

**1. Dormant Assets Bill 2018 –
Second Reading approved**

Mr Henderson to move:

That the Dormant Assets Bill 2018 be read a second time.

The President: Now, Hon. Members, we revert to our Order Paper and the consideration of the Dormant Assets Bill. We are at the Second Reading and clauses stage.

I call on the mover, Mr Henderson.

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Mr Henderson: Gura mie eu, Eaghtyrane.

As outlined at First 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 there 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.

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The Bill is underpinned by three core principles. The first of these is that the transfer of a dormant asset to the central fund should be a last resort for assets whose owners cannot be traced. I would stress to Hon. Members that there are specific provisions within the Bill requiring banks to take what are considered adequate and proportionate steps to trace customers prior to any funds being treated as dormant and then becoming eligible for transfer into the Fund. These requirements are built on those already in place in other jurisdictions where they have proved to work well without any known issues. This consistency of approach is important for the banks which will have to comply with the new legislation, and especially for those who have branches across the Crown Dependencies.

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The second core principle is that customers' rights should always be protected. I would like to again assure Hon. Members that this legislation does not seek to interfere with any customers' rights to money held with a bank. Regardless of any transfer to the Dormant Assets Fund, a customer approaching their bank at any time with a legitimate claim to an account will always retain the right to that money.

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The third core principle is that dormant asset funds should be applied for public benefit. This means that the Fund will be ring-fenced and that there is clear and open governance on how it will be spent.

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Eaghtyrane, as I outlined briefly during the First Reading, the Bill was subject to a number of amendments in the Keys, some of which cross over with matters that arose during the First Reading of this Bill here. I will talk through these Keys amendments first, if I might, before I move on to address any remaining matters that arose at the First Reading that I have not already touched upon.

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The Hon. Member for Ramsey, Mr Hooper, moved a number of amendments which clarified how the legislation will operate and tidied up the drafting in places. The Treasury is grateful to the Hon. Member for his detailed scrutiny of the Bill and for making the amendments, which have served to improve it in a number of areas.

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The Hon. Member for Douglas Central, Mrs Corlett, also moved some helpful amendments that have strengthened arrangements within the Bill around the asset holder notifications. The Hon. Member's amendments provide that each asset holder notification a licence holder sends prior to an asset being transferred to the Fund must advise the asset holder of the effect of them not coming forward to claim their account at that stage, i.e. that their asset will transfer to the central fund.

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I would just add here, as the question was asked during the First Reading, that where an account has a power of attorney registered against it, or an enduring power of attorney, the asset holder notification will be addressed to the person with the power, if it is legally provided for and the bank has been formally contacted and instructed.

470 To finalise the amendments in the House of Keys, the Treasury Minister also moved three
amendments. Firstly, an amendment to clause 18 was made. The amendment has provided powers
to the Treasury to compensate any asset holder who has been financially disadvantaged by the
treatment of their asset under the legislation. The compensation powers are only expected to be
475 used in exceptional circumstances when significant financial disadvantage has arisen. Such
compensation will, of course, be paid from the balance of the Fund.

Clause 23 was also amended. This clause provides that a licence holder may deduct dormant
account fees and charges from the balance of an account before it is transferred to the Fund, but
only if the terms and conditions of the account allow. This point was raised during the First Reading
by Mr Crookall and I am pleased to confirm arrangements in that regard now.

480 The amendments that were moved by the Treasury Minister provide that in the event that an
asset holder comes forward to make a successful claim, any amounts that the licence holder had
previously deducted in dormant account fees and charges must be repaid by the licence holder to
the asset holder. The amendment serves to protect asset holders from any financial penalties
incurred if it later transpires that the account is not in fact ownerless.

485 And finally, clause 37 was amended to rectify a minor drafting error in relation to penalties for
offences in connection with information.

As I outlined during the First Reading, I am grateful to my colleague Mrs Poole-Wilson, who has
agreed to move one further amendment to the Bill during the clauses reading of this Bill. This
amendment will honour the commitment made by the Treasury in the House of Keys to align the list
490 of charitable purposes in the Bill with those that will be applicable in the Island when the Charities
Registration and Regulation Bill 2018 is introduced by its Appointed Day Order. I thank Mrs Poole-
Wilson for her assistance in this matter and hope that Council Members will support the
amendment.

Eaghtyrane, I would now like to talk a little more about a number of points that were raised by a
495 number of Hon. Members at the First Reading of this Bill.

The Hon. Member Mrs Maska raised a query about whether banks should advertise the accounts
that are due to be transferred into the Fund in the local paper before they transfer, in order to
encourage reclaims. As I have already mentioned, the steps taken to try and contact customers is
something the Treasury has explored in detail during the development of this Bill and this was also
500 subject to discussion and amendment in the House of Keys. To address the Hon. Member's specific
query, in the case of dormant bank accounts we are dealing with a living person's details as opposed
to a deceased person's estate, as was the example mentioned. There are many data protection
issues around the information that could actually be published, plus considerations regarding the
risk of fraud. Our research indicated that we would only be able to publish names of banks holding
505 accounts and the dates these were originally opened. No names or values could be published
because of the issues I have just mentioned. For these reasons, the inclusion of an obligation to
advertise accounts to be transferred was not progressed further.

Moving to the Hon. Member Mr Crookall, who asked a question about whether someone seeking
a lost account would come to the Treasury in that respect, the short answer to that is no, the
510 Treasury will not obtain any personal information about asset holders as part of its management of
the central fund. All customer records will remain with the bank; and so, in the case of someone
looking for a lost account, they would need to approach the bank themselves in the first instance; in
other words, providing enough information to the bank of association to that account and thus the
bank then would make the repayment to that customer directly.

515 The Hon. Member Mrs Lord-Brennan also helpfully contacted Treasury's policy officers after the
First Reading with a number of queries. These centred on the circumstances in which the Treasury
may consider the transfer of assets to the Fund where specific dormancy ages may not be available,
details regarding investment and reporting, and also the topic noted earlier regarding asset holder
notifications. I hope the assurances we have been able to provide allay the Hon. Member's concerns.

520 The other remaining issue that arose during First Reading was that of accounts with enduring
power of attorney and power of attorney. I made a commitment during that reading to come back

today to confirm existing arrangements where such powers are in place. To that end, we have done some background research and indeed the Attorney General's officers have been involved in the same, and at this point of my Second Reading, Eaghtyrane, if I may be bold enough to ask if the
525 Attorney General might be able to make a little more detailed comment on the issue of enduring power of attorney etc., and then I can finish the moving of the Second Reading.

The President: Would you wish to make that comment at this stage?

530 **Mr Henderson:** Yes, please.

The Attorney General: Yes, thank you, Mr President.

Very briefly, Hon. Members, if a donor of an enduring power of attorney becomes mentally incapacitated, then under the Powers of Attorney Act 1987 there is a requirement for that enduring
535 power of attorney to be registered with the court and pending registration the powers of the attorney or attorneys is suspended. The registration takes the form of stamping the actual deed, the actual enduring power of attorney document itself, and entering the details on a register.

The register is not a public register which is available to the general public. However, under the
540 Mental Health (Powers of Attorney) Rules 1987 a person is able to do a search of the register on payment of the appropriate fee and to apply for a copy of the enduring power of attorney. That request is considered by the Chief Registrar, who, if he or she is satisfied that a person has good reason for requesting a copy, can provide one, and clearly one of the matters which the Chief Registrar will have to take into account is whether it has been reasonably practical to acquire a copy from the attorney himself.

545 So there is a process there requiring registration and there is, under the Mental Health (Powers of Attorney) Rules 1987, the ability to make a search.

Thank you, Mr President.

550 **The President:** Thank you, Mr Attorney.
Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I thank the Attorney General for assisting me in the background of that.

In summary, the Treasury does not believe that it is appropriate or proportionate to amend
555 current provisions within this Bill. However, it does raise questions that may be asked outside of the passage of this Bill and issues that may well be raised with the AG at a different time in conjunction with the Chief Registrar on some of the power of attorney issues that Hon. Members are concerned with here. But for the purposes of this Bill we feel that it is outwith the spirit of what is trying to be achieved here, and certainly I would stress again that that this Bill does not seek to interfere with
560 any property rights. Regardless of whether an account is transferred into the Dormant Assets Fund or not, a customer or anyone legally acting on their behalf will always retain the right to that money if they contact the bank at any time.

Eaghtyrane, with that, I beg to move that the Dormant Assets Bill 2018 be read a second time.

565 **The President:** Thank you very much.
Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks.

570 **The President:** Mrs Poole-Wilson.

Mrs Poole-Wilson: Thank you, Mr President.

Can I thank the hon. mover Mr Henderson and also the learned Attorney for their response on the question I asked at First Reading.

575 I would like to thank Mr Henderson as well for the reassuring point he made several times at the First Reading, and he has just reiterated, that there is protection in this Bill that the asset holder can always apply to have any money that is transferred returned to them if it becomes apparent that the money has been transferred under this Bill.

580 I think it goes outside this Bill but I think there is an interesting point about whether there is scope to improve our current system to help anyone who is looking to understand whether there may be a power of attorney in place for someone else, so perhaps that is something that could be looked into outside this Hon. Council.

Thank you, Mr President.

585 **The President:** Mrs Maska.

Mrs Maska: Thank you, Mr President.

590 I would also like to thank the hon. mover for the work that has gone on behind the scenes to address matters that we raised at First Reading, particularly on matters of notice and capacity, and I would thank the team in Treasury as well for having gone into this very thoroughly.

I feel reassured now that this Bill, at this time, is appropriate and the measures to do with enduring power of attorney may be looked at, at a future time; this Bill is not the appropriate vehicle to do that. I do thank the hon. mover for the diligence that this has been treated with.

Thank you very much.

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The President: Mr Crookall.

Mr Crookall: Thank you, Mr President, and I thank the hon. mover for answering, or trying to answer, my query from the First Reading.

600 Can I just ask: if a long-lost family member comes forward after the demise of somebody and they come forward some years later, he said that they cannot go to Treasury to look at a list of dormant asset holders and he said they would need to go back to the bank – is he saying then that that relative has to go round all the banks, because they obviously might not know where those accounts might have been held? We have got maybe 20-odd banks on the Island. Have they got to
605 trawl round all of those? A central list held here at Treasury and available to the public would be an easier place to go; that was my point.

Thank you.

The President: Mr Henderson.

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Mr Henderson: Gura mie eu, Eaghtyrane.

615 Taking the Hon. Member Mr Crookall's points first, if I may, Treasury, under data protection regulations amongst other things, is not allowed to have a private list of details or personal details. It will only be supplied with a spreadsheet with an amount, date and identifying number from that bank to cover the data protection issues.

620 If a person discovers, for whatever reason, decades into the future, once this has become legislation, that there is some sort of account somewhere, obviously there will be details with that and that person's first port of call will always be to go to that bank and say, 'Look, here we are, here's my interest in it,' and so on, and if they are trying to make a claim on the account, as they would do now if there was no Dormant Assets Bill in place, they would be asked to provide their identifying details and so on to prove the point that that account is legally associated with them. The bank, in either event, would then obviously pay out to that person making the request on that account. They might not even know if it had transferred to the Dormant Assets Fund, because of the fact that you would always go to your bank first because you would have the papers or some sort of
625 evidence associated with the account, which would have a name on, presumably, some identifying material which would show the person concerned where to follow up, and that is where you would

630 go. They would not know to apply to Treasury because the way it works – normally, anyway, if such a thing is discovered – is you would go straight to the bank concerned. The same with the Dormant Assets Bill, if so enacted. The bank may or may not advise that person that a fund has been transferred to the Treasury central fund, but what they would do certainly is check out the details – proof of connection, proof of claim and suitable identification and all the rest of it, obviously – so they could check out that person making a bona fide claim on that account.

635 The bank could do that relatively easily and quickly. There would be no penalty time clause in the background just because it was a dormant asset. They would pay it out and then, at the appropriate quarter in the Dormant Assets Bill year – if I can put it like that – the bank then would make their reclaim in the background to Treasury. It would work loosely like that, the same as ... I can see the Hon. Member is still looking perplexed, but the same as now, if I discovered some sort of dormant bank account somewhere attributed to my family from years ago, there must be some sort of evidence of that. You cannot just walk into a bank and say, ‘My Auntie Smith from 15 years ago had this and I want to know more about it.’ You would have to have more evidence of proof to do that, but your first port of call would always be to the bank you suspected would have such an account anyway, or institution where you expected or supposed that that kind of account would be; it would not be ... As now, if you discovered something in a will you would not go to Treasury, you would go to the bank concerned, or from the information that you had gleaned you would go to the source of that information to start your line of inquiry from there. That is as best I can answer that for Mr Crookall.

640 I am grateful for Mrs Maska’s support, and her officers indeed; and indeed to Mrs Poole-Wilson for her support, and also for the point that she raised regarding enduring power of attorney especially. I think it is not within this Bill because we are trying to set something up, but it has kicked out an issue that maybe the Attorney General’s officers can pick up at some point going forward with the Registry and in reference to the points Mrs Maska made last week that our elderly population is expanding and this may become more of an issue in time.

645 I will leave those points there, Eaghtyrane, and I wish to move the Second Reading.

655 **The President:** Before I put the question, Miss August-Hanson, you have a further point?

660 **Miss August-Hanson:** Yes, just in terms of any form of evidence, I suppose with my background as a journalist you would need to have some form of details, facts, statistics, in order to start a search into anything. I think that, in my own understanding of this, identifying any form of evidence would start with some level of detail that you would then perhaps ... And perhaps it should lay, the responsibility, with the person who is searching as to where that lies with banks if there is no particular bank name or detail on there.

665 You say that we have 20-odd banks on the Island – we do not have that many. It is not like being over in the UK or being over in Europe. It is not that arduous a task. Indeed, if it did lie with Treasury I would think that might actually confuse the situation alongside the GDPR problems that might rise off the back of it. It may confuse the situation because details would then be in far too many places and it would be far more confusing for that individual to actually find the information they need and indeed the bank that it lies with.

670 That is all I wanted to add. Thank you, Mr President.

The President: Mr Henderson, do you wish to reply?

675 **Mr Henderson:** No. The Hon. Member has laid the facts out quite clearly. That is the situation indeed. It is not incumbent on Treasury to be holding personal details. The facts are as laid out by Miss August-Hanson.

The President: Thank you, Hon. Members.

I put the question that the Dormant Assets Bill be read a second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Dormant Assets Bill 2018 –
Clauses considered**

680 **The President:** We move on now to the clauses stage. Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. I will pull out the relevant sheaf of documents to progress the clauses stage.

685 Eaghtyrane, if I might, with your approval and Council's approval, move clauses 1 and 2 together, please?

The President: Are we content? *(It was agreed.)* Thank you.
Mr Henderson.

690 **Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 1 provides for the short title of the Bill.

Clause 2 provides for the Bill's commencement. Clause 2 enables the making of one or more Appointed Day Orders to bring the resulting Act into operation and the making of transitional provisions in connection with the Act's commencement.

695 Eaghtyrane, I beg to move that clauses 1 and 2 stand part of the Bill.

Miss August-Hanson: I would like to second and reserve my remarks.
Thank you, Mr President.

700 **The President:** I put the question that clauses 1 and 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 3.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

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.

710 Again, and further to the Second Reading of this Bill, I can confirm that in the case of a power of attorney, if it is registered on an account the person appointed would be considered as the asset holder.

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

The President: Miss August-Hanson.

715 **Miss August-Hanson:** Thank you, Mr President.
I would like to second and reserve my remarks.

The President: I put clause 3. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
720 Clause 4, sir.

Mr Henderson: Gura mie eu, Eaghtyrane.

725 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 licence holder in the Island, but this may be extended to other assets by way of an order under clause 10(1).

730 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.

Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

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Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

740 **The President:** I put clause 4. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Henderson: Gura mie eu, Eaghtyrane.

745 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 licence holder. A balance does not, however, include any amount subject to a security interest.

750 Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

755 I would like to second and reserve my remarks.

The President: I put the question that clause 5 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

760 **Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 6 defines the licence holders to which the legislation will apply. A licence holder 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 on the Island.

765 Eaghtyrane, I beg to move clause 6.

The President: Miss August-Hanson.

Miss August-Hanson: Thank you.

770 I would like to second and reserve my remarks.

The President: I put clause 6. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

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Mr Henderson: Gura mie eu, Eaghtyrane.

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. This will, of course, include any transfers in or withdrawals from the account.

780 A number of safeguards are built into this clause to mitigate the risk of accounts being misclassified as dormant. For example, if an account holder has additional accounts with the same licence holder, any activity or contact in respect of the other accounts will preclude the inactive account as being transferred as dormant. Furthermore, 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

785 incur some form of penalty.

Eaghtyrane, I beg to move clause 7.

The President: Miss August-Hanson.

790 **Miss August-Hanson:** Thank you, Mr President.

I would like to second and reserve my remarks.

The President: I put clause 7. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

795 Clause 8.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

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

Eaghtyrane, I beg to move clause 8 of this Bill.

The President: Miss August-Hanson.

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Miss August-Hanson: I would like to second and reserve my remarks.

Thank you, Mr President.

The President: I put clause 8. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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Clause 9.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

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

The President: Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

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The President: I put clause 9. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

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Mr Henderson: Gura mie eu, Eaghtyrane.

830 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 licence holders for the purposes of the Act.

At this time the Treasury has not explored any further options for the application of the dormant assets legislation in the Island. Any steps the Treasury does take will of course be subject to full consultation with the relevant licence holders and to there being sufficient evidence that benefit will be borne through the additional asset classes.

835 Any further application of the Act and consequential modification will require Tynwald approval. Eaghtyrane, I beg to move that clause 10 stand part of the Bill.

The President: Miss August-Hanson.

840 **Miss August-Hanson:** I would like to second and reserve my remarks.

The President: I put clause 10. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

845 Clause 11.

Mr Henderson: Gura mie eu, Eaghtyrane.

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.

850 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.

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.

855 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.

860 Subsection (8) enables the Treasury to transfer to the Fund from General Revenue an amount in the case that 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 it is not intended that it will ever be required. 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 an asset holder, there is an ability to make that payment from elsewhere. If any such loan was provided from General Revenue to the Fund, it would 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.

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

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

870 I would like to second and reserve my remarks.

The President: If I could just ask the mover: obviously this is a belt-and-braces approach to the liabilities falling on the Fund unexpectedly and it is a very low risk, but is the mover aware of other jurisdictions that operate such a fund where this has had to be used, this Treasury backstop?

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880 **Mr Henderson:** Eaghtyrane, if I can answer that in a sort of roundabout way, first we have to think that the funds we are talking about are at least 15 years old in the first instance in a dormant situation, so the likely call for reclaim would be very low to start with. Also, from our research, many of the funds held elsewhere in other jurisdictions are usually small amounts.

885 We need to look at how we set up the Fund up to start with, in any case, and run it for a period of time to get some sort of experience of what goes into it and certainly what sort of reclaims are coming out. From the initial outset we would want to keep the liquidity there and certainly would not be looking at paying out to good causes straight off, as we would want to see what sort of experience build-up we would have in the first place to ensure there is enough liquidity there to cover any reclaims and to see the build-up of reclaim history.

890 Moving down the line, which is more directly to your point, should multiple reclaims be made – which would be highly irregular, I would have thought – we would be looking to keep sufficient liquidity within the Fund to cover any reclaims to start with. Then you would be looking at a most unlikely event where the Dormant Assets Fund would have to be extinguished for Treasury to step in as the last backstop.

895 I think we have managed to demonstrate it is probably more than a belt-and-braces approach. It has got sufficient safeguards built in to try and cover any eventuality in the first instance. The idea of Treasury being the final backstop I think was to put an absolute assurance to any account holder and to the public that what we are attempting to do is an honest approach to try and sort out the mess – if I can call it that – of the dormant assets in a good way that will benefit the community of the Island.

900 I hope that gives you the reassurances you are after, Eaghtyrane. If not, I can certainly ask one of our officers here to speak in a little more detail.

I think it is fair to say that in other jurisdictions the situation has been running quite smoothly, but I could confer with my colleague in the Gallery just to put a little more on that, if you so wish.

905 **The President:** Yes, if the officer concerned is able to just indicate, in other jurisdictions, whether this provision has ever been required *in extremis*, shall we say?

Mr Cowley: Thank you, Mr President and Hon. Members, yes.

910 These backstop provisions do not exist in other legislation. We have introduced them in our legislation as a final position whereby we could provide assurances in a case where something did happen. It is highly unlikely, as Mr Henderson has already said, that that would be the case, but it is there as a final backstop.

915 **The President:** Thank you. I should have asked you to identify yourself for the record.

Mr Cowley: Sorry, yes. Colin Cowley, Senior Policy Officer at the Treasury.

The President: Thank you, Mr Cowley, and thank you, Mr Henderson.

920 I put the question that clause 11 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

925 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 reserve account of the Fund to meet any repayment claims and any other liabilities arising.

930 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 making amounts held in that account available for onward distribution.

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

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

The President: Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

940 Thank you.

The President: Clause 12: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 13.

945 **Mr Henderson:** Gura mie eu, Eaghtyrane.

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

Eaghtyrane, I beg to move.

950 **The President:** Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

955 **The President:** Clause 13: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 14.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

960 I beg to move.

The President: Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

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The President: I put clause 14. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

970 **Mr Henderson:** Gura mie eu, Eaghtyrane.

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.

975 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 licence holder 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 licence holder 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. An asset holder notification must advise the asset holder of the balance of their account and it must also advise them of the effect of them not coming forward to claim their asset.

980

The Treasury may ask for more information about any dormant asset notified to it, and a licence holder 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.

985 Eaghtyrane, I beg to move clause 15.

The President: Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

990

The President: Mrs Poole-Wilson.

Mrs Poole-Wilson: Yes, thank you, Mr President.

995 I just wondered whether the hon. mover, for the sake of the record, could clarify that the notice that must be sent out by the licence holder actually is not to the asset holder as defined. The asset holder is defined more broadly and includes someone who may hold a power of attorney.

I think what clause 15(2) says is that the licence holder must give notice of the balance of every dormant asset to the person in whose name the asset is held, at that person's last address known to the licence holder. So it is a slightly narrower category than the definition of 'asset holder' in the Bill and I think for the record it would be important just to clarify that.

1000

The President: Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

1005 Yes, I can clarify that and that is the correct determination of the legislation. However, if there is a power of attorney certificate placed on that account, of course, then the power of attorney would be contacted under those circumstances. But the Hon. Member is quite correct in what she says, Eaghtyrane, and I can offer that assurance.

1010 **The President:** I put clause 15. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

Mr Henderson: Gura mie eu, Eaghtyrane.

1015 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 licence holder for the purposes of the transfer to the Fund.

1020 Within the month of December a licence holder 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.

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

The President: Miss August-Hanson.

1025

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

The President: I put clause 16. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1030

Clause 17.

Mr Henderson: Gura mie eu, Eaghtyrane.

1035 Clause 17 provides the arrangements 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.

Under subsection (2), the balance of such assets will be converted to the Fund currency by a licence holder 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 licence holder.

1040 Eaghtyrane, I beg to move clause 17.

The President: Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks.

1045 Thank you, Mr President.

The President: I put clause 17. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 18.

1050

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1055 With respect to the transferred asset, the asset holder no longer has a right to payment of the transferred asset against the licence holder. This right to payment does, however, still exist, but will be held against the Treasury as manager of the Fund.

The right to repayment under subsection 1(b) is qualified by subsections (5) and (6).

Subsection (5) provides that interest will not accrue on transferred assets while they are held in the Fund, except to the extent that may be prescribed separately by the Treasury.

1060 Subsection (6) provides that there is no right to reclaim the transferred asset other than in the Fund currency at the value calculated at the time it was converted into the Fund currency for transfer.

1065 The powers given to the Treasury in subsection (2) will provide a means of remedying any situation that arises whereby an asset holder suffers a significant financial disadvantage because of the treatment of their asset under the legislation.

It is intended that the ability to provide compensation under subsection (2) will only be considered in exceptional circumstances, and in any case any such decisions must bear in mind the balance of the Fund at the time and the effect of any overpayment on the ability of the Fund to pay out any other repayment claims that may arise.

1070 Eaghtyrane, I beg to move clause 18.

The President: Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

1075

The President: I put clause 18. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 19, sir.

1080 **Mr Henderson:** Yes. Gura mie eu, Eaghtyrane.

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

1085 In respect of these assets, licence holders 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.

Because licence holders 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 the original bank.

1090 Eaghtryrane, I beg to move that clause 19 stand part of the Bill.

The President: Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

1095 **The President:** Mrs Sharpe.

Mrs Sharpe: Thank you, Mr President.

1100 Just for the record, I would like to ask Mr Colin Cowley, if he has this information: (a) how many other comparable jurisdictions –

The President: Hon. Member, you must address the mover, with respect, who may then invite further comment.

1105 **Mrs Sharpe:** Sorry, Mr President.

The President: So, make your point to Mr Henderson.

Mrs Sharpe: Thank you.

1110 I would like to ask Mr Henderson: how many other jurisdictions of comparable size to the Isle of Man operate a dormant assets fund; and also, approximately how long have they been in operation? This is just for the record.

Mr Henderson: Gura mie eu, Eaghtryrane.

1115 There are many jurisdictions, is the answer to that, that operate dormant asset funds. The ones that surround us in the adjacent isles have been in operation for a short period of time, maybe two to three or five years, but I will confer with Mr Cowley for that time period just to get it absolutely clear.

1120 We also have jurisdictions further afield – the United States, New Zealand, Australia – and we also have the likes of the Bahamas and the Turks and Caicos Islands who, interestingly, have a very definite time limit set on what a dormant asset in a dormant asset fund is, and after that period of time there is no reclaim either.

1125 So the policies that we are putting in place here today are up to quite a high international standard, in union with the surrounding jurisdictions where our banks here also have branches, so it works. What we are hoping is that we have a consistent approach, better for business; but I am sure, Eaghtryrane, if Mr Cowley is able to tell us the length of time these assets are, that would be useful.

The President: Mr Cowley, again, start with your name and title for the record.

Mr Cowley: Colin Cowley, Senior Policy Officer within the Treasury.

1130 Yes, just to answer the Hon. Member, the UK scheme has been in since 2008, so that has been operating for quite some time. Our scheme is modelled largely on the Jersey scheme. It has only been in operation for about two to two and a half years, since July 2017, so that is a fairly new scheme. That is what we have modelled ours on.

1135 Guernsey are also promoting some legislation at the moment as well, which will be along similar lines. So our schemes are fairly new in their inception around that, but they are modelled again on the UK scheme in general as well.

Mrs Sharpe: Thank you.

1140 **The President:** Mr Henderson, anything to add?

Mr Henderson: No, I think we have made the clarification to the Member's satisfaction.

The President: Thank you.

1145 In that case I put clause 19. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

Mr Henderson: Gura mie eu, Eaghtyrane.

1150 Clause 20 deals with the responsibilities of a licence holder 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.

Eaghtyrane, I beg to move clause 20.

1155

The President: Miss August-Hanson

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

1160 **The President:** I put clause 20. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 21.

Mr Henderson: Gura mie eu, Eaghtyrane.

1165 Clause 21 deals with the reimbursement process for licence holders in relation to amounts they have paid out in repayment claims.

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

1170 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.

Eaghtyrane, I beg to move clause 21.

The President: Miss August-Hanson.

1175 **Miss August-Hanson:** I would like to second and reserve my remarks, Mr President.

Thank you.

The President: I put clause 21. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1180 Clause 22.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1185 It formalises the responsibilities and duties of licence holders in respect of the dormant assets they have transferred to the Fund. The terms on which a licence holder acts as agent are found in the Schedule.

In accordance with subsection (4), the terms provided in the Schedule are binding on any liquidator or other persons acting in the place of a licence holder in accordance with Part 6 of the Bill.

1190 Eaghtyrane, I beg to move that clause 22 do stand part of the Bill.

The President: Miss August-Hanson.

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

1195

The President: I put clause 22. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 23.

1200

Mr Henderson: Gura mie eu, Eaghtyrane.

Clause 23 deals with the costs of licence holders.

Subsection (1) provides that a licence holder 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.

1205

In the event of a successful repayment claim arising, a licence holder must repay to an asset holder any such amounts deducted from the balance of an asset under subsection (1).

A licence holder may not deduct any further amounts from the transferred asset to be paid out to the asset holder.

Eaghtyrane, I beg to move clause 23.

1210

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

1215

The President: I put clause 23. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 24.

1220

Mr Henderson: Gura mie eu, Eaghtyrane.

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.

1225

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.

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

1230

Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

1235

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

The President: Mrs Poole-Wilson.

1240 **Mrs Poole-Wilson:** Thank you.

I would just like to ask the hon. mover, in relation to the transparency point, I think in section 12(2) there is a power in the Bill for various policies and procedures to be published on a website and I wondered whether it is also the intention ultimately for the distribution policy to be published in that way as well as appearing in the annual report.

1245

The President: Mr Henderson to reply.

1250 **Mr Henderson:** Eaghtyrane, as far as I am concerned, I think it would be something that Treasury would consider. I cannot give a definite point at this moment in time, but to keep things consistent with the other issue that the Hon. Member has mentioned I have no doubt that Treasury will look into the matter to have these policies put on the internet.

Mrs Poole-Wilson: Thank you.

1255 **The President:** I put clause 24. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 25.

1260 **Mr Henderson:** Gura mie eu, Eaghtyrane.

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).

1265 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).

1270 Eaghtyrane, the amendments that will be moved to this clause today will fully align the list of charitable purposes given in subsection (7) to those given in the Charities Act 1962. The amendments will provide the Treasury sufficient powers under subsection (13) to amend, by way of an Order approved by Tynwald, the reference to the Charities Act 1962. This will enable the realignment of charitable purposes under this Bill to those that will be brought about through the Charities Registration and Regulation Bill 2018, when indeed that legislation is introduced.

1275 Subject to the approval of Tynwald, the Treasury may specify proportions in which amounts may be distributed to the charitable purposes referred to in subsection (7).

A distribution organisation will be required to report to Tynwald annually on its activities in respect of dormant assets.

1280 Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

Miss August-Hanson: Thank you.

1285 I would like to second and reserve my remarks, Mr President.

The President: Mrs Poole-Wilson.

Mrs Poole-Wilson: Thank you, Mr President.

1290 As the hon. mover Mr Henderson has indicated, the amendments to this clause in my name will align the list of charitable purposes in this Bill to those given in the Charities Act 1962 for the time being and will enable the realignment of the charitable purposes to those given in the new Charities Registration and Regulation Bill promptly after the enactment of that piece of legislation.

1295 A number of representations were made in another place that the charitable purposes listed under subsection (7)(a) of this clause should be aligned with those that will be introduced through the new charities legislation. Such alignment would be appropriate in order to provide consistency between what is considered to be in the public benefit under this Bill and what is otherwise considered to be a charitable undertaking in the Island. The Treasury has therefore made a commitment in another place that it will take steps to achieve that objective of coalescence.

1300 I am pleased, therefore, to be able to move this amendment today, which will allow that outcome to be achieved in the simplest and most convenient way.

The amendment will provide that any person undertaking charitable purposes in the Island may receive dormant assets funding. Charitable purposes will, for the time being, be aligned to the meaning in the Charities Act 1962 and, subsequent to the enactment of the Charities Registration and Regulation Bill in the Island, the Treasury has agreed to bring forward an Order to Tynwald which will realign this subsection (7) to the new meaning of charitable purposes given by the new charities legislation. Such an Order will, of course, require the approval of Tynwald.

I beg to move the amendment standing in my name:

Amendments to clause 25

1. On page 28, line 30, before ‘charitable purposes’ insert ‘the’ and for ‘specified’ substitute ‘referred to’.

2. On page 29, for lines 23 to 34 (the existing subsection (7)) substitute —
 ‘(7) In accordance with the distribution policy, the distribution organisation must distribute amounts for charitable purposes undertaken in the Island.’

3. On page 30, for lines 16 to 20 (the existing subsection (12)) substitute —
 ‘(12) In this section, “charitable purposes” has the same meaning as in section 14 of the Charities Act 1962.’

4. On page 30, for lines 21 to 26, (the existing subsection (13)) substitute —
 ‘(13) The Treasury may by order amend subsection (12) in so far as may be necessary or desirable in consequence of any change to the law relating to charities in the Island.
 Tynwald procedure — approval required.’

The President: Mrs Maska.

1310 **Mrs Maska:** I beg to second, Mr President, and reserve my remarks.
 Thank you.

The President: Mr Cretney.

1315 **Mr Cretney:** If I could ask the mover of the amendment: in terms of consistency, if you look, for example, at the Public Lottery Trust on the Isle of Man, the sort of causes which are mentioned in clause 7 are those which normally apply – arts, culture, heritage, etc. – but there is an absence of sport. Sport, in the Public Lottery Trust, is one of the categories which can receive support. By your amendment, does that mean that sport will be able to be included?

1320 **Mrs Poole-Wilson:** Thank you to the Hon. Member of Council, Mr Cretney, for raising the question. This is precisely the question that was raised in another place, and the absence of sport from the wording of the Bill as it was originally drafted was raised as an omission. The intention is

1325 that once the wording in this Bill can be amended so that it is in line with the new Charities Bill that
is currently moving through another place, that will incorporate that wider definition to include
sport.

Mr Cretney: Thank you.

1330

The President: Mr Crookall.

Mr Crookall: Thank you.

Can I just seek the clarification that that would be amateur sport and not professional sport?

1335

The President: Mrs Poole-Wilson

Mrs Poole-Wilson: The Hon. Member of Council Mr Crookall is testing my memory with the exact
wording of the Charities Registration and Regulation Bill, but I believe that is correct.

1340

The President: Mr Henderson, do you wish to reply?

Mr Henderson: Gura mie eu, Eaghtyrane.

I think all that needs to be said has been said, so I beg to move.

1345

The President: I put to Council the amendment to clause 25 in the name of Mrs Poole-Wilson.
Those in favour, say aye; against, no. The ayes have it. The ayes have it.

I put clause 25 as amended. Those in favour, say aye; against, no. The ayes have it. The ayes
have it.

1350

Clause 26.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1355

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

The President: Miss August-Hanson.

1360

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

The President: I put clause 26. Those in favour, say aye; those against, no. The ayes have it. The
ayes have it.

1365

Clause 27.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1370

I beg to move clause 27.

The President: Miss August-Hanson.

1375

Miss August-Hanson: I would like to second and reserve my remarks, Mr President.

The President: I put clause 27. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 28.

1380

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1385

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

Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

1390

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

1395

The President: I put clause 28. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 29.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1400

It specifically provides that in these circumstances the licence holder 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.

1405

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

Eaghtyrane, I beg to move clause 29.

The President: Miss August-Hanson.

1410

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

1415

The President: I put clause 29. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 30.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1420

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

Eaghtyrane, I beg to move.

1425

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.
I would like to second and reserve my remarks.

1430 **The President:** I put clause 30. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 31.

Mr Henderson: Gura mie eu, Eaghtyrane.
1435 Clause 31 provides for the transitional arrangements that will be available to any licence holder that has no system, or no effective system, of identifying the dormant assets they hold in accordance with the definitions provided in the legislation.

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

1440 Transitional arrangements provide an eligible licence holder a period of up to five years to establish a mechanism for identifying their dormant assets.

During a transitional arrangement, a licence holder 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
1445 accordance with clauses 34 and 35.

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

The President: Miss August-Hanson.

1450 **Miss August-Hanson:** Thank you, Mr President.
I would like to second and reserve my remarks.

The President: I put clause 31. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1455 Clause 32.

Mr Henderson: Gura mie eu, Eaghtyrane.

Clause 32 provides a definition of the terms 'assets dormant at commencement' and 'applicable dormant at commencement date'.

1460 'Assets dormant at commencement' generally refers to any dormant assets a licence holder 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 licence holder's transfer obligations begin.

1465 I beg to move.

The President: Miss August-Hanson.

1470 **Miss August-Hanson:** Thank you, Mr President.
I second and reserve my remarks.

The President: I put clause 32. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Henderson.

1475 **Mr Henderson:** Gura mie eu, Eaghtyrane.

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

1480 A notification under this clause must be sent after the legislation begins, or, in the case of a new licence holder in the Island, after their licence begins but before the assets are notified to the Treasury under clause 34.

The requirements of an asset holder notification under this clause are similar to the requirements of the equivalent notice that must be sent as part of the annual transfer cycle.

1485 The notification must include the balance of the account and must also advise the recipient of the effect of them not coming forward to claim their account.

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

The President: Miss August-Hanson.

1490 **Miss August-Hanson:** Thank you, Mr President.
I would like to second and reserve my remarks.

The President: Mrs Poole-Wilson.

1495 **Mrs Poole-Wilson:** Thank you, Mr President.

Just to point out again that the wording in this clause, section 33(1), is not that the notification is to the asset holder but to the person in whose name the asset is held. So, it is the same clarification point as applies for the normal transfer cycle.

1500 **Mr Henderson:** And I can confirm that is the object of the legislation, Eaghtyrane, and that is the effect, as the Hon. Member has described.

The President: I put clause 33. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1505 Clause 34.

Mr Henderson: Gura mie eu, Eaghtyrane.

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.

1510 In summary, a licence holder must notify the Treasury of the assets dormant at commencement that they hold within 12 months of their applicable dormant at commencement date.

A licence holder may declare these dormant assets by way of a single or multiple notices to the Treasury over the period.

1515 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 this subsection.

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

The President: Miss August-Hanson.

1520 **Miss August-Hanson:** Thank you, Mr President.
I would like to second and reserve my remarks.

The President: I put clause 34. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1525 Clause 35.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1530 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 licence holder for the purposes of the transfer to the Fund.

In the month that follows, a licence holder 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.

1535 Eaghtryane, I beg to move.

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

1540 I would like to second and reserve my remarks.

The President: I put clause 35. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 36.

1545

Mr Henderson: Gura mie eu, Eaghtryane.

Clause 36 deals with the disclosure of information.

1550 Subsection (1) provides for customer records to be passed from a licence holder or its successor to the Treasury, which will be necessary if the Treasury takes on responsibility for processing repayment claims directly.

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

Eaghtryane, I beg to move.

1555 **The President:** Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

1560 **The President:** I put clause 36. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 37.

Mr Henderson: Gura mie eu, Eaghtryane.

1565 Clause 37 sets out the offences in connection with information.

Subsection (1) sets out the offence connected with providing false or misleading information to the Treasury under the legislation, and subsection (2) deals with the offence of failure to comply with a requirement of the legislation and failure to provide specified information to the Treasury.

Eaghtryane, I beg to move.

1570

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

1575

The President: I put clause 37. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 38.

1580 **Mr Henderson:** Gura mie eu, Eaghtryane.

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.

Eaghtyrane, I beg to move.

1585 **The President:** Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

1590 **The President:** I put the question. Clause 38: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

1595 Clause 39 clarifies the extent of the liability of the Treasury under the Act.

Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

1600 **Miss August-Hanson:** Thank you, Mr President.

I would like to second and reserve my remarks.

The President: I put clause 39. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1605 Clause 40.

Mr Henderson: Gura mie eu, Eaghtyrane.

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

1610 Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

1615 I would like to second and reserve my remarks.

The President: I put clause 40. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 41.

1620 **Mr Henderson:** Gura mie eu, Eaghtyrane.

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

Eaghtyrane, I beg to move.

1625 **The President:** Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

1630 **The President:** I put clause 41. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 42.

1635 **Mr Henderson:** Gura mie eu, Eaghtyrane.

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

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

Eaghtyrane, I beg to move.

1640

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

1645

The President: I put clause 42. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 43.

1650

Mr Henderson: Gura mie eu, Eaghtyrane.

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

Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

1655

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

The President: I put clause 43. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1660

Finally, clause 44.

Mr Henderson: Gura mie eu, Eaghtyrane.

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.

1665

Eaghtyrane, I beg to move.

The President: Miss August-Hanson.

1670

Miss August-Hanson: Thank you, Mr President.

I would like to second and reserve my remarks.

The President: I put clause 44. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1675

Thank you, Hon. Members. That concludes our consideration of the clauses stage of the Dormant Assets Bill.