

5. LEAVE TO INTRODUCE

**Private Member's Bill –
Leasehold premises and compulsory purchases –
Leave to introduce granted**

The Hon. Member for Ramsey (Mr Hooper) to move:

That leave be given to introduce a Private Member's Bill to make further provision in relation to leasehold premises and to amend the Housing (Miscellaneous Provisions) Act 2011 in respect of compulsory purchases; and for connected purposes.

The Speaker: Item 5, leave to introduce, and I call on the Hon. Member for Ramsey, Mr Hooper, to move.

1255 **Mr Hooper:** Thank very much, Mr Speaker.

Hon. Members, I rise today to ask leave to introduce a Bill aimed at some bite-sized reforms to our residential leasehold legislation.

1260 Firstly, I would just like to clarify some terminology. Any reference I make here to leaseholders refers specifically to holders of long residential flat leaseholds; that is people who have purchased a residential flat under a long leasehold which is a lease over 21 years. This Bill specifically would not apply to commercial leaseholders.

Any references to the existing Act is a reference to the Housing (Miscellaneous Provisions) Act 2011 and the UK Act would be a reference to the UK Commonhold and Leasehold Reform Act 2002.

1265 As Hon. Members will have seen from the very draft Bill and memo that I circulated, these proposals will come in two parts.

1270 Firstly, the Bill will propose to ensure that leaseholders would have the unqualified right to assume management of their block of flats. I am sure all Hon. Members are aware Isle of Man law already has this provision and this right, but only where a landlord or management company has failed in their obligations. The conditions in the existing Act are quite onerous and require proving before a tribunal. In some ways this is quite good because it means we already have a process in place for assigning management rights to an organisation. It also means we have clear definitions for who should qualify for these rights, what sort of property should qualify, as well as what types of leaseholders.

1275 Unfortunately, the downside is the current system often does not provide these leaseholders with a level playing field. These proposals would enable leaseholders to get together, form their own management company collectively, which I propose would follow the UK Act and the model that it sets out, and then they could apply to the tribunal for the management order. The tribunal can then follow its existing legal processes, check the leaseholders meet the existing qualifying conditions and then award the management order as they would ordinarily. Using the UK Act for the management company formation makes sense as it is a simple process, well-trialled that has been in place since 2002.

1285 So where has this Bill come from? Why am I here? Simply put, I have had quite a lot of issues raised by constituents around the current processes and the fact that these rights are currently conditional on convincing a tribunal of wrongdoing on the part of a landlord. This means that even in situations where there has been, according to the tribunal, potentially criminal acts, tribunals have not awarded management orders. I am also aware of situations where tribunal decisions have been granted and yet no actual change has followed. Unfortunately, the leaseholders then do not have the resources to pursue court action and have no further leverage. Most modern leaseholds will come with a share in the freehold itself and a share in the management company, which means these leaseholders already have control over their

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1295 property. But this is not the case for everyone, meaning the freeholder who is often an investor,
not somebody living in the property, has control over the management of the property as well
as things like service charge levels. Personally, I am of the view that where constituents raise
issues with their MHKs and those issues can be rectified by making small legislative changes, we
as MHKs should have the willingness to try and go through that process.

1300 Giving leaseholders on the Isle of Man the ability to take over management of their own
homes will do two things. Firstly, it will give them some leverage so they can go to their existing
management company and collectively say, 'We are not happy and if you do not resolve these
issues we will exercise our rights and take over management ourselves'. Secondly, it gives them
the ability to enforce that leverage, should it become necessary. It is that second point that is
most important, and it is the second point which currently many leaseholders feel they do not
have the ability to actually exercise their rights and enforce that leverage.

1305 I will be the first to admit there have to be safeguards. The first of which: I am proposing that
the landlord would have a right to a seat at the table on the management company, meaning
the landlord can protect their own interest in the building. The second of which: there would
have to be a majority of leaseholders wishing to take over management and there would have to
be an open and public process.

1310 When it comes to disputes or the management company not fulfilling its obligations, luckily
the existing legislation provides these safeguards. If a landlord or tenant is unhappy with any
new management structure they can take the new management company to the tribunal and
make their case to have the management order rescinded, amended or reallocated.

1315 In essence then, the proposal that I am making will simply tip the balance in favour of
leaseholders instead of the landlord, and as it is the leaseholders who are making their homes in
these flats then it seems right to me it should be them that has the priority.

1320 The second aspect of this Bill is that it will provide leaseholders with the right to purchase
their freehold. This comes as well from discussion with constituents, not just of mine but of
those from other constituencies. Some need to purchase their freehold to secure their property,
but the landlord is either not willing to sell or not willing to sell at a reasonable price. This can
often be the case where a leasehold is coming to the end of its term, which can reduce the value
of the property and make getting mortgages difficult, which further reduces the ability for these
leaseholders to sell their property onwards.

1325 I even had a conversation with one individual who advised if they had known when moving
from the UK that they would not have the rights to purchase that they already have in the UK,
they would not have bought their property; and another who is experiencing great difficulty in
selling their leasehold because they are caught in this exact situation.

1330 Again, the existing Manx legislation already has this right as a qualified right. Provided you
can prove the landlord has defaulted on their obligations, there is a process whereby
leaseholders can exercise the right to purchase the freehold. The proposal that I have laid before
you simply removes these particular conditions, meaning the existing processes can be used
along with all the protections and safeguards that currently exist in the law in order to enable
leaseholders to purchase their freehold.

1335 So, again, what are the main advantages to removing these conditions? Firstly, it gives them
leverage so they can go to their landlord and start negotiations for purchase, knowing there is a
statutory process they can fall back on if it becomes necessary. Secondly, and more importantly,
it gives them the ability to enforce that leverage should it become necessary.

1340 Again, there have to be safeguards. The advantage of using the existing Act is the process and
safeguards already exist, as well as a process for determining value and settling disputes. So in
my view there is no need to over complicate things. The UK is currently consulting on changes to
their leasehold law that might include changes to their process, including, for example, a
statutory way of calculating the value of the freehold.

Personally, I am not convinced that such a big step is needed on the Island. Giving
leaseholders the right to manage and the right to purchase is a very small first step which can be

1345 made by making small changes to our law. Any wide-ranging or complex changes to leasehold law would be much better off dealt with by the Department of Infrastructure, which is why I am only proposing to tackle a small and bite-sized portion here.

1350 The changes I am proposing should fit in with the Department of Infrastructure's plans for reform over the coming years and they do not fundamentally alter the landscape as they rely on existing processes already set out in Manx law. I am proposing that any changes would be consulted on and I fully intend to do that, as well as seeking formal feedback from the Department of Infrastructure after my very draft Bill has been vetted and updated by the Attorney General's Chambers. I have already sought some informal feedback and I would like to thank Minister Harmer and his team in the Housing Department for their input and feedback so far.

1355 In short, Hon. Members, this proposal is about rebalancing rights for long leaseholders in residential flats, making those rights commensurate with the rights they would have if they were in the UK, but using our own existing Manx processes. I hope I have managed to outline why I think this is needed and the benefits it could bring, as well as the approach I propose to take should leave be granted today.

1360 Mr Speaker, I beg to move.

The Speaker: I call on the Hon. Member for Ramsey, Dr Allinson.

Dr Allinson: Thank you, Mr Speaker.

1365 I rise to second this motion that leave be given to introduce a Private Member's Bill.

1370 Within Tynwald we deal with national and international issues: Brexit, GDPR, international sanctions; we have all signed up to the Programme for Government – that has to be one of the defining characteristics of this administration. However, as constituency MHKs we also come face to face with individual issues, individual problems, where the law is lacking, where the procedure is lacking and where we wish to help to engage with those constituents and to make a difference, which is why most of us came to this House.

1375 I see the role of Private Member's Bills in achieving this as extremely important. Whilst we will never lose track of the Programme for Government and that key fundamental move forward, we have to remember that on the side-lines there may be various issues that are not a high priority, that do not affect a huge amount of people, but for those individuals make a huge difference.

1380 So I fully support my fellow Member for Ramsey for bringing this forward, because as has he, I have also sat down and met some of the people involved in disputes with management companies or trapped in tenancy agreements with freehold and leasehold disputes, which really do affect their lives. I think we should not lose track of the precious nature of our ability to bring in Private Member's Bills to make some of these subtle changes which are on the periphery of law, the periphery of policy, but can make a huge difference to individuals.

1385 So whilst I accept that Private Member's Bills, whether they be about organ donation or no-fault divorce, perhaps produce extra demands on the Attorney General's office, I think they are inherently an important part of what we do in this House.

With that, I beg to second.

The Speaker: Mr Thomas.

1390 **Mr Thomas:** Thank you very much, Mr Speaker and I congratulate both the mover and the seconder for an excellent presentation justifying this request for leave to introduce which I will be fully supporting.

Just a few questions for the hon. mover to tackle in his response, especially in the light of the helpful comments made by Dr Allinson, the other Hon. Member for Ramsey, by way of

1395 connection between the activity on Programme for Government legislation and the Private Member's valuable thing.

At this stage I also want to acknowledge that the other Hon. Member for Ramsey, the mover of this request, and I have been talking about this very important issue, which is important in Douglas as well, for a number of years.

1400 The first question is: where is the priority for this particular aspect of housing relative to some other housing legislation? It sounds like the Hon. Member has already been discussing how it fits in with the Landlord and Tenant Bill and other follow-on aspects of that with the Department of Infrastructure Housing Division, but I know the Office of Fair Trading is also very keen on bringing forward estate agents' legislation that has been kicking around. The last time I
1405 can see it having been introduced into the House of Keys was in 1998, but it has been a festering sore for 20 or 30 years. The Department for Enterprise, the Hon. Member's own Department, has actually produced for me a paper on lots of changes that are needed to property law and land registry law around that, so I wanted to see how this is prioritised relative to that issue. I am supportive but I just wanted to make sure the Hon. Member has thought through the
1410 connections with other pieces of legislation across Government's intentions.

The second point is it sounds like the Hon. Member intends to do his own consultation. I know Peter Karran was always very good at doing his own consultations, sending out his own letters and actually dealing with that sort of thing very well. So I would like reassurance, or at least more information, from the hon. mover to what extent he plans to ask for Government
1415 resources in terms of consultation, because we are quite pressed at the Central Government these days and it would be very reassuring to hear that the Hon. Member plans to continue to handle consultation on his own in that way, or perhaps with the support of Tynwald resources.

The final point is about drafting. The Hon. Member has made a good shot already, it seems, to draft his own Bill and I wondered obviously, if leave is given today we have got until the end
1420 of the next parliamentary year, when the Hon. Member would expect legislative drafting time to be requested from the Attorney General's Chambers? Because obviously each November we bring to the Hon. Court our intentions for the drafting resources, for the use of drafting resources. This year in particular resources were very tight and we had to rank pieces of legislation, and we are now having to give people in Government the bad news that we cannot
1425 do everything, we have got to prioritise things. So I just wanted some indication from the hon. mover when he planned to actually use legislative drafting resources which are shared between Tynwald and Government?

The Speaker: Hon. Member for Glenfaba and Peel, Mr Harmer.

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Mr Harmer: Thank you, Mr Speaker.

I rise generally to support and welcome the Member who is introducing the Bill. It is a defined issue but it is across Island, and a very specific issue and I know a lot of work has been done in that area.

1435 I think, from the Department's point of view, obviously just to reflect what the previous speaker has talked about, our focus must be and has to be on the Landlord Registration Bill because of the importance that that has in many areas of society, including those that are vulnerable and in very different status. So that is where our priority and focus has been.

1440 I hope that the Member has those resources to take his Bill through, but obviously – and where there is commentary we can obviously help as a Department, because I do think it is an important issue that has come up.

With that, I leave my comments.

Thank you.

1445 **The Speaker:** Mover to reply.

Mr Hooper: Thank you very much, Mr Speaker.

I will deal with Mr Thomas first, I suppose. I would like to thank you for your comments and for your support, Minister.

1450 Where does this sit in the national priority? As my hon. colleague from Ramsey, Dr Allinson, said, this is about national issues versus individual constituency issues – making a difference to people who are perhaps sitting on the periphery of where our normal priorities lie. The Department of Infrastructure, as the Minister has helpfully confirmed, have their priorities already. Again, other priorities, as well as the Landlord and Tenant Bill, will be estate agent
1455 legislation, land registry law; these are very big issues. The issue I am trying to address here is a discrete and specific issue that can be addressed through a Private Member's Bill, so when it comes to priorities this is definitely on the periphery of our national priorities, which is why I think it is the right thing to be doing through a Private Member's process.

When it comes to the consultation I fully intend to utilise the Government's very helpful
1460 consultation hub, as has been done with all the other Private Member's consultations to date. Of course I will welcome any support his Department is able to provide, but I certainly do not intend to rely on any Government resources pushing through a Private Member's Bill.

How do I intend to fit this in with drafting time? We have been reassured time and time again there is more than adequate drafting resource within Chambers, so I have absolutely no
1465 concerns and anticipate there being more than adequate drafting time being able to be directed and allocated to a Private Member's Bill. Having said that, I do fully intend to make sure that my process works with the Attorney General's Chambers' resources and I do not intend to put them under any additional unnecessary pressure.

I would like to thank Ray Hammer again for his comments, the Minister, and for his support
1470 and entirely would like to say, yes, I do intend to work with the Department on this. Although I do appreciate it is not one of their priorities, I do hope I can fit this Bill in around the periphery of the work they are trying to do around landlord and tenants.

With that, Mr Speaker, I beg to move.

The Speaker: I put the question that the Hon. Member for Ramsey, Mr Hooper, be given
1475 leave to introduce a Private Member's Bill to make further provision in relation to leasehold premises and to amend the Housing (Miscellaneous Provisions) Act 2011 in respect of compulsory purchases and for connected purposes. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.