred to the Fund.

With respect to the transferred asset, the asset holder no longer has a right to payment of the transferred asset against the licenceholder. This right to payment does, however, still exist but will be held against the Treasury as manager of the Fund.

1775 Subsection (3) provides that interest will not accrue on transferred assets whilst they are held
in the Fund, except to the extent that may be prescribed separately by the Treasury. This point
was subject to some discussion during the Second Reading of this Bill and I would like to
reiterate why we have reached this position: firstly, it is very important that our legislation is
consistent with the other Crown Dependencies – Jersey law prescribes that interest will not
1780 accrue on transferred assets, and the approach taken in this Bill provides consistency for banks
and customers across the two jurisdictions. Secondly, the level of interest that ordinarily accrues
on an account that has lain dormant for a very long period of time is very likely to be minimal. As
a third and final point, recalculating interest over a period of time between transfer and possible
reclaim would prove to be difficult and perhaps costly, and indeed the cost involved could be
1785 disproportionate in many cases – different banks will have different interest rates connected
with different accounts, and accounts that existed at the time an asset was transferred may not
exist at the time of a reclaim.

As a consequence, this will bring significant complication to the distribution policies of the
Fund, as these would have to take into consideration this unknown potential liability and
ultimately this would affect the amount of money that could potentially be made available for
1790 distribution. However, Hon. Members will note the amendment to this clause that the Treasury
Minister has tabled. This will provide a mechanism to address these matters in appropriate
circumstances.

On balance, Mr Speaker, I believe that the position reached provides the most practical and
cost-effective solution for all parties.

1795 I beg to move that clause 18 stand part of the Bill.

The Speaker: Mr Peake.

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

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The Speaker: We turn first to amendment 10 in the name of Mr Cannan. I call Mr Cannan to
move.

Mr Cannan: Thank you, Mr Speaker.

1805 This amendment provides a mechanism for the Treasury to pay an asset holder an amount
greater than the value of the asset which was originally transferred to the Fund.

The need for this provision was identified during ongoing discussions with the Attorney
General's Chambers as a means for ensuring that an asset holder has a means of recourse where
significant financial impairment has been suffered as a consequence of the treatment of their
1810 asset under the legislation. It is intended that this ability to overpay will only be considered in
exceptional circumstances.

It is intended that the Treasury will oversee all overpayment decisions, which will provide
consistency and fairness. It is important to note that in making such decisions the Treasury must
bear in mind the balance of the Fund at the given time, and have regard for the effect of any
1815 overpayment on the ability of the Fund to pay out any other repayment claims that may arise.

Mr Speaker, whilst this Bill already contains significant safeguards, this amendment adds
further protection for asset holders and provides an important means of resolving any significant
issues that may arise at repayment.

I beg to move the amendment standing in my name:

Amendment to clause 18
10. On Page 23, after line 21 insert —

'(2) The Treasury may pay the asset holder out of the Fund a sum greater than that to which the asset holder would be entitled under subsection (1)(b) if the Treasury considers it appropriate to do so, having regard to the amount of money held in the Fund and any other matter that the Treasury considers relevant pertaining to the circumstances of the claim.

(3) Where a person is authorised by the Treasury in accordance with section 3 of the Government Departments Act 1987 to perform its functions under this Act, any additional payment under subsection (2) may not be made by that person without the approval of the Treasury.'

Renumber the subsequent subsections of clause 18 and adjust cross-references accordingly.

1820 **The Speaker:** I call on the Hon. Member for Douglas Central, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg to second, reserving my remarks.

1825 **The Speaker:** Mr Baker.

Mr Baker: Thank you, Mr Speaker.

1830 **The Speaker:** Sorry, if I can just get the amendments on the table first then I will come to you straight after that, if that is okay, Mr Baker?
Amendment 11, in the name of Mr Hooper.

Mr Hooper: Thank you, Mr Speaker.
Again, this is an amendment simply to remove references to parts of any asset in respect of transfers.

1835 While I am on my feet, I do have a question for the Hon. Member for Middle in respect of the rights of asset holders. He has confirmed that the asset holder will not be entitled to any interest on the asset that has been transferred in respect to the period during which it is held in the Fund. The last subsection of section 18 states that:

... the terms on which, prior to transfer, the transferred asset was held by a licenceholder [*continue to*] apply ...

1840 So my question really is: whilst the interest itself is essentially frozen while the asset is in the Fund, can he also confirm that any fees that may have normally been due to the licenceholder are also frozen and not chargeable during the period the asset is held by the Fund?

Mr Speaker, I beg to move amendment number 11:

Amendment to clause 18

11. On page 23, in line 32, omit 'in whole or in part' and in line 33 omit 'any part of'.

1845 **The Speaker:** Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second.

1850 **The Speaker:** Mr Baker.

Mr Baker: Thank you very much, Mr Speaker.

In clause 14, which specified the contents of the Annual Report, this amendment from the Treasury Minister brings in something that was not envisaged when the Annual Report definition was first set. So in the event that Treasury does exercise its judgement, is there an intention that

1855 the fact they have done that is going to be reported within the Annual Report for transparency purposes?

The Speaker: I will go through and give everyone the opportunity, of course, to sum up on their amendments. Firstly, Mr Hooper.

1860 Mr Cannan.

Mr Cannan: I am going to leave that to Mr Shimmins to answer as part of his overall response, Mr Speaker.

1865 **The Speaker:** And the grand finale on this clause lies in the hands of Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

I am grateful for the questions put forward. Turning first to the Hon. Member for Ramsey Mr Hooper's question, I can confirm that fees and charges will not be applied once they have been transferred to the Fund – just to provide clarity on that.

1870 Thank you to Mr Baker, the Hon. Member for Ayre and Michael, querying the content of the annual report. That is still to be developed in terms of the exact detail. We will be following best practice that we have seen elsewhere in the UK and also in Ireland, who have also been running a very successful dormant assets scheme for some time. We will certainly consider whether any exceptional arrangements which would be made under clause 18 would be included in that report. I think we would also need to consider in terms of data protection and the rights of confidentiality in those circumstances, but thank you for that for that point and it is something that we will consider.

1875 On that basis, I beg to move that clause 18 stand part of the Bill.

1880

The Speaker: Taking first amendment 11, in the name of Mr Hooper, those in favour of that amendment, please say aye; those against, no. The ayes have it. The ayes have it.

Taking amendment 10, in the name of Mr Cannan, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1885 Taking clause 18 as amended, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 19, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1890 Clause 19 sets out the duties of licenceholders in relation to the dormant assets they have transferred to the Fund.

In respect of these assets, licenceholders will be responsible for holding relevant asset holder records and for receiving, assessing and paying out any repayment claims. They must also assist any inquiry being undertaken by a law enforcement agency for a permitted purpose.

1895 Hon. Members, because licenceholders will take on these duties and obligations, a customer's experience in reclaiming their money will be no different to the experience they would have had, had their asset remained with their original bank.

I beg to move that clause 19 stand part of the Bill.

The Speaker: Mr Peake.

1900

Mr Peake: Thank you, Mr Speaker, and 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.

1905 Clause 20, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1910 Clause 20 deals with the responsibilities of a licenceholder to report to Treasury annually on their repayment claim experience. The details provided in these annual returns may be subject to publication through the annual report of the Fund.

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

The Speaker: Mr Peake.

1915 **Mr Peake:** Thank you, Mr Speaker, and I beg to second.

The Speaker: I put the question 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.

1920 Clause 21, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1925 Clause 21 deals with the reimbursement process for licenceholders in relation to amounts they have paid out in repayment claims.

A licenceholder is entitled to seek recovery of amounts paid out in repayment claims by making a quarterly application to the Treasury via a reclaim certificate.

A reclaim certificate cannot be made for amounts paid out on repayment claims more than three years before the date of the reclaim certificate, or for amounts paid out in error.

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

1930 **The Speaker:** Mr Peake.

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

1935 **The Speaker:** I put the question 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 and the Schedule, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

1940 Clause 22 provides that a licenceholder acts as the Treasury's agent in specified matters.

It formalises the responsibilities and duties of licenceholders in respect of the dormant assets they have transferred to the Fund. The terms on which a licenceholder acts as agent are found in the Schedule.

1945 In accordance with subsection (4), the terms provided in the Schedule are binding on any liquidator or any person acting in the place of a licenceholder in accordance with Part 6 of the Bill.

I beg to move that clause 22, including the Schedule, stand part of the Bill.

The Speaker: Mr Peake.

1950 **Mr Peake:** Mr Speaker, I beg to second.

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

1955 Clause 23, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 23 deals with the costs of licenceholders.

1960 The clause provides that a licenceholder may deduct costs or expenses from an asset prior to it being transferred to the Fund, but only insofar as the terms and conditions that are binding on an asset holder allow.

In the event a transferred asset is subject to a repayment claim or is otherwise to be recovered from the Fund, a licenceholder may not deduct any further amounts from the transferred asset to be paid out in respect of costs incurred in connection with the fulfilment of its responsibilities under the legislation.

1965 Hon. Members may recall some concerns raised about charges being applied to dormant accounts prior to transfer to the Fund. Dialogue has taken place with local banks and they have confirmed that the majority of banks have in practice not applied charges in these circumstances where similar legislation is in force in other jurisdictions. I am grateful to the Bankers' Association for their assistance in this matter. However, to remove any lingering concerns on this point, the amendment to this clause that is being brought forward by the Treasury Minister today will provide that asset holders who have incurred fees or charges on their account in connection with this legislation will be repaid these charges by the relevant bank upon a repayment claim arising.

1975 I beg to move that clause 23 stand part of the Bill.

The Speaker: Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

1980 **The Speaker:** We turn to amendments 12 and 13 in the name of the Hon. Member for Ayre and Michael, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker.

1985 The amendment proposed provides that a licenceholder must repay any amount deducted from a dormant asset for fees and expenses incurred in performing its functions under the Bill, should a rightful repayment claim in respect of that asset be made.

1990 This seeks to address concerns raised by a number of Hon. Members during the Second Reading of the Bill when it was felt that it would be unfair to financially penalise an account holder for the treatment of their asset under the legislation if it later transpired that the account was not in fact ownerless.

Mr Speaker, I beg to move the amendments standing in my name:

Amendments to clause 23

12. On page 27, after line 22 insert —

'(2) Where a licenceholder deducts fees and expenses under subsection (1), the licenceholder must refund those fees and expenses to the asset holder on a payment out to the asset holder of the amount to which the asset holder is entitled in respect of a repayment claim.'

Re-number the subsequent subsection.

13. On page 27, after line 27, insert —

'(4) To avoid doubt, a refund of fees and expenses under subsection (2) must not be deducted by a licenceholder from any amount transferred to, recovered from or to be paid from, the Fund.'

The Speaker: I call on the Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

1995 I beg to second.

The Speaker: Putting amendments 12 and 13 in the name of Mr Cannan, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

2000 Clause 23 as amended: those in favour, please say aye; those against, no. The ayes have it.
The ayes have it.

Clause 24, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

2005 Clause 24 deals with distribution policies, the setting of which will be the Treasury's responsibility.

A distribution policy will determine the value of assets held in the Fund at any time that must be retained to meet any repayment claims and cover any costs and any surplus amounts that may be made available for distribution.

2010 Distribution policies will be transparent and will be reported in the annual report of the Fund in accordance with clause 14.

In accordance with clause 12, the Treasury will be responsible for ensuring, first and foremost, that enough money is retained in the reserves account of the Fund to meet any repayment claims.

2015 Concluding the potential liabilities of the Fund at any time will be complex, and until the Treasury has some repayment experience it will be difficult to establish the profile of assets that are more or less likely to be reclaimed.

In that vein, we cannot confirm at this stage how much money will be available and when that money will be available.

2020 I beg to move that clause 24 stand part of the Bill.

The Speaker: Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

2025 **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 Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

2030 Clause 25 deals with the distribution of Fund money.

Subsection (1) provides that amounts held in the distribution account of the Fund may be used to pay the costs of a distribution organisation and may be used for distribution to charitable purposes specified in subsection (7).

2035 Subsections (3) to (5) deal with the appointment of the distribution organisation, which must be independent from the management of the Fund and whose terms of appointment must be approved by Tynwald. A body appointed as a distribution organisation will not be eligible to receive a distribution from the Fund for its own purposes.

The parameters for the distribution of money to good causes in the Island are set out in subsection (7).

2040 Paragraph (a) of that subsection provides that any organisation, body or individual carrying out charitable purposes which achieve objectives relating to the advancement of the arts, culture, heritage, science, education, health or environmental protection or improvement in the Island is eligible for funding.

2045 Hon. Members will recall that there was quite some discussion on the charitable objectives listed under paragraph (a) during the Second Reading of this Bill. Those discussions focused on the effect the Charities Registration and Regulation Bill 2018 may have on the scope of what constitutes a 'charitable purpose' in Manx legislation, if indeed that Bill is introduced. The

discussions also drew attention to the absence of any reference to sport in paragraph (a), which of course is not under existing legislation, classified as a charitable purpose in the Island.

2050 I will therefore reiterate the commitment I made during the Second Reading of this Bill insofar that if the new charities legislation is introduced, the Treasury will bring forward an amendment to this subsection that will see the advancement of amateur sport in the Island brought into the list of eligible charitable purposes listed under paragraph (a).

2055 Moving on to paragraph (b): this provides that any registered charity carrying out any charitable purpose in the Island will also be eligible for funding.

As a final point on this clause, I would add that there is absolutely no intention that distribution money will be used to offset Government spending. One of the key principles of this legislation is that any proceeds available should be put to good use in the local community. The method of distribution will ultimately be subject to the further approval of Tynwald and the distribution organisation must report annually on its activity.

2060

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

The Speaker: Mr Peake.

2065 **Mr Peake:** Thank you, Mr Speaker.
I beg to second.

The Speaker: Hon. Member for Ayre and Michael, Mr Baker.

2070 **Mr Baker:** Thank you very much, Mr Speaker.

I just rise to my feet to thank the Hon. Member for Middle for his enlightened approach on behalf of Treasury to the inclusion of sport within the types of organisation that can receive these funds.

2075 I welcome very much the commitment that once the Charities Bill comes in Treasury will move. I would just like a further commitment that it will move as soon as it can, just in the event that perhaps those Members and Ministers in Treasury in future may not be quite as enlightened as the current incumbents, so I would just welcome that commitment, please.

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

2080 **Mr Hooper:** Thank you very much, Mr Speaker.

2085 Just to pick up on that point, actually. At the Second Reading the commitment that I asked for from the Treasury was that when the Charities Registration and Regulation Bill came through that Treasury amend this section so that it was in line with the list of charitable purposes that was in that Bill. At Second Reading Mr Shimmins unfortunately did not make any such commitment, so I am very glad that he has made a commitment today, that is quite reassuring, but it is not the commitment that I think he needs to be making. The list of charitable purposes in that proposed Bill is much wider than this very restrictive list here, even if it was to include sport. An example of something that is included that is not, the advancement of citizenship is included in that list. Again, it is not here.

2090 So I think the commitment that we need from Treasury is that when this Bill goes through the Branches and Tynwald has approved a new list of charitable purposes on the Isle of Man, this legislation will reflect that new Tynwald-approved list of charitable purposes.

2095 **The Speaker:** Hon. Member for Douglas Central, Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker.

Does the Member moving this Bill agree that obviously Treasury and Cabinet Office have co-ordinated in respect of the Dormant Assets and the Charities Bill? I am sure this Hon. House will

2100 be delighted to know that the Charities Bill will begin its passage in the House of Keys shortly and then obviously there will be the chance when we come back to Tynwald, for the final stage of those Bills, to make sure they coalesce exactly.

The Speaker: Mr Shimmins to reply.

2105

Mr Shimmins: Thank you, Mr Speaker.

I welcome the points made by all three Hon. Members. Turning first to Mr Baker's concern, I can confirm Treasury will not dilly-dally on the way and we will crack on as soon as practicable.

2110 Turning to Mr Hooper's point about exactly what the change will look like and how it will correspond with the Charities Bill, I am happy to concur with my hon. friend, Mr Thomas, that coalescence would seem a very appropriate term and it would be good to avoid any inconsistencies between the two Bills and we should aim to achieve that coalescence.

On that basis, I beg to move.

2115 **The Speaker:** The question is that clause 25 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 26, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

2120 Clause 26 preserves the rights of asset holders to reclaim their transferred assets from the Fund despite, amongst other things, the licenceholder that originally held their asset no longer holding a relevant licence in the Island.

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

2125 **The Speaker:** Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

2130 **The Speaker:** I put the question 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 Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

2135 Clause 27 provides that the operation of Part 4 of the Bill in respect of repayment claims will continue despite the default of a licenceholder.

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

The Speaker: Mr Peake.

2140 **Mr Peake:** Mr Speaker, I beg to second.

The Speaker: I put the question 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 Shimmins.

2145

Mr Shimmins: Thank you, Mr Speaker.

Clause 28 provides that the Treasury may perform certain duties of a licenceholder in clause 19, if they are not otherwise being undertaken by or on behalf of a licenceholder.

2150 This clause ensures asset holders will always have a mechanism to reclaim their transferred asset, even if a licenceholder defaults, or if the arrangements in clause 29 to provide for repayment claims in the event of licenceholder in default, have ceased to operate.

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

The Speaker: Mr Peake.

2155

Mr Peake: Thank you, Mr Speaker.
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.
2160 Clause 29, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 29 provides the arrangements for circumstances when a licenceholder is in default.

2165 It specifically provides that in these circumstances, the licenceholder must put in place a successor to act on their behalf in respect of transferred asset holders and repayment claims for a period of at least six years.

Subsections (3) and (4) provide that in the case of any liquidation, any costs incurred by a liquidator in fulfilling their duties under this legislation will be drawn from the liquidation 'pot' subject to the same priority as their ordinary costs.

2170 I beg to move that clause 29 stand part of the Bill.

The Speaker: Mr Peake.

2175 **Mr Peake:** Thank you, Mr Speaker.
I beg to second.

The Speaker: I put the question 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.
2180 Clause 30, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 30 provides powers for the Treasury to introduce regulations to provide for arrangements in cases of default by a licenceholder.

2185 The clause gives the Treasury the flexibility, should it be necessary, in the circumstances of the licenceholder in default, to determine how any third party carrying out the responsibilities on behalf of the licenceholder under the legislation must do so.

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

2190 **The Speaker:** Mr Peake.

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

The Speaker: I put the question 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.
2195 Clause 31, Mr Shimmins.

The Speaker: Clause 31, Mr Shimmins.

2200 **Mr Shimmins:** Thank you, Mr Speaker.

Clause 31 provides for the transitional arrangements that will be available to any licenceholder that has no system, or no effective system, of identifying the dormant assets they hold in accordance with the definitions provided in the legislation.

2205 The arrangements are equally available to any new licenceholders that may be granted a licence in the Island after the legislation is introduced.

Transitional arrangements provide an eligible licenceholder a period of up to five years to establish a mechanism for identifying their dormant assets.

2210 During a transitional arrangement, a licenceholder will not have to comply with Part 3 of the legislation which deals with the annual transfer process, nor will they be required to instigate the process that deals with the transfer of their historic stockpile of dormant assets to the Fund, in accordance with clauses 34 and 35.

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

The Speaker: Mr Peake.

2215

Mr Peake: Mr Speaker, I beg to second.

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

2220 Clause 32, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 32 provides a definition of the term ‘assets dormant at commencement’ and ‘applicable dormant at commencement date’.

2225 ‘Assets dormant at commencement’ generally refers to any dormant assets a licenceholder holds that will not otherwise transfer to the Fund as part of the normal annual transfer cycle owing to them having fallen dormant in the past.

‘Applicable dormant at commencement date’ is a term used to describe the date a licenceholder’s transfer obligations begin.

2230 I beg to move that clause 32 stand part of the Bill.

The Speaker: Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

2235

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

Clause 33, Mr Shimmins.

2240 **Mr Shimmins:** Thank you, Mr Speaker.

Clause 33 deals with asset holder notifications that must be sent in respect of assets dormant at commencement.

2245 A notification under this clause must be sent after the legislation begins, or in the case of a new licenceholder in the Island after their licence begins, but before the assets are notified to the Treasury under clause 34.

As is the case with the asset holder notification under clause 15, the Treasury was intending on shortly after the introduction of the Bill, specifying the requirements of a notification under this clause by way of an order under subsection (2).

2250 For the avoidance of doubt, the Treasury is also supportive of the tabled amendment by Mrs Corlett.

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

The Speaker: Mr Peake.

2255 **Mr Peake:** Thank you, Mr Speaker.

I beg to second.

The Speaker: We turn to amendments 14 and 15 in the name of Mrs Corlett. I call her to move.

2260

Mrs Corlett: Thank you, Mr Speaker.

It is really to provide consistency, to ensure that the same legislation applies to an already dormant asset and to an asset becoming dormant.

So with that, I beg to move:

2265

Amendments to clause 33

14. On page 33, after line 24 insert—

'(2) A notice under subsection (1) must state clearly that unless the person to whom it is given makes contact with the licenceholder, the balance of the dormant asset will be transferred to the Fund on or after a date stated in the notice.'

Renumber the subsequent subsections of the Clause and adjust cross-references accordingly.

15. Page 33, line 25 after 'may' insert 'subject to subsection (2).'

The Speaker: Mr Perkins.

Mr Perkins: Thank you, Mr Speaker.

I beg to second Mrs Corlett's amendment.

2270

The Speaker: I put the question first that amendments 14 and 15 stand part of the clause. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 33 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2275

Clause 34, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 34 sets out the first stage of the process that deals with transfers of assets dormant at commencement to the Fund; known as the 'notice' stage.

2280

In summary, a licenceholder must notify the Treasury of the assets dormant at commencement that they hold within 12 months of their applicable dormant at commencement date. A licenceholder may declare these dormant assets by way of a single or multiple notices to the Treasury over the period. The information that must be included in a notice under this clause will be specified by the Treasury by way of an order made under subsection (3).

2285

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

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker.

2290

I beg to second.

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

Clause 35, Mr Shimmins.

2295

Mr Shimmins: Thank you, Mr Speaker.

Clause 35 deals with the second stage of this transfer process; known as the 'transfer' stage.

2300 Changes to the status of any assets listed on a notice under clause 34(1) that arise within three months of that notice being submitted to the Treasury must be applied by a licenceholder for the purposes of the transfer to the Fund.

In the month that follows, a licenceholder must submit a further notification to the Treasury, which must confirm the dormant assets they hold that will transfer to the Fund, and the transfer of the assets listed must take place before the end of that month.

I beg to move that clause 35 stand part of the Bill.

2305

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker.

I beg to second.

2310

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

Clause 36, Mr Shimmins.

2315

Mr Shimmins: Thank you, Mr Speaker.

Clause 36 deals with the disclosure of information.

Subsection (1) provides for customer records to be passed from a licenceholder or its successor to the Treasury, which will be necessary if the Treasury takes on responsibility for processing repayment claims directly.

2320

Subsection (3) provides a gateway for the Treasury to share information about dormant assets and their holders with law enforcement agencies for permitted purposes.

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

The Speaker: Mr Peake.

2325

Mr Peake: Mr Speaker, I beg to second.

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

2330

Clause 37, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 37 sets out the offences connected with providing false or misleading information, and failure to provide information, to the Treasury under the legislation.

2335

The amendment to this clause which is to be moved by the Treasury Minister will ensure that the level of penalty connected with an offence under subsection (2) is proportionate and consistent with the penalty for similar offences found under other legislation in the Island.

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

2340

The Speaker: Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

The Speaker: We turn to amendment 16 and 17 in the name of Mr Cannan.

2345

Mr Cannan: Mr Speaker, upon final review of the Bill, it was noted that a small drafting error had occurred. This meant that penalties to be applied in respect of non-compliance in some areas were incorrectly stated.

2350 This amendment to clause 37 will ensure that the penalty arising as a result of an offence under subsection (2) is proportionate to the offence committed and consistent with equivalent penalties found in other Manx legislation.

The penalties set out in this amendment are also consistent with the penalties for equivalent offences found under the Jersey Law.

2355 Mr Speaker, I beg to move the amendment standing in my name:

Amendments to clause 37

16. On page 36, relocate lines 29 to 33 to immediately after the end of line 23 and in both paragraph (a) and (b) of the relocated text omit 'for subsection (1) or (2)'.

17. On page 36, immediately after line 28, insert —
'Maximum penalty (summary) — a fine of level 4 on the standard scale.'

The Speaker: Mr Thomas.

2360 **Mr Thomas:** Thank you, Mr Speaker.
I beg to second.

The Speaker: Putting first the amendments in the name of Mr Cannan: those in favour of amendments 16 and 17 please say aye; against, no. The ayes have it. The ayes have it.

2365 Clause 37 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 38, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

2370 Clause 38 provides that the Treasury and the distribution organisation will not be classed as deposit takers in respect of the fulfilment of their responsibilities under the legislation.

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

The Speaker: Mr Peake.

2375 **Mr Peake:** Thank you, Mr Speaker. I beg to second.

The Speaker: I put the question that clause 38 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 39, Mr Shimmins.

2380 **Mr Shimmins:** Thank you, Mr Speaker.
Clause 39 clarifies the extent of the liability of the Treasury under the Act.

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

2385 **The Speaker:** Mr Peake.

Mr Peake: Mr Speaker, I beg to second.

2390 **The Speaker:** I put the question that clause 39 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 40, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

2395 Clause 40 provides that nothing in the Act authorises a disclosure in contravention of existing data protection legislation in the Island.

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

The Speaker: Mr Peake.

2400 **Mr Peake:** Mr Speaker, I beg to second.

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

Clause 41, Mr Shimmins.

2405

Mr Shimmins: Thank you, Mr Speaker.

Clause 41 ensures any other obligations, whether imposed by another enactment or otherwise by law, are not affected by the operation of this legislation.

2410 In respect of privileged information, nothing in the Bill compels the production or divulgence by an advocate or other legal adviser of an item subject to legal privilege, but an advocate or legal adviser may be required to give the name and address of any client.

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

The Speaker: Mr Peake.

2415

Mr Peake: Mr Speaker, I beg to second.

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

2420

Clause 42, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clause 42 provides generally for the making of statutory documents under the Act.

2425 Tynwald approval is required for the making of statutory documents unless otherwise expressly stated.

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

The Speaker: Mr Peake.

2430

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

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

Clause 43, Mr Shimmins.

2435

Mr Shimmins: Thank you, Mr Speaker.

Clause 43 provides that nothing in the Act affects the operation of *bona vacantia* in the Island.

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

2440

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker.

I beg to second.

2445

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

Clause 44, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

2450 Clause 44 provides for the Treasury, or any other person authorised to perform the Treasury's functions under the Act, to recover reasonable costs from the Fund for the performance of their functions under the Act.

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

2455 **The Speaker:** Mr Peake.

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

2460 **The Speaker:** I put the question that clause 44 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Members, that concludes consideration of the Dormant Assets Bill 2018 and indeed business before the House today. The House stands adjourned until 12th February at 10 o'clock in our own Chamber.

The House adjourned at 12.11 p.m.