

**6. CONSIDERATION OF CLAUSES**

**6.1. Charities Registration and Regulation Bill 2018 –  
Consideration of clauses commenced**

Mr Thomas to move.

1480 **The Speaker:** We turn to Item 6 and the consideration of clauses of the Charities Registration and Regulation Bill 2018. I call Mr Thomas to move.

**Mr Thomas:** Thank you very much, Mr Speaker.

With your agreement, I would like to move clauses 1 and 2 together. I am happy to have them voted on separately if Mr Speaker or Hon. Members wish. The clauses are introductory.

1485 Clause 1 gives the short title of the resulting Act of Tynwald. Clause 2 provides for the Act to be brought into operation by one or more orders made by the Attorney General. The power includes provision to make consequential, incidental, supplementary and transitional provisions in connection with its commencement.

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

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**The Speaker:** Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

I beg to second.

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

I understand that clause 3 is to be taken at the end, Mr Thomas. We turn to clause 4.

1500 **Mr Thomas:** Mr Speaker, with your leave and thank you to the House for that, I will now move to Part 2, which comprises clauses 4 to 8 and makes provision as regards the definition of 'charity' and 'charitable purpose'.

Clause 4 restates the existing definition of 'charity', which is currently set out in section 14 of the Charities Act 1962, namely:

... an institution, corporate or not, which is established for charitable purposes, and is subject to the control of the Court in the exercise of the Court's jurisdiction with respect to charities but not including an ecclesiastical charity within the meaning of Schedule 3 to the Church Act 1992 or a trust of property falling within paragraph 1(2) of that Schedule.

1505 As I explained during the Second Reading, the exemption from registration for ecclesiastical charities has its origins in the Public Charities Act 1922, which first created the requirement for charities to register in the Isle of Man. Ecclesiastical charities are those set out in Schedule 2 to the Church Act 1992, which Act is concerned with matters regarding the Church of England. Exemption from registration in relation to specified religious charities which do not fall within  
1510 the definition of ecclesiastical charities but which hold property or funds of the Church of England, the Roman Catholic Church, the Methodist Church, the United Reformed Church and the Society of Friends is currently provided by the Religious Charities Regulations 1999, made under section 2(3) of the Charities Registration Act 1989. A similar power to make regulations exempting charities from the requirement to register is contained in clause 10(3) of the Bill.

1515 Exemption from being on the register, however, does not mean exemption from being regulated. This is a very important point. This is because the powers of the Attorney General to act for the protection of charities contained in Part 8 of the Bill, which will re-enact existing statutory powers, including the power to institute inquiries and to seek orders from the court to

1520 remove or suspend trustees, to appoint replacement trustees and to take steps to control the  
use of funds, apply to all institutions established for charitable purposes and not just to those  
which are registered charities. A charity is a status and that power is general across the piece.

As I indicated during the Second Reading, it is not the purpose of the Bill to change the  
landscape concerning registration. The Hon. Member, Mr Hooper, has tabled a number of  
1525 amendments to the Bill, namely amendment numbers 1, 2, 3, 12 and 17, the effect of which  
would be to remove the exemption for ecclesiastical charities from the Bill and, instead, to insert  
it into the Religious Charities Regulations 1999.

I will be arguing against those amendments because, whilst they may be seen as nothing  
more than preserving the *status quo*, the effect would be to change the nature of the exemption  
for ecclesiastical charities, which has been in primary legislation since 1922, to one in  
1530 regulations, meaning that the exemption could be removed without the necessity to bring  
forward an amendment to primary legislation, i.e. without the opportunity for a full debate on  
the principle that taking legislation through this Branch and the other place requires.

Given that the removal of the exempt status from ecclesiastical charities would represent a  
significant change to the landscape which was not a matter raised during the consultation on the  
1535 Bill, no change should be contemplated to the status of ecclesiastical charities, not even one  
which appears on its face to retain the *status quo*, without having carried out a public  
consultation exercise on this specific issue.

Members might be reassured that, for this reason, I am not going to support this amendment  
but I can pledge with the support of the Attorney General's Chamber to launch a public  
1540 consultation exercise as soon as possible – perhaps even at the end of this week – which will  
seek views not only as to whether any charities established for the advancement of religion,  
including ecclesiastical charities and the religious bodies which are currently exempt from  
registration under the Religious Charities Regulations, should be exempt from registration, but  
also whether any other category of charity, including small charities, should also be exempt.

1545 So, Mr Speaker, may I suggest that amendments 2 and 17, namely the amendment to clause  
4 and insertion of New Clause 3, should be taken together?

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

1550 **The Speaker:** I call on Dr Allinson.

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

1555 **The Speaker:** Thank you.  
Amendment 2 in the name of Mr Hooper.

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

1560 This amendment forms part of a series of linked amendments that intends to move the  
ecclesiastical exemption from primary into secondary law. So I will talk about broad principles of  
the whole series of amendments first, because if this is not approved there is no point talking  
about all the other ones.

These amendments were all moved in another place but were deferred by that body pending  
debate in this House.

1565 Specifically the amendment to clause 4 will remove the exemption itself from the definition  
of a charity. Why should we move this exemption? Firstly, every other exemption in this Bill sits  
inside the regulations, including all the other religious exemptions, so this provides parity of  
treatment. I would like to be absolutely clear on this; the Minister just stated that this would be  
a significant change to the regulatory landscape; that is fundamentally not true and that was  
confirmed by the Attorney General in another place.

1570 Any charity currently exempt under this exemption would still be exempt if these amendments are approved; there will be no change, in effect. When this was debated in another place, the Lord Bishop helpfully outlined the structure of Church charities and I will summarise his comments here:

... the principal financial institution of the Manx Church is the Diocesan Board of Finance of the Diocese of Sodor and Mann ... in addition to funds acquired in its own name the Diocesan Board of Finance, the DBF, is now also a trustee of funds formerly held by the Church Commissioners for the Isle of Man.

The main financial bodies at parochial level are the Parochial Church Councils (PCCs) ... And the incumbent or the vicar or rector and the churchwardens of each ecclesiastical parish may also acquire and hold property on trust. That function predates the creation of PCCs and most parochial trusts are administered by incumbents and churchwardens.

There are a few cases where property or funds are held for ecclesiastical purposes by other trustees.'

1575 The Bishop then went on to highlight that all the main bodies are exempted from the registration and regulation requirements by virtue of regulations. The Minister tried to confirm this in his opening remarks, but again was slightly wide of the post. The exemptions from registration which are included in the Bill do not include the powers of the Attorney General to regulate charities exempted by virtue of the Religious Charities Regulations, only charities exempted by virtue of the ecclesiastical exemption. At least that is my understanding of the  
1580 definition in Part 8 that specifies:

This section applies to an ecclesiastical charity and to a trust of property falling within paragraph 1(2) of Schedule 3 of the Church Act 1992 as it does to a registered charity.

No mention of all the charities exempted by the regulations. Again I may be wrong but that is my plain text reading. The Religious Charities Regulations 1999 exempt the DBF, the Board of Finance, the PCCs, the Church Councils and the incumbents and churchwardens from the requirement to register. These are the main Church bodies. So all these main Church bodies,  
1585 including those which deal with church buildings and burial grounds, would appear to be exempted predominantly by virtue of regulation, not by virtue of being an ecclesiastical charity.

That is what I find quite strange here. The main Church of England bodies are all exempted by virtue of regulation, not by primary law and not by this ecclesiastical exemption. So if all the main Church of England bodies are exempted by regulation then it would seem that the ecclesiastical exemption would apply to those few cases where property or funds are held by  
1590 other trustees. To my mind it makes sense that all bodies sitting under the Church of England are regulated in the same way and are exempted from regulation in the same way.

So all I am talking about here is parity of treatment, making sure that all those Church of England bodies are exempted in one document, using one method and one process. That is all  
1595 these amendments will do.

Going forward, I would suggest that there is an undertaking, an exercise, to see how the religious charities' exemptions are used on the Island and whether they are appropriate in their current form. But that would be very much a secondary step that Tynwald would have to decide on at a later date. If Tynwald does want to look at making a future change to the landscape there would need to be a body of work as well as a consultation to establish, firstly, if any  
1600 change is needed, and secondly, if it is appropriate. This would be a policy change and this Bill does not change policy, so it would not be right to try and change anything major in this Bill without proper consultation.

In order for that second step to happen, the Minister has already mentioned there will be a  
1605 consultation on this process. If he intends to consult on it then it is much better for this exemption to be in secondary regulations rather than in the Bill itself. So if Tynwald wants to change it Tynwald can do that through an open debate in Tynwald, changing secondary law without having to go through the primary process.

1610 It was quite entertaining to listen to the Minister's comments that placing these regulations and these exemptions into secondary law would remove the ability to have open and frank debate in a parliament. That was entertaining seeing as he is the main driver for pushing more and more things into secondary legislation through Tynwald. Him being on the opposite side of this argument for a change definitely made me chuckle.

1615 I want to be absolutely clear, though, the linked series of amendments that I am proposing today are not asking Tynwald to consult, they are not asking Tynwald to change anything, they are not asking anyone to do a piece of work; that is my personal view, that that is not what the amendments are doing. All the amendments are doing is moving the exemption from primary law into regulations where it will sit alongside all the other regulations. It is absolutely not my intention to place any increased burden on small charitable trusts that do not take in large sums of public money, which would appear to be the case for the majority of trusts that would be making use of this particular exemption.

1620 So for clarity, these amendments will provide parity of treatment for all Church of England charitable bodies, including parity for those classed as ecclesiastical charities with all of the major Church of England bodies, such as the Board of Finance, the Parochial Church Councils and the incumbents and churchwardens. These amendments do not fundamentally alter the landscape. Any entity currently exempted will still be exempted. The Attorney General stated in another place the amendments tabled cause no concern with reference to maintaining the *status quo* which we have at the moment.

Mr Speaker, I beg to move the amendment to clause 4:

*Amendment to clause 4*

*2. Page 17, omit lines 29 to 32.*

*In consequence of this amendment, omit '(1)' at the beginning of the clause.*

1630 **The Speaker:** Mr Shimmins, Hon. Member for Middle.

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

1635 I rise to second the amendment and would just say this is about consistency. I listened with some interest to the fuzzy logic applied by the Minister for Policy and Reform and a kind of pot calling the kettle black came to mind. But this is about consistency. It is a sensible thing to do and I fully support it.

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

1640 **Mr Cannan:** Thank you very much, Mr Speaker.

1645 I rise to support my hon. colleague, the Minister, bringing forward the Charities Registration and Regulation Bill 2018 and I support the view that the amendments from Mr Hooper should not be supported at this stage, even if they are well intentioned and in essence appear to make sense. Perhaps I should remind the Hon. Member that the road to Hell is paved with good intentions and perhaps apt when you are talking about this particular Bill.

I think the main point for me is that, as the Hon. Member who moved these amendments has clearly and concisely pointed out, this is actually quite a complicated area and Church law, ecclesiastical law, has its own set of rules and regulations. I think that is why it has purposely not been included and clearly not being included within this Bill.

1650 But, for me, it was his words actually in the previous discussion that brought it home to me, when he asked the Minister next to me, 'What consultation and engagement has taken place?' What consultation and engagement has actually taken place with the Church on this matter? There has certainly been no consultation with the Chairman of the Ecclesiastical Committee – no consultation with me. I just worry that when we start bringing forward these seemingly well-1655 intentioned moves that actually we do have unintended consequences.

I do not wish to have added bureaucracy any more than anybody does on small charities performing a specific function that are in essence already under law or already under regulation. I think it would be important that we did, if we are going to effectively change the basis on which ecclesiastical charities are regulated, or potentially regulated, that we do have a proper  
1660 consultation period. For me, we just really do not understand, I think, properly or have not properly gone through a process of ensuring that what we are intending to do, what might seem logical is in fact logical and will not cause problems, or at least have the threat of causing  
1665 problems, for what might be very well-intentioned, small charitable trusts, property, connected with the Church and that may have application for our constituents in a way that we have not intended. That may even extend to small coffee mornings that are raising charitable funds for the Church or for the parish hall.

So I would urge caution. Personally, I can understand why the Hon. Member wants to do this, because it seems logical, but as the Chairman of the Ecclesiastical Committee it is not something that we have considered. I do think that the views of the PCC, the diocesan bodies, should be  
1670 sought before we start potentially adding the threat of causing confusion or adding bureaucracy into this specific area. This is not a fact of saying that exemption does not mean to say that these charities or small charities or ecclesiastical charities are not unregulated, because that is absolutely not the case.

1675 **The Speaker:** Hon. Member for Glenfaba and Peel, Mr Harmer.

**Mr Harmer:** Thank you.

I just rise to support those comments.

I think whilst well intentioned, the danger is it does inadvertently change the landscape  
1680 because going from primary to secondary fundamentally puts that threat to the charities and we really do not know what we are dealing with here. We are not actually fixing a perceived problem or an issue that has come up, we are talking about very small vulnerable charities and I am well aware of the pressures, or the perceived pressures even, that GDPR has put on certain charities just as to whether they continue to exist, whether they continue to function.

1685 So my view is that you know this was a very technical Bill, you can already hear in the language being used how technical and detailed it is, that anything of this nature should really receive proper consultation, which is absolutely due. This is why it was not in the Bill and I think when I hear concerns being raised by the Bishop and so forth, however well explained away, they still rise in me a very deep concern. So there is a time to do this, there is a time to consult,  
1690 but I think moving it from primary to secondary does not allow that proper consultation and also puts that threat to charities that really are just trying to do their day-to-day business.

With that, I finish.

1695 **The Speaker:** Hon. Member for Douglas East, Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr Speaker.

If I can just expand on the previous speaker's comments, that he referred to with the Lord  
1700 Bishop. I just pick a few of them out and caution this Hon. House from barging into this area without careful consultation and consideration. So effectively supporting the mover rather than the amendment.

The Lord Bishop made a few points here and forgive me for repeating them. He said:

... subjecting ecclesiastical charities to regulation under the Bill would, in nearly all cases, serve only to duplicate financial controls which already apply to them under church legislation.

He went on to say:

The task of identifying their trust instruments for the purpose of registration would take great expense and months or years of work by unpaid volunteers.

Then the final comment I would ask Members to consider:

There is a greater danger for unpaid officials in that they may be unaware that they are trustees and yet failure to register or to file accounts would render them liable to criminal penalties.

1705 So in other words, we need to consider things very carefully before we start throwing these sort of amendments about.

Thank you, Mr Speaker.

**The Speaker:** I call on Mr Hooper to reply to the debate on the amendment.

1710 **Mr Hooper:** Thank you very much, Mr Speaker.

First things first, let's try addressing the first set of comments that were made. The Attorney General, who I suspect has a greater understanding of charity law than any Hon. Member in this room, stated quite clearly these amendments do not change the *status quo*. The Attorney General confirmed in another place he has no concern with these in reference to maintaining the *status quo*. He stated:

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The proposed amendments, to which I raise no objection, will maintain the *status quo*.

So if we want to talk about the amendments themselves, which is all I am talking about here, they make no change to the landscape, they maintain the *status quo*. They do not change the basis of regulation for small ecclesiastical charities. So park all of those objections because they are based on absolutely nothing.

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I am really glad to hear the Minister for the Treasury and the Minister for Infrastructure raise concerns about small trusts, small charities, because later on in this very Bill I am proposing to bring an exemption for small trusts and small charities, and I look forward to their support bringing exemptions for small charities later on at clause 46.

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Concerns raised by Mr Robertshaw are valid – the concerns the Bishop raised. I absolutely, totally agree that subjecting small ecclesiastical charities to regulation would place them with an increased burden. Thankfully though, these amendments do not do that. These amendments do not place ecclesiastical charities subject to regulation or registration requirements. They do not change the landscape. They do not change the *status quo*. They are exempt today, they will be exempt tomorrow. That is exactly what happens with these amendments.

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The purpose of this registration would create years of work – it would. Again, these amendments do not do that. They do not require these charities to be registered. They do not change anything. They maintain the *status quo*.

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I do not really know what else I can say, Hon. Members. The objections that have been raised today talk about things which actually are not relevant at all. I have already said we should consult on any policy changes. This is not a policy change; this is simply moving the exemptions into a place where we can have that consultation.

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The Minister for Policy and Reform earlier made reference to drafting resources and restrictions, so he intends to consult and then bring another primary Bill further down the line to make these changes – whereas if we move them into secondary, if he consults and wants to make changes, that is simply a Tynwald secondary piece of legislation which is much easier and quicker to draft. (**A Member:** Hear, hear.)

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Again, logically it makes sense to place all the exemptions in the same place to enable that consultation to take place. I do not really know what else I can say. The Attorney General was clear. The Bishop's concerns are all absolutely valid. But unfortunately we are not changing regulatory nature here, we are not placing any regulatory burden on those small ecclesiastical charities, so there will be no change. So those concerns, whilst well-founded, would only apply

at a later date if Tynwald did decide to place these ecclesiastical charities underneath the regulatory regime that this Bill sets out.

With that, Mr Speaker, I beg to move the amendment to clause 4.

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**The Speaker:** Mr Thomas to reply to the clause.

**Mr Thomas:** Thank you very much, Mr Speaker, and to the hon. mover of the amendments for having allowed this important debate to take place by bringing the amendments.

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I want to thank all the people who have spoken, particularly Mr Robertshaw and the two Ministers who have spoken about how this, although it is not a change of practice, is a major change of policy.

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The point I want to say, particularly about that, is that things are not 'broke'. No evidence has been offered that we have got a problem that needs to be tackled here. The justification for the issue is parity of treatment – consistency – and the point I would like to make is I phoned around quite a few of the people who submitted evidence to the consultation to ask them what they meant when they said, 'At some point we need to review charities law. Was this a major issue for you?' and it really wasn't. There are many other issues that are much more important in terms of reviewing the substance of charities, and that word is used deliberately, not this one.

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But if we are going to review this one it is going to suck up resources, because what we are talking about, as I understand it, in the UK is a change to the Local Government Act in 1894, if the Charity Commission of England and Wales is accurate in terms of its definition, whereby a regime was put in place that has been used.

We are talking about changing relationships between the state and the religious bodies, so major changes of policy need to be considered properly in the Branches. Mr Hooper made the point of discourse of debate to say that he and I will both be using this episode, whatever the outcome, in future when we discuss primary and secondary legislation. But the point is here, this is really a major policy change and it needs to be in the Branches after a proper consultation and it needs to be prioritised alongside other pieces of policy development and legislation. The main point is if it is not 'broke', we do not need to fix anything.

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Just for the point of clarity then, that is what the Attorney General was saying, I believe, it is not going to change practice but it is still a major change in policy. Also, just for completeness, Mr Hooper – a good stab at interpreting ecclesiastical and religious legislation and charities legislation, but I understand he is actually wrong as regards the effect of Part 8 and that clause 36 relates only to one specific power of the Attorney General and his powers under the remainder of Part 8 are much wider.

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I also want to compliment the mover of the amendment because he peppered his justification with phrases like, 'It would seem,' and, 'It would appear to be the case,' and, 'I may be wrong'. My point is he may be wrong, it might seem but it might not be the reality. What we need to do is we need to put this into the proper development of policy in its priority place and we need to basically begin the engagement about this very important issue, as is happening in the United Kingdom, and I urge Members to vote against the amendment today, to support the Bill as drafted. I do pledge that we will make a consultation available about this point and new points, and in a year or so we can come back to this question if issues arise in the consultation that need to be addressed.

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I beg to move.

**The Speaker:** I will put the question about amendment 2 first and, as has been pointed out, amendments 1, 2, 3, 12 and 17 are connected –

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**Mr Thomas:** New Clause 3 as well.

**The Secretary:** That is New Clause 3 – amendment 17.

1800 **The Speaker:** Amendment 17 is New Clause 3.

So depending on what happens here, you need to consider the impact of that throughout the rest of the Bill.

I put the question first that amendment 2 in the name of Mr Hooper stand part of this clause. Those in favour, please say aye; against, no. The noes have it.

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

**FOR**

Dr Allinson  
Miss Bettison  
Mrs Caine  
Mr Hooper  
Mr Perkins  
Mr Shimmins

**AGAINST**

Mr Ashford  
Mr Baker  
Mr Boot  
Mr Callister  
Mr Cannan  
Mrs Corlett  
Mr Cregeen  
Mr Harmer  
Mr Moorhouse  
Mr Peake  
Mr Quayle  
Mr Robertshaw  
Mr Skelly  
Mr Speaker  
Mr Thomas

1805 **The Speaker:** There are 6 for, 15 against. The noes have it. The noes have it. Therefore amendments 1, 3, 12 and 17 also fall.

I put the question that clause 4 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 5 to 7, Mr Thomas.

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**Mr Thomas:** Thank you, Mr Speaker.

With your agreement, as you say, I would like to move clauses 5 to 7 together.

1815 The 1962 Act provides that 'charitable purposes' means 'purposes which are exclusively charitable according to the laws of the Isle of Man'. As the only statutory provisions which describe charitable purposes are the Recreational Charities (Isle of Man) Act 1960 and section 2 of the 1962 Act, the primary description and interpretation of what is charitable under Manx law has been provided by the High Court, in particular in the judgments *In re Costain (1961)* and *In re Ring (1962)*.

1820 In considering the interpretation of 'charitable' in the Island, the court has primarily adopted the principles which had been developed by the English courts, albeit indicating that Scottish and Irish cases could also be treated as guides. There are no reported cases, however, in which either Scottish or Irish precedents have been considered.

1825 Thus, despite the learned Deemster having accepted, *In re Ring*, as substantially correct the contention that the law of the Isle of Man, 'was more liberal in interpreting what was charitable, and in any event not narrower, than the interpretation which English law had put on the Statute of Elizabeth', in practice it is the English courts' interpretation to which regard has been had in cases to which the statutory provisions in the Recreational Charities (Isle of Man) Act 1960 and section 2 of the 1962 Act do not apply.

1830 Prior to the enactment of the Charities Act 2006 of Parliament, the definition of 'charitable purposes' had been developed entirely through case law having regard to the preamble to the Statute of Charitable Uses 1601, also known as the Statute of Elizabeth. The preamble, which did not form part of the statute law as it was not in the body of the Act, contained a list of purposes or activities which the State believed were of general benefit to society, and to which the State

1835 wanted to encourage private contributions. The courts, in considering whether or not a  
particular purpose was charitable in law, have tended to look for an analogy between the  
purpose under consideration and the 1601 list, and to recognise the purpose as charitable if an  
analogy with the 1601 list could be found. This resulted in the classification by Lord Macnaghten  
in Pemsel's case 1891, of 'charitable purposes' into four principal heads, namely: (1) the relief of  
1840 poverty; (2) the advancement of education; (3) the advancement of religion; and (4) other  
purposes beneficial to the community not falling under any of the preceding heads.

It is on this fourth head, having also had regard to the preamble, that the courts have relied  
in holding to be charitable, well-recognised purposes, such as the relief of elderly persons, the  
relief of ill-health, the care of animals and the preservation of the environment.

1845 With the passing of the 2006 Act, these principal heads of charity were codified and  
expanded into a list of 13 descriptions of purposes, which preserved those purposes which had  
already been recognised as being charitable by the English courts as well as broadening the  
meaning of 'charitable purpose', in particular by including within the list 'the advancement of  
amateur sport'. Prior to the 2006 Act, such a purpose was only deemed to be charitable if it  
could be shown to fall within accepted charitable purposes, such as the promotion of education,  
1850 the promotion of public health or the provision of recreational facilities in the interests of social  
welfare.

Although the Manx courts can still have regard to English case law in determining whether a  
particular purpose can be said to be charitable where that purpose was deemed to be charitable  
in England and Wales prior to 2006, they cannot adopt a purpose which has only become  
1855 charitable in England and Wales as a consequence of its inclusion in the statutory list. This  
means that a *bona fide* charity established in England and Wales may now be unable to carry out  
any activities in the Island.

In order to address this potential difficulty, clause 5 sets out a definition of 'charitable  
purpose' which requires the purpose to be one included in the list contained in clause 6, which  
1860 includes all of the purposes which are presently applicable in England and Wales, as well as  
preserving the purposes recognised by the Manx statutory provisions to which I have already  
referred.

The new definition of 'charitable purpose' includes the requirement adopted by the 2006 Act  
that the purpose must be for the public benefit, as described in clause 7. Under the existing law,  
1865 when the status, charitable or non-charitable, of an organisation established for the relief of  
poverty, the advancement of education, or the advancement of religion is being considered, the  
organisation's purpose is presumed to be for the public benefit unless there is evidence that it is  
not for the public benefit. For organisations established for all other purposes, the opposite is  
the case. Subsection (2) abolishes this presumption and puts all charitable purposes on the same  
1870 footing. Subsection (3) makes clear that the meaning of the term 'public benefit' is, and remains,  
that which has been developed under the common law.

Mr Speaker, I beg to move that clauses 5 to 7 stand part of the Bill.

**The Speaker:** Dr Allinson.

1875 **Dr Allinson:** Thank you, Mr Speaker.

I am quite happy to second this part. These are some of the fundamental principles of this  
new Bill and are extremely important in terms of definition of purpose to align us not only with  
the United Kingdom but also to set out for ourselves quite clearly what we see as charities.

Thank you.

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**A Member:** Hear, hear.

**The Speaker:** I put the question that clauses 5, 6 and 7 stand part of the Bill. Those in favour,  
please say aye; against, no. The ayes have it. The ayes have it.

1885 Clause 8, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

1890 Clause 8, which is also in Part 2, re-enacts the existing law which provides that it is an offence for an institution to hold itself out as being a charity unless it is a registered charity or a charity exempt from the requirement to register. One of the reasons for this is to prevent an institution from claiming, or appearing, to be a charity when it is not in fact established for charitable purposes. It is also to prevent a foreign charity from carrying on activities within the Island if it does not meet the criteria for registering as a Manx charity and, thus, be subject to regulation here. The existing penalties on conviction are being retained.

1895 Mr Speaker, I beg to move that clause 8 stand part of the Bill.

**The Speaker:** Dr Allinson.

1900 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

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

1905 Clause 9, Mr Thomas.

**Mr Thomas:**

Clauses 9 to 15, which comprise Part 3, concern the continuation and maintenance of the register and the registration process. I turn first to clause 9.

1910 Although the 1989 Act does provide a requirement for a charity in the Island to register by filing a 'statement' in the General Registry, it does not provide the clear *vires* for the establishment and operation of a register which are necessary in a modern world. Accordingly, clause 9(1) provides for there to continue to be a register, to be kept by the Attorney General. The effect of this will be to combine the role of registrar with the Attorney General's existing role as regulator, thus reflecting the position in England and Wales, Scotland, Northern Ireland and Jersey, where those roles are combined in the respective Charity Commissions.

1915 As the register is essentially nothing more than a list of institutions and a repository of certain information concerning them, the more significant role is that of the regulator. Although the registrar accepts institutions onto the register if he or she is satisfied that they have the necessary characteristics required by law, it is the regulator who is responsible for ensuring that they continue to satisfy the requirements and that the necessary steps are taken if they do not. This can include obtaining a declaration from the court that an institution is not established for charitable purposes, in which case it must be removed from the register. The *vires* to make such applications, and to carry out any necessary enquiries, has always been vested in the regulator rather than the registrar. Of the two roles, it is the role of regulator that has primacy. Thus, combining them both in the Attorney General, whose statutory role as regulator of Manx charities dates from 1922, would not result in an inappropriate vesting of powers in that office.

1920 It may be helpful if I remind Hon. Members that the only significant change to the Attorney General's role under the existing law is the vesting in him of the role of registrar and the function of making the secondary legislation, which is primarily concerned with the structure and operation of the register. The prosecutorial function already resides with him, which is confirmed not only by the requirement under the 1989 Act that he must personally consent to any prosecution but also, as a consequence of Schedule 8 to the Criminal Justice Act 2001, all prosecutions on behalf of Government Departments, Statutory Boards and Offices are taken in the Attorney General's name by prosecutors in his Chambers.

1935 Any decision to prosecute, whether under the general criminal law or in a regulatory context, requires the application of a two-stage test: firstly, whether there is sufficient evidence available

1940 to afford a reasonable prospect of conviction; and, secondly, whether a prosecution is in the public interest. In the context of regulating charities, I can indicate that it has always been the approach of the Attorney General that the public interest requires prosecution to be considered as a last resort, e.g. in those cases where the breach is incapable of rectification, the breach has arisen, or continues, as a consequence of a deliberate act on the part of the trustees or there is some other evidence of *mal fides*. Wherever possible, the Attorney General and his staff work with the trustees to rectify the breach.

1945 The remaining provisions of clause 9 set out the information which must be contained in the register and enable the Attorney General to prescribe the particulars of the charity which are to be included. Clause 9(3) provides that the register is public except to the extent prescribed by regulations made by the Attorney General under clause 9(4). This will enable the necessary balance to be struck between the public interest and an individual's right to privacy. It will also enable all details about certain trustees to be kept private; for example, in circumstances where  
1950 there is a genuine risk to them in being identifiable on a public register.

Mr Speaker, do you mind if I talk to the amendment in advance?

**The Speaker:** In anticipation ... better that you do not.

1955 **Mr Thomas:** Okay.  
I beg to move.

**The Speaker:** Hon. Member for Ramsey, Dr Allinson.

1960 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** Mr Hooper.

1965 **Mr Hooper:** Thank you very much, Mr Speaker.

This is an amendment to clause 9, which deals specifically with the requirements to make the register public. The intention behind this amendment is to make these requirements slightly more comprehensive than they are already. The publicity requirement simply says, 'The register is to be public and is to be accessible in such a manner and at such times as the Attorney  
1970 General may determine, but that is extremely broad.

The amendment that I am proposing firstly requires the register be open to public inspection at all reasonable times; it also requires that the register must include entries that have been cancelled when institutions are removed from the register – much in the same way that dissolved companies still exist on the Companies Register. It is a similar approach here. There is a  
1975 provision later on in this Bill which enables the Attorney General to collect and maintain data in such form as they feel appropriate, which may include non-documentary form. This amendment, again, makes specific reference to any information that is contained in the register that is not held in documentary form, is also required to be open to public inspection at all reasonable times.

1980 The amendment itself also includes some specifics from the UK Charities Act that are, again, more specific around the types of information that are being provided to the Attorney General that must be public. Again, there is a repetition here of the exemptions and the ability of the Attorney General to prescribe classes of information which are not to be publicised. As the Minister has already outlined, there is good reason why that power may be used.

1985 Mr Speaker, I beg to move amendment 4:

*Amendment to clause 9*  
*4. Page 21, for lines 9 to 14 substitute—*

*“(3) The register (including the entries cancelled when institutions are removed from the register) is to be public and must be open to public inspection at all reasonable times.*

*(4) If any information contained in the register is not in documentary form, subsection (1) is to be read as requiring the information to be available for public inspection in legible form at all reasonable times.*

*(5) Copies (or particulars) of the trusts of any registered charity as supplied to the Attorney General under this act must, so long as the charity remains on the register—*

*(a) be kept by the Attorney General, and*

*(b) be open to public inspection at all reasonable times.*

*(6) If a copy of a document relating to a registered charity—*

*(a) is not required to be supplied to the Attorney General as the result of this act, but*

*(b) is in the Attorney General’s possession,*

*a copy of the document must be open to inspection under subsection (4) as if supplied to the Attorney General under this Act.*

*(7) Despite anything in subsections (3) to (6), the Attorney General may prescribe information or classes of information which are not to be made available except in such circumstances and to such persons as may be prescribed.*

*Tynwald procedure —approval required.”.*

**The Speaker:** Mr Shimmins.

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

1990 I beg to second. These bring consistency with the Companies Registry and also the United Kingdom. It seems to be sensible.

**The Speaker:** Mr Thomas, to the amendment.

**Mr Thomas:** Thank you, Mr Speaker.

1995 I appreciate the amendment because this is an important discussion we are about to have. I will be supporting a couple of Mr Hooper’s amendments perhaps a bit later on, but this is not one I can support.

Essentially, the amendment tabled to clause 9 makes additional provision regarding the public nature of the register and its availability for examination, as the mover has explained.

2000 This amendment is unnecessary as it seeks to prescribe the steps that the Attorney General must take as regards the publication of the register when the existing clause 3 requires the Attorney General to make it accessible in such a manner and at such times as he or she may determine, which I believe is adequate to ensure that the spirit of the legislation, namely to provide public access to the register, is respected. A good point has been made of comparing  
2005 this with the Companies Register.

Let me say a couple of things about that. The first point is the nature of the Companies Register and the nature of the charities register and the nature of the use and so on. It is up to charities to make the case and to tell people about them and what they are doing. That is a bit different perhaps from companies. Also, the other point is that the comparison with the UK has  
2010 been made and it would be lovely to have the resource of the UK and to have limitless resource, and infinite resource even, to do everything to make things public. I am sure the Attorney General will be making the case to work with the Department for Enterprise, to work with the Central Registry which is an excellent body, to do everything possible, to use the desks and to use the computer resources in time to make all the information available. But we are not there  
2015 as yet. Treasury has not as yet approved any business case made by the Central Registry for the small registers that are run to do with legal practitioners, to do with trade unions, to do with charities. Perhaps at some point in the future – and I am sure the Attorney General believes in as much transparency and as much public access as he possibly can get – but this is premature.

2020 Trust me, in good faith everything will be done to make the documents available. But this is a little tiny operation – two or three charities being registered each month; 700 existing ones; annual documents which are being beefed up very slightly in this process. Everything will be done to make this accessible, to make this information accessible.

2025 I think the amendment is going a bit too far at this stage. With that, I beg to oppose the amendment and to encourage people to support the Bill as drafted.

**The Speaker:** Mr Hooper to reply.

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

2030 The hon. mover is absolutely correct, the intention of this amendment is to prescribe some of the requirements around the publication of information held in the register, instead of leaving it up to the Attorney General. That is precisely because I do not believe that we should leave the spirit of the law to be interpreted in this case by the regulator; it is our job to set the law and the regulator's job to enforce it. The same here with registration requirements.

2035 I am sure the Minister means well when he says, 'Trust me, in good faith.' I am sure the Attorney General believes in the publication of this information. Well, it would have been nice to have had that confirmation in advance. However, we have not had any such confirmation. I have no idea what the Attorney General believes and the Bill, as drafted, leaves it entirely up to him to exercise his powers as he sees fit, as opposed to saying there are some sort of documents that we believe should be publicly released, that information relating to charities regulated and registered on the Isle of Man should be publicly accessible and available.

2040 The mover also mentioned that he believes it is up to charities to tell people what they are doing. Again, he is incorrect. This Bill will require charities on the Isle of Man to file annual reports and annual accounts, all of which should be publicly available; and I am sure the Attorney General intends to make such documents publicly available, but I would much rather place this requirement on the face of the Bill so as to set an exceptionally clear message as to what we expect the register to look like and how we expect the register to be put together. I do not think it is our job to trust the Minister, to rely on his good faith. He has form in this regard, making promises to this Hon. House that have not been kept and not been fulfilled. I think again the spirit of the law –

2050 **The Speaker:** I will ask the Hon. Member to be careful about the words he is using. (*Interjections*)

2055 **Mr Hooper:** I am happy to quantify that, Mr Speaker. I have done in another place in reference to the Safeguarding Act, most recently.

I think it is quite clear, it is incumbent on us to be absolutely clear what we expect from our charities registry and I think leaving these decisions up to the Attorney General to make entirely as he sees fit without any framework within which he should be making those decisions is entirely inappropriate and irresponsible on our part.

2060 In that respect, Mr Speaker, I would like to move.

**The Speaker:** I call on Mr Thomas to reply to the debate on clause 9.

**Mr Thomas:** Thank you, Mr Speaker, and to the hon. mover.

2065 The simple point is that – what shall I say? – resources need to be made available. We start from where we are. I do believe there is an obligation on the people responsible for trustees in law to do everything they can to have the trust to obtain the trustee status, so I reject that point – that there is no obligation on ... Most people in this Hon. House, I am sure, will now or at some point in the future take up responsibilities regarding charitable fundraising and charitable activities. It is an onerous responsibility; it is an important responsibility.

I am happy that, from what we have heard today, the Treasury and the Department for Enterprise can work with the Attorney General's Chambers to make it absolutely possible so that smarter government includes smarter provision of accessibility to these important documents; and I do undertake to do that in coming months and years, working with the Attorney General's Chambers' staff member involved in this area.

So with that, I beg to move the clause as posted on the face of the Bill and I call on Members to reject the amendment.

**The Speaker:** I put before Members first amendment 4 in the name of Mr Hooper. Those in favour, please say aye; against, no. The noes have it.

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

<b>FOR</b>	<b>AGAINST</b>
Miss Bettison	Dr Allinson
Mrs Caine	Mr Ashford
Mr Callister	Mr Baker
Mr Cregeen	Mr Boot
Mr Hooper	Mrs Corlett
Mr Moorhouse	Mr Harmer
Mr Peake	Mr Quayle
Mr Perkins	Mr Robertshaw
Mr Shimmins	Mr Skelly
Mr Speaker	Mr Thomas

**The Speaker:** There are 10 for and 10 against. The amendment therefore fails.

I put to you clause 9 as drafted. Those in favour of clause 9 as originally drafted, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 10 to 14, Mr Thomas.

**Mr Thomas:** Thank you for allowing me to move clauses 10 to 14 together, Mr Speaker.

Clause 10 provides necessary clarity by imposing an express requirement to register. This clause also re-enacts the existing provision for the making of regulations to exempt any charity or class of charity from the requirement to register, and preserves the requirement introduced by the Charities Registration Act 1989 that a registered charity have a substantial and genuine connection with the Island.

The reason this requirement was introduced by the 1989 Act was, to quote the then Attorney General during consideration of clauses in another place in March 1989:

To prevent the Island being used by people who have no connection with the Island and who have no intention of operating a charity here but simply to use it as a post box for some activity which we do not wish to be associated with.

So it is about protecting the Island's reputation which, in the intervening 30 years, has become an even more important consideration, given the risks posed by money laundering and the financing of terrorism and the resultant scrutiny that there now is of the Island in terms of financial matters by international organisations such as Moneyval and the OECD.

Although the term 'substantial and genuine connection' is not defined in the Bill, during the Second Reading in another place, the Attorney General gave an explanation as to the circumstances which would lead to and provide evidence of the necessary connection and confirmed that guidance would be published as to how this term should be interpreted. As a public officer, it is unlawful for him to act in an arbitrary manner, meaning that the guidance would be applied consistently.

Failure to register is an offence, with the penalties mirroring those which apply under clause 8.

Clauses 11 to 13 provide for the application for registration, the criteria for the determination of an application and the administrative steps to be taken on registration.

2110 The reason why the matters set out in clause 12 are being considered in detail at the time of registration is to ensure that a charity coming onto the register is not only suitable for registration but, with the principle in mind that 'prevention is better than cure', that it, and its trustees, have the necessary powers and understanding of how they should be used so that the charity can operate successfully both in regard to the achievement of its charitable purposes and the meeting of the necessary regulatory requirements. This will also assist the public in having confidence in the charities sector.

2115 Clause 14 provides that the Attorney General is not liable for the accuracy of any document submitted for inclusion on a register maintained under the Bill, but provides a power to make inquiries to establish the accuracy of any information provided.

Mr Speaker, I beg to move that clauses 10 to 14 stand part of the Bill.

2120 **The Speaker:** Dr Allinson.

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

2125 **The Speaker:** I put the question that clauses 10 to 14 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 15, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker, and to Hon. Members.

2130 I turn now to clause 15, which provides for the circumstances in which an institution must be removed from the register, which will enable the register to be an accurate record of the charities which are presently carrying on activities in the Island.

An amendment has been tabled by the Hon. Member, Mr Harmer – which I can talk to, can I?

2135 **A Member:** No.

**The Speaker:** The principle is that you do not talk to amendments until they have actually been proposed and seconded.

2140 **Mr Thomas:** Okay, Mr Speaker, then I beg to move that clause 15 stand part of the Bill.

**The Speaker:** Dr Allinson.

2145 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** I call on Mr Harmer to move amendment 5.

**Mr Harmer:** Thank you, Mr Speaker.

2150 This is an amendment which on reflection the Council of Ministers have agreed should be included. Clause 10, section 3, enables the Attorney General to make regulations exempting any charity or class of charity from the requirement to register under the Act, and thus from the ongoing requirement to file the documents and information such as annual accounts, reports and details of trustees.

2155 Clause 15, Part 1, sets out the circumstances in which the Attorney General must remove charities from the register. The Bill does not make provision for a charity to be removed in any other circumstance. This means that in the event that the registered charity became exempt

from registration it could not be removed from the register, in which case it would have to continue to file documents etc. required to be filed by the register's charities, which is clearly not what was envisaged by exempting it.

2160 Mr Speaker, I beg to move the amendment standing in my name:

*Amendment to clause 15*

*5. Page 24, after line 5 insert—*

*'(d) any charity or other institution which is exempt from registration; and'*

*In consequence of this amendment, omit 'and' at the end of line 5 on page 24, renumber the following paragraph as (e) and adjust cross-references accordingly.*

**The Speaker:** Hon. Member for Douglas North, Mr Ashford.

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

2165 **The Speaker:** I call on Mr Hooper to move amendment 6.

**Mr Hooper:** I will move the amendment, then I will talk to the clause as well.

2170 The amendment that I am proposing here is in respect of the publication of information in respect of removal of charities currently. Again, the Bill leaves this entirely up to the Attorney General as to the manner in which he feels necessary to publish the removal of charities, which could be no publicity at all.

2175 As far as I can see, there are only two real reasons why a charity will be removed. It falls into those five different categories, but: either the charity that has stopped operating is dissolved; or it has broken the rules, no longer complies with the rules and has been removed by the Attorney General as a result. In both of those cases I think the public really have a right to know that charity no longer exists, no longer is on the register and should no longer be accepting public donations. I think that those publication requirements are so important they should be on the face of this Bill.

2180 The publication requirements that I have drafted in this amendment are lifted from the administrative dissolution process sitting inside the Companies Act which works very well for companies. There should be publicity around the dissolution of charities and the reasons for it, and equally, there should be a list of the charities that have been dissolved. As is the case with companies, this could simply be part of the register itself.

2185 I have real issues with the amendment tabled by Mr Harmer, the Hon. Member for Peel and Glenfaba. In the UK there is the ability for charities to voluntarily register, which seems to not exist under this Bill. So if a charity which otherwise may be exempt wishes to be registered for a reason, whatever reason that may be, they will not be able to as they will be exempt. They will have to be removed from the register. So I would appreciate some clarity from the Minister on that point.

2190 The second point I would like to ask is where is this list of dissolved and removed charities going to be? The reason I ask this question is because a charity that ceases to exist, a charity which no longer operates, a charity which has been removed from the register is removed from the register. The requirements set inside clause 9 – the unamended clause 9 – specifies the register must contain the names of every registered charity and such particulars and information relating to every such charity as may be prescribed. So the Attorney General can prescribe what can be on the register in respect of registered charities.

2195 The moment the charity ceases to be registered, what happens to that information? The Attorney General cannot prescribe information holding the requirements for non-registered charities. That does not seem to be there at all. What happens to all that information that was

2200 on the register for a charity that is no longer registered, it has been removed? My, again, plain text reading is that information also has to go.

Will there be a register of dissolved, non-existent charities? Will it be maintained; and if it is going to be maintained which section of the Act enables the Attorney General to do that? Again, it does not seem particularly clear from my perspective where those removed charities would sit. So we are going to have charities that could be operating for 20 or 30 years and then all of a sudden all this information could simply disappear. I would appreciate some real clarity from the Minister on what happens to the information about dissolved or charities that simply lose their registration status.

Mr Speaker, I beg to move the amendment:

*Amendment to clause 15*

*6. Page 24 for line 9 and 10 substitute—*

*'(3) The Attorney General must publicise the removal of an institution from the register —*

*(a) by publishing a notice in one edition of a newspaper published and circulating in the Isle of Man;*

*(b) by publishing a notice on a website maintained by the Attorney General, for a minimum period of one month;*

*(c) by maintaining a current list in the prescribed form and with the prescribed particulars of all institutions in respect of which notice has been published; and*

*(d) by making the list maintained under paragraph (c) available for inspection by any person at any reasonable time.*

*(4) On and after the coming into operation of section 43(1)(b) of the Legislation Act 2015 subsection (3) has effect with the substitution for paragraphs (a) and (b) of—*

*“(a) by publishing a notice in the electronic gazette;”.*

2210 **The Speaker:** I call on the Hon. Member, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker. I beg to second the amendment in the name of Mr Hooper.

I would also like to just make an additional point, because this in some ways is similar to the previous amendment, where the wording follows what is already in place and is tried and tested in the Companies Registry. I really hope the Minister for Policy and Reform is going to explain if he resists this amendment as well following best practice, because in my personal opinion the public interest in charities is a higher level than in companies. Companies are private companies; a charity seeks donations from the Manx public. So as such I feel there should be higher levels of transparency and as a bare minimum we should be following the Companies Registry practice. So if he is going to resist this amendment as well, I really hope that he will take that point on board and explain why this should not be the case, rather than bluster about trust.

Thank you.

2225 **The Speaker:** I call the Member for Douglas Central, Mr Thomas, to speak to the amendments.

**Mr Thomas:** Thank you, Mr Speaker, and to both the speakers – to the Hon. Ministers who have moved the Government amendment, which I fully support. I will now talk to both amendments.

The first point is I want everybody to remember that there are two fundamental differences between companies and charities. The first one is there is absolutely no fees payable for charities, so this is a budget expense. Anything that happens in terms of publicity and notice is entirely at the expense of the public purse, whereas companies there are fees. It is a very important point that the public interest needs to be taken into account and it is very important

that we do work to make sure that notice is given and that notice is received, and that all the information that needs to be out there is disseminated. But there is that fundamental difference which is that there is no intrinsic revenue for charities because you get to do all this for charities for free.

2240 So I can absolutely assure people that the Attorney General must publicise the removal. He has no choice. In that situation I am absolutely sure that there will be publicity and discussion around those sorts of removal, and I can absolutely assure people we will do everything we can to make sure that notices and lists are made available.

2245 The second difference between companies and charities is they are not the same: a company is a registered entity – it is like something that is there registered as such; a charity is a status – charitable purpose is a status. I have already talked about the all-encompassing nature of this Act because the Attorney General has powers in terms of charitable purpose and in terms of the activity of charities, even when the organisation is not registered.

2250 Okay, the section that the Hon. Member asks for is at section 15(3) which is: present charities are exempt with the understanding they are not required to comply with the registration requirements.

2255 If I move to making the formal points to support Minister Harmer in his move. Basically, Minister Harmer's move is, the effect of which is to add a further circumstance in which a charity may be removed from the register, namely if it is exempt from registration. In the event that regulations were made to exempt a charity or class of charities from registration this provision would be used to remove them from the register and thus enable them to take advantage of their exempt status. Otherwise all the statutory requirements which attach to a registered charity would continue to apply. So therefore I fully support this amendment, but I do acknowledge the good point that has been made by the hon. mover of the amendment, that I do  
2260 need at Third Reading to come back with further clarification about the nature of the information that could vanish in that situation. I will give a precise answer at Third Reading about that.

2265 In terms of Mr Hooper's amendment to clause 15, which prescribes the steps that the Attorney General must take in publicising the removal of an institution from the register, including by the placing of a notice in a local newspaper, the existing sub-clause (3) imposes a requirement on the Attorney General to publicise such a removal in such a manner as the Attorney General thinks fit. It is entirely appropriate that he should or she should have a discretion which would enable him to take any of the steps proposed in the substituted sub-clause (3).

2270 Requiring the Attorney General to place a notice in a local newspaper would result in a requirement for expenditure for which a budget would have to be sought from the Treasury. This is because unlike, for example, the Companies Registry, the administration of the Charities Register is funded entirely by the public purse. So it is an important matter. We will do everything we can administratively to make the information available. Digital inclusion. There  
2275 have been some decisions made about the use of newspapers. The Legislation Act covers, to some extent, changes in relation to the law requirements and legal requirements in various Acts about publication using newspapers and other devices. We can look at this, but I urge Members not to overly prescribe the way that this information is publicised.

2280 With that, I move these clauses and urge Members to vote against the amendment from Mr Hooper but for the amendment from Minister Harmer.

**The Speaker:** Dr Allinson, to speak to the amendments. No? In which case, I will give first opportunity to Mr Harmer to sum up regarding his amendment, if he so wishes. No.

Mr Hooper.

2285

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

2290 I am actually really concerned by the Minister's statement that he is going to come back at Third Reading. We are the second House in this Bill, so if we do not get it right it is not going to go upstairs and get fixed. The Minister clearly has not got a clue what is going to happen to a lot of this information that is about to disappear from the register or he would have been able to answer that, which is quite worrying seeing as we have already approved the clause in respect of this information and the cancelled entries.

2295 So I think we need a very clear answer on that. If you are going to be talking now about removing these institutions from the register, which is this clause 15, I think we need absolute clarity on what happens to that information, because the moment we approve this that is it, Hon. Members. There is no second chance here. We have to get this right. If the Minister cannot provide that clarity I think he needs to go away and have a rethink before moving this Bill onwards.

2300 In respect of some of these changes that I am proposing, the Minister seems to be saying his main argument for not placing these in the Bill is that it would cost money. So he seems to be arguing that we should only be protecting the public interest in cases where we have got money to do so, where the fees exist. I think it is a wholly inappropriate position to be taking and the public interest is worthy of protection even if it is going to be at a small cost to Government. The changes to the Legislation Act are also addressed in the amendment. There is a section in there which relates to publishing the notice in an electronic Gazette, which would replace the requirement to publish things in a newspaper. If the Minister is concerned that that would have a cost to the Charities Register then perhaps he would get moving with the Digital Strategy, bring in our electronic Gazette and those costs would then disappear.

2310 Mr Speaker, thank you. I beg to move.

**The Speaker:** Mr Thomas to conclude to the clause.

**Mr Thomas:** Thank you very much.

2315 I just want to bring the hon. mover of the amendment – a controversial amendment – and everybody else in this House to the attention of clause 54 in the Act, which is keeping of records by the Attorney General, so:

(1) Information and documents held by the Attorney General in connection with any of his or her functions under the Charities Act, under section 18 of the Companies Act 1931 or under regulations made under Section 46 may be kept in any form that –

- (a) is approved by the Attorney General; and
- (b) is capable of being reproduced in legible form.

(2) The Attorney General is to be taken as having complied with an obligation to maintain information or documents if the Attorney General complies with subsection (1).

(3) The Attorney-General may destroy information and documents maintained by the Attorney General if –

- (a) the information or documents are original records which the Attorney General is keeping in a form described in subsection (1);
- (b) the information or documents relate to a charity which was removed from the register more than 25 years previously; or
- (c) the information or documents were received more than 10 years previously and do not relate to a registered charity.

2320 So the law is clear. It is an administrative matter and I will make a clear statement about the Attorney General's intentions in respect of the very important point that has just been made at the level at the Third Reading.

With that, I beg to move these clauses and strongly resist the intention to actually overly prescribed publication regimes and on-the-hoof policy regarding disclosures.

2325 There is also a small point to make about the question in terms of the choice for charities, which apparently exists in England, and I commend the Hon. Member for Ramsey for all of the investigation and the diligence with which he has pursued this matter, but for it to be a personal choice on the part of a charity as to whether it remains on the register will result in confusion. If

there is to be a choice that will be the sort of thing that is subject to a wider policy debate and I pledge to include that element in the consultation that we will launch about changing the landscape of charities over the coming months and years.

With that, I beg to move.

2330

**The Speaker:** I put first the amendment in the name of Mr Harmer. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Putting next the amendment in the name of Mr Hooper. Those in favour, please say aye; against, no. The noes have it.

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

**FOR**

Miss Bettison  
Mrs Caine  
Mr Callister  
Mrs Corlett  
Mr Hooper  
Mr Peake  
Mr Perkins  
Mr Shimmins

**AGAINST**

Dr Allinson  
Mr Ashford  
Mr Baker  
Mr Boot  
Mr Cannan  
Mr Cregeen  
Mr Harmer  
Mr Moorhouse  
Mr Quayle  
Mr Robertshaw  
Mr Skelly  
Mr Speaker  
Mr Thomas

2335

**The Speaker:** There are 8 for, 13 against. The noes have it. The noes have it.

Putting clause 15 as written, that it stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, I am conscious that we are not realistically going to complete the clauses stage of this and there is a presentation on at 1.30 p.m. I am therefore going to adjourn the House and we will reconvene our consideration of this at 2.30 p.m.

2340

*The House adjourned at 1.01 p.m.  
and resumed its sitting at 2.30 p.m.*

**Leave of absence granted**

**The Speaker:** Fastyr mie, Hon. Members.

Due to the weather conditions later on today I have given leave to Mr Cannan this afternoon in order to go and catch a flight. I have also given leave this afternoon on a similar basis, to attend Government business, to Mrs Corlett.

**Charities Registration and Regulation Bill 2018 –  
Consideration of clauses concluded**

2345 **The Speaker:** With that, we continue consideration of the Charities Registration and Regulation Bill and I believe we are up to clause 16. I call on Mr Thomas to move.

**Mr Thomas:** Thank you very much, Mr Speaker.

I move that clause 16 stand part of the Bill.

2350 Clause 16 requires that every registered charity have a written governing instrument, including those originally registered under the Public Charities Act 1922 or the 1989 Act. A lack of a written governing instrument can cause uncertainty as to the purposes for which a charity was established, as well as regards the powers of the trustees concerning its day-to-day management. In many instances, only the High Court can resolve such uncertainties, which has  
2355 financial implications for the charity concerned as well as imposing a burden on the public purse, as the current Rules of the High Court require the Attorney General to be named as a defendant in respect of applications concerning charities.

Although adopting a written governing instrument should not be a complex task in most circumstances, particularly given the provisions set out in clauses 21 and 22, clause 16(2)  
2360 provides that existing charities without written governing instruments will have a period of at least two years from the date the requirement comes into force in order to adopt one. The date that the requirement comes into force is to be prescribed by Regulations and I can indicate to Hon. Members that the intention is that the date will be included in a set of Regulations which will prescribe all matters required under the Bill and which will be brought into force at the same  
2365 time as the substantive provisions of the Bill. Thus, no existing charity will be left 'hanging in limbo' which was a concern expressed during the Second Reading debate.

I can also repeat the indication given by the Attorney General in another place that model constitutions will be made available and that the staff in his Chambers will work with charities, in particular the smaller charities, to help them.

2370 I beg to move that clause 16 stand part of the Bill.

**The Speaker:** Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

2375 I beg to second.

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

Clause 17. Mr Thomas.

2380

**Mr Thomas:** Thank you, Mr Speaker.

Clause 17 makes provision for the amendment of the governing instrument. To ensure that a charity's governing instrument remains fit for purpose, except in a case where the High Court has authorised the amendment, the Attorney General's consent must be obtained for any

2385 change to have effect. This does not apply in the case of a foreign charity as any changes will be governed by the laws of the jurisdiction in which it is established, but the charity would be removed from the register if the effect of any changes was that the institution was no longer established for charitable purposes.

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

2390

**The Speaker:** Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

I beg to second.

2395

**The Speaker:** Mr Hooper to move amendment 7.

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

2400 This amendment is quite straightforward and simply provides that requests to amend the governing instruments should not be unreasonably refused.

Mr Speaker, I beg to move:

*Amendment to clause 17*

*7. Page 24, after line 28 insert the following subsection—*

*'(4) Subject to being satisfied that the requirements of subsection (3) are met, the Attorney General must not unreasonably refuse consent under this section.'*

**The Speaker:** Mr Shimmins.

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

2405

**The Speaker:** Mr Thomas, do you wish to submit anything in conclusion to the clause?

**Mr Thomas:** Thank you, Mr Speaker.

2410 The amendment to clause 17, tabled by the Hon. Member, Mr Hooper, I am sure tabled with the best intent, imposes a requirement that the Attorney General not act unreasonably if refusing consent to the amendment of a governing instrument. This amendment is totally unnecessary and, indeed, inappropriate. As a public officer exercising public functions, the Attorney General is required by law, as is every other public officer or authority, to act reasonably when exercising his or her statutory functions. In a common law jurisdiction, it is not  
2415 the purpose of statute to repeat overarching legal principles and I am not aware of any example of a function given to a public officer under Manx legislation which includes a requirement that a function not be exercised unreasonably. Further, if it were necessary to include such a provision, it would have to be included in relation to each and every exercise of a statutory function under the Bill, as the same principle applies to all.

2420 For this reason, I am unable to support this amendment.

**The Speaker:** I put first the amendment number 7 in the name of Mr Hooper. Those in favour, please say aye; against, no. The noes have it. The noes have it.

Clause 17, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2425 Clause 18, Mr Thomas.

**Mr Thomas:** Clause 18 re-enacts an existing provision regarding the amendment of a charity's objects.

I beg to move.

2430

**The Speaker:** Dr Allinson.

**Dr Allinson:** I beg to second.

2435 **The Speaker:** I put the question that clause 18 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 19 and 20, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

2440 Clauses 19 and 20, which I would seek to move together, make provision as regards the change to a charity's name, including preserving the existing power of the Attorney General to direct that a charity abandon a misleading or undesirable name. It will remain an offence to fail to comply with a direction, with the existing penalties on conviction being retained. As the purpose of the power is to ensure that an unsuitable name is changed, clause 20 will enable the  
2445 Attorney General to change the name of the charity following a conviction.

Mr Speaker, I beg to move that clauses 19 and 20 stand part of the Bill.

**The Speaker:** Dr Allinson.

2450 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** I put the question that clauses 19 and 20 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2455 Clause 21, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

The provisions in this clause will enable charities which registered prior to the Act coming into force to seek the consent of the Attorney General to amend their governing instruments, or to adopt a governing instrument, in circumstances where the only alternative would be to make an application to the High Court under the Charities Act 1962, to which the Attorney General would be a party. Enabling the Attorney General to give the necessary consent would make the process of adopting necessary change more straightforward and reduce the cost to both the charity concerned and the public purse.

2465 I would remind Hon. Members of the indication given by the Attorney General in another place that he will be continuing the long-established practice whereby officers in the Attorney General's Chambers provide assistance and guidance to charities concerning all their statutory requirements, including providing model documents and working with charities to ensure that their constitutional arrangements are fit for purpose.

2470 Clause 21 does not limit the court's powers under the 1962 Act and neither does it have any effect on the general principles which must be considered irrespective of whether the necessary approval is given by the court or by the Attorney General.

**The Speaker:** Beg to move.

2475

**Mr Thomas:** I beg to move.

**The Speaker:** Dr Allinson.

2480 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** I call on Mr Hooper to move amendment number 8.

2485 **Mr Hooper:** I do not intend to move amendment number 8, Mr Speaker.

**A Member:** Hear, hear.

2490 **The Speaker:** I put the question, then, that clause 21 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 22 and 23, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

2495 In the case of a charity which has been constituted under an Act of Tynwald, clause 22 enables the Attorney General to make an order, subject to Tynwald approval, amending the Act of Tynwald to effect the necessary amendments. This mechanism will be in addition to, and not in place of, the usual process for amending primary legislation.

2500 To ensure that information on the register is kept up to date, clause 23 provides for the notification to the Attorney General of amendment to the various particulars of registered charities. The existing offence in the 1989 Act for non-compliance with the requirement to notify is retained, as are the penalties on conviction.

Mr Speaker, I beg to move that clauses 22 and 23 stand part of the Bill.

**The Speaker:** Dr Allinson.

2505

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

2510 **The Speaker:** I put the question that clauses 22 and 23 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 24, 25 and 26, Mr Thomas.

**Mr Thomas:** Clause 24 defines a 'charity trustee' for the purposes of the Bill.

2515 Clause 25 provides the automatic disqualification of a person for acting as a charity trustee in circumstances which give rise to concern as to his or her suitability to undertake such a role, given the degree of trust involved. Such circumstances include being convicted of an offence of dishonesty, being disqualified for being a company director, being an undischarged bankrupt, being subject to an order of the High Court removing or suspending him or her as a trustee of a charity, or being on the sex offenders' register.

2520 At present, the mechanism for removing an unsuitable trustee is the obtaining by the Attorney General of an order from the High Court, which is administratively burdensome and imposes a cost on the public purse. The proposed automatic disqualification provisions, which mirror those which are in place in England and Wales, do not oust the jurisdiction of the court but, instead, will reduce the need to have resort to it. A person acting as a charity trustee whilst disqualified will commit an offence and be liable, on summary conviction, to 12 months' custody and/or a fine of level 5 on the standard scale, currently £10,000.

2525 As there may be circumstances where a person remains suitable to be appointed as a trustee of a charity notwithstanding the application of the automatic disqualification provisions, clause 25(4) enables the Attorney General to disapply the provisions in relation to any person where he or she considers that it is in the public interest to do so.

2530 Clause 26 provides that a person who is disqualified for acting as a charity trustee is also disqualified for holding an office or employment with senior management functions in a charity.

Mr Speaker, I beg to move that clauses 24 to 26 stand part of the Bill.

2535 **The Speaker:** Dr Allinson.

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

2540 **The Speaker:** I put the question that clauses 24, 25 and 26 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Now, amendment number 9 and New Clause 1 in the name of Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.  
2545 It has been made quite clear this morning that the view of the House is not to place central requirements on the face of the Bill, instead relying on the trust of the Minister to ensure they are appropriately placed in Regulations. So I do not intend to move New Clause 1.  
Thank you.

2550 **The Speaker:** In which case, we turn to amendment 10 and New Clause 2. Mr Hooper.

**Mr Hooper:** Apologies, Mr Speaker, exactly the same – if the House is not minded to place these on the front face of the Bill, I do not seek to waste the House's time. I will not be moving New Clause 2, either.  
2555 Thank you. (*Interjection*)

**The Speaker:** It has not been moved.  
Clause 27, Mr Thomas.

2560 **Mr Thomas:** I thought New Clause 2 was eminently sensible. (*Laughter and interjections*)

**The Speaker:** Well it should have been in the Bill, then! (*Laughter and interjections*)

**Mr Thomas:** Effective regulation of any sector requires the regulator to be provided with  
2565 information from which problems, actual or potential, can be identified. In the case of charities, this is presently achieved by the filing of annual accounts at the Registry.

I turn first to clause 27, which re-enacts the existing requirement for the filing of annual accounts, which may be subject to audit or examination depending on the charity's income.

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

2570 **The Speaker:** Dr Allinson.

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

2575 **The Speaker:** Amendment number 11, Mr Hooper?

**Mr Hooper:** Yes, thank you very much, Mr Speaker.  
2580 Clause 27 is interesting in that it refers solely to accounts of registered charities and not to any requirement on a charity to keep and hold financial transactions representing the day-to-day transactions of companies, which was the purpose of my original New Clause 1, and New Clause 2 would have provided for the preservation of those records. Again, there is no reference to the preservation of records in the Bill.

2585 Clause 27 on the other hand allows for regulations to be made in respect to both of these points and I would expect regulations to come forward which do include both the requirement

to keep financial transactions as we currently have, as well as the preservation of those records and the preservation of accounts. I suppose we will turn to that later on.

2590 This amendment that I am moving today is very straightforward. The monetary amounts in this clause in respect of the requirement for independent examination or an audit are fixed on the face of the Bill and there is a provision in the clause whereby these may be increased by order. However, it may be considered appropriate in the future to decrease these amounts, so simply to provide that flexibility I propose to omit the word 'higher' from section 10 of clause 27.

Mr Speaker, I beg to move.

*Amendment to clause 27*

*11. Page 31, line 2 omit 'higher'.*

**The Speaker:** Mr Shimmins.

2595

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

**The Speaker:** Mr Thomas.

2600 **Mr Thomas:** Thank you, Mr Speaker.

Yes, indeed the Hon. Member for Ramsey, Mr Hooper, does make a very good point (**A Member:** Hear, hear.) (*Laughter*) that the points in New Clause 2, and New Clause 1, even, can be taken up in the financial regulations made under secondary legislation, and we will certainly give close attention to New Clause 2 about the preservation by charities of the accounting records and accounts because that is eminently sensible.

2605 In terms of this specific amendment, the effect of the amendment to this clause which has been tabled by Mr Hooper will be to enable the Attorney General to lower, as well as to raise, the financial thresholds as regards the need for audit or examination of accounts, as he explains. Although it is difficult to identify any circumstance in which the financial threshold would be lowered, this amendment makes no substantial difference to the principle behind the provision and thus I support it.

**A Member:** Hurray.

2615 **The Speaker:** I am taking that as speaking to the amendment, but as no-one else wishes to speak, are you content for me to take that as the summing up of the clause as well?

**Mr Thomas:** I beg to move.

2620 **The Speaker:** Thank you very much.

I will put, then, amendment number 11 in the name of Mr Hooper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 27, as amended, that it stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2625 Clauses 28, 29 and 30, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

Clause 28 contains supplementary provisions about auditors and examiners.

2630 Annual accounts provide only limited information concerning the activities of a charity and, to improve transparency, clause 29 makes provision for a report on the activities of the charity to be filed at the time of filing the annual accounts. The information to be contained in the report will be prescribed, meaning that the reporting requirement can be tailored to reflect the size of the charity. It is not anticipated that the reporting requirement will place any significant

burden on trustees as in most cases they are already required to report on the previous year's activities at their charity's AGM.

2635 Clause 30 clarifies that, in the case of a foreign charity, the requirement as to the filing of annual accounts and reports is in relation to the activities of the charity carried on by it in, or otherwise connected with, the Island. An important element of regulation of charities is the scrutiny of financial information. If that information is not provided in a way which clearly identifies the monies raised and spent with regard to a charity's activities which are connected with the Island, then the regulator is unable to identify whether the charity is operating in compliance with its charitable trusts and the requirements of Manx law. Such an inability represents a significant handicap to the Attorney General in carrying out his responsibilities as both regulator and public guardian of the charitable property.

2645 Mr Speaker, I beg to move that clauses 28 to 30 stand part of the Bill.

**The Speaker:** Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.  
2650 I beg to second.

**The Speaker:** Mr Hooper.

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

2655 At the Second Reading I raised some very specific concerns in relation to international charities operating on the Island and the impact that these particular clauses 27, 28 and 29 would have on charities that are foreign charities registered elsewhere that have potentially quite complex structures. I note the Minister has made no reference to that in his original moving of these clauses and I would appreciate it if he would.

2660 Has this been addressed? Has this been considered? And, if not, how will it be addressed and considered?

**The Speaker:** Mr Thomas to reply.

2665 **Mr Thomas:** Thank you very much.

I think, as I indicated, the Attorney General will make guidance. I clarified the position with this sort of issue with a number of lawyers and we do need to do some further work potentially if we are going to change in any way the landscape of charities, and this is the sort of issue about which we will be further consulting and engaging with stakeholders.

2670

**The Speaker:** Beg to move.

**Two Members:** Beg to move.

2675 **Mr Thomas:** I beg to move.

**The Speaker:** Good!

The question is that clauses 28, 29 and 30 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2680 Clauses 31 to 35, Mr Thomas.

**Mr Thomas:** Clauses 31 to 35 are new provisions which concern charity mergers. Clause 31 provides for a register of charity mergers to be kept by the Attorney General.

2685 Clause 32 describes the circumstances which constitute a charity merger for the purpose of clause 31, namely where charity A ceases to exist having transferred its property to charity B; or where following a transfer of their property to charity C, charities A and B cease to exist.

Clauses 33 and 34 make provision in relation to the notification of a charity merger and the details to be entered on to the register of charity mergers.

2690 The main purpose of creating a register of charity mergers is so that registered charities which have otherwise ceased their activities do not have to remain in existence and subject to regulation merely to be able to receive future gifts, such as bequests.

Accordingly, clause 35 provides that where a charity merger has been registered, the gift to a charity which has ceased to exist will take effect as a gift to the charity to which its property was transferred as a consequence of the merger.

2695 Mr Speaker, I beg to move that clauses 31 to 35 stand part of the Bill.

**The Speaker:** Dr Allinson.

2700 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** I put the question that clauses 31 to 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 Thomas.

2705

**Mr Thomas:** Thank you, Mr Speaker.

2710 As well as re-enacting the existing powers under the 1989 Act of the Attorney General to obtain information as to the investments and property of a registered charity, clause 36 provides the power to obtain such other information as may be prescribed, for example, information concerning the charity's safeguarding policies, where relevant, and compliance with such policies. The application of clause 36 is extended to ecclesiastical charities and to trusts of property falling within paragraph 1(2) of Schedule 3 to the Church Act 1992.

**A Member:** Beg to move.

2715

**Mr Thomas:** I beg to move.

**The Speaker:** Good!  
Dr Allinson.

2720

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

**The Speaker:** Mr Hooper.

2725

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

2730 I would be grateful if the Minister could clarify why this section applies to ecclesiastical charities and trusts of property falling within Schedule 3 to the Church Act and not to other exempt charities, either those exempted by way of religious exemptions or other exemptions under this Act.

**The Speaker:** Mr Thomas to reply.

I can see eye contact being made, but we do have the opportunity to go into Committee should it be required, Hon. Members.

2735

**Mr Robertshaw:** I propose that we do, Mr Speaker.

**Two Members:** I second.

2740 **The Speaker:** Thank you. Provided the officer, of course, is content to do so. (*Interjections*)  
The question is that the House resolve into Committee to take evidence. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

*In Committee of the Whole House*

2745 **The Speaker:** Miss Norman, I see you have been left single-handed in the Gallery. Are you content to take some technical questions on this?

**Miss Norman:** Yes, Mr Speaker, I will assist the House to the extent that I possibly can.

**The Speaker:** Thank you.

2750 I will just remind you that I do not expect you to answer any matters of policy – that will be for the Member; but in terms of any technical detail I would be grateful for your assistance. So thank you.

2755 **Miss Norman:** I think the reason why this change was made to the Bill, which means it is an insertion, or an extension of the provisions of section 36 to charities to which the exemption is provided by primary legislation; and it reflects the distinction in status between charities whose exemption from registration comes from primary legislation as opposed to those which are provided under secondary legislation. And one of the differences, of course, is – this is clearly in relation to the religious charities regulations – there is a defined list of the religious charities regulations which are exempt, whereas the defined list is much broader in description ...

2760 So the distinction in treatment reflects the distinction in treatment under the legislation and is to make sure that we captured those charities from a drafting perspective which are exempt under the primary legislation ...

**The Speaker:** Mr Hooper.

2765

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

2770 Unfortunately that does not really answer the question: either the Attorney General needs the power to require exempt charities to furnish documents, or he does not. This is an addition to the existing Act, this particular clause does not appear in the 1989 Registration Act. So these ecclesiastical charities appear to be at least exempt from this provision that currently exists.

2775 So I am struggling to get my head around why the Attorney General needs the ability to request these particulars in this respect of these types of charities but not others, especially seeing as the next clause allows him to institute general inquiries that covers everybody, whether they are registered or not. It just seems a really unusual change to have made for no apparent purpose.

2780 **Miss Norman:** As I said, it was an acknowledgement that charities which are exempt because of the provisions of the Bill are a class which is access ready, identifiable and those charities which are exempt because specific exemption regulations have been made, and under the circumstances there was less of an argument as to the rationale as to why the provisions of section 36 should not also apply to the exempt charities.

Extending the provisions of section 36 to charities which are exempt under regulations is something that can certainly be looked at for the future. It is not prevented by the Bill as it is

2785 drafted now. And there may be other things that point out your future discussion as to the nature of exemptions, who should be exempted and how.

**The Speaker:** Mr Hooper.

2790 **Mr Hooper:** I am sorry, Mr Speaker, I am still not really seeing why this treatment is there, why the need is there – either the Attorney General needs it ... It is not about identifying the charities, this refers to being provided with copies of documentation that sits underneath the charities. So either he needs this power or he does not. It would appear that he does not have  
2795 this power currently in respect of non-registered charities; and he still does not, except for this very particular class. I am struggling to see why, again, there has been a separate treatment for these types of charities that does not seem to have any understanding of the basis behind it. And if you say that it can be extended to further exempt charities under regulations in due course, was that considered as part of the drafting of this Bill? It just seems a bit ...

I do not think I am going to get an answer unfortunately, Mr Speaker, it does not seem clear-cut enough.  
2800

**The Speaker:** I think we also may be straying potentially into the policy elements that have been determined by the Member, rather than the drafter.

Miss Norman, do you have anything to add? (*Interjection by Miss Norman*) Okay.  
Mr Robertshaw.

2805

**Mr Robertshaw:** Mr Speaker, I move that we return to normal business of the House.

**The Speaker:** Mr Cregeen.

2810 May I put the question that business be resumed? Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

*The House moved out of Committee and business was resumed.*

**The Speaker:** Mr Thomas, to conclude your summing up of clause 36.

**Mr Thomas:** Thank you very much.

2815 It is an issue that those responsible for the policy in this respect can look at ... Not at this stage because obviously we are looking at the clauses, but in future years.

I think Miss Norman presented the drafting arguments well from my point of view. And I beg to move.

2820 **The Speaker:** The question is that clause 36 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 37 to 39 and the Schedule.

**Mr Thomas:** Thank you very much, Mr Speaker.

2825 Clause 37 re-enacts the power of the Attorney General to institute inquiries into an institution which is, or purports to be, established for charitable purposes. The existing offence provisions and penalties are preserved.

Clause 38 makes new provision for the obtaining of search warrants in connection with an inquiry under clause 37, the detailed provisions concerning their obtaining and use being set out in the Schedule.

2830 Clause 39 re-enacts the existing powers of the High Court, on the application of the Attorney General, to make orders for the protection of charities and their property, such as for the removal or suspension of a trustee.

Mr Speaker, I beg to move that clauses 37 to 39 and the Schedule stand part of the Bill.

2835 **The Speaker:** Dr Allinson.

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

2840 **The Speaker:** I put the question that clauses 37, 38, 39 and the Schedule stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 40 and 41, Mr Thomas.

2845 **Mr Thomas:** To ensure accountability within the Island of the activities of a foreign charity – that term being defined in clause 40 – clause 41 imposes a requirement that if none of its trustees are ordinarily resident in the Island, a foreign charity must appoint a person resident in the Island as the ‘responsible person’, who will be responsible for the compliance by or on behalf of the charity in respect of all applicable statutory requirements. This will avoid the difficulties that can arise at present if none of the persons carrying on the charity’s activities in  
2850 the Island have the necessary authority within the charity to ensure, for example, that the annual accounts are prepared and filed and those persons that do have that authority are outside our jurisdiction.

This requirement reflects the principle that, as an Island which seeks to uphold its reputation on the international stage as a mature jurisdiction which makes proper and effective provision  
2855 for regulating financial activities, it is necessary that institutions which seek a connection with the Island can properly be held to account here in the Island.

I beg to move that clauses 40 and 41 stand part of the Bill.

2860 **The Speaker:** Dr Allinson.

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

2865 **The Speaker:** I put the question that clauses 40 and 41 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 42 and 43. Mr Thomas.

**Mr Thomas:** Part 10, of which clauses 42 and 43 are a part, concerns appeals.

2870 The Bill increases the number of decisions which the Attorney General can make in relation to charities, including those which are related to the function of registrar. It also provides for the Attorney General to be able to exercise certain functions which currently fall solely within the jurisdiction of the High Court, such as the approval of the adoption or amendment of constitutional documents.

2875 As a public authority, decisions of the Attorney General are subject to judicial review by the High Court by way of a doleance claim. In order to provide a more straightforward and cost-effective mechanism for challenge, however, clauses 42 and 43 provide for the creation of a Charities Tribunal to hear appeals in respect of decisions taken by the Attorney General. These decisions will not include those concerning the exercise of the Attorney General’s regulatory powers, namely those set out in Part 8 and clause 51 – consent to a prosecution – as the legality  
2880 of such decisions would be addressed in the relevant court proceedings.

As is usual in relation to the decision of an administrative tribunal, a further appeal lies to the High Court on a point of law.

Mr Speaker, I beg to move that clauses 42 and 43 stand part of the Bill.

2885 **The Speaker:** Dr Allinson.

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

2890 **The Speaker:** Mr Hooper.

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

I think if the Minister could be slightly clearer on why the regulatory aspects have been taken outside the appeal process ... It seems reasonably standard that where there is a regulator then there should be the ability of people being regulated to appeal their actions to a tribunal before having to go to court. That seems to be the way we do things with our other regulators.

I would just like to get some more clarity on exactly why it was decided to specifically exclude the regulatory powers from the appeal process.

2900 **The Speaker:** Mr Thomas to reply.

**Mr Thomas:** Thank you very much.

I think the crucial point here is that the Charities Tribunal is about administrative issues, it is not about prosecution issues.

2905 The hon. questioner is correct. There are, in the financial services world, for instance, cases where there are tribunals that can hear certain enforcement action and that is one possibility, but in this case we have got the tribunal for decisions about administration – a decision of a charity tribunal which can be appealed on the point of law to the High Court – and then we have got prosecutions which need to be addressed inside the relevant court proceedings.

2910 So there are different worlds and there are different arrangements in those different worlds and it is quite clear that this is an administrative tribunal about administrative decisions. And unless I get anything else that I should add, I will leave it at that.

I beg to move.

2915 **The Speaker:** I put the question that clauses 42 and 43 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 44 and 45. Mr Thomas.

**Mr Thomas:** Thank you very much.

2920 Clause 44 imposes a requirement for a decision or a direction which is subject to a right of appeal to be given in writing and to include a statement of reasons. This is in keeping with the status of the Attorney General as a public authority.

2925 As already stated, the Bill increases the number of decisions to be taken by the Attorney General in respect of charities. So that this does not become administratively burdensome, clause 45 enables the Attorney General to appoint a person employed as an officer in the Attorney General's Chambers to perform certain specified functions, namely those which are functions which relate to the maintenance of the register and the taking of certain steps by the charities.

2930 In practice, much of this work is presently undertaken by a senior lawyer in Chambers, in advising the current Registrar or the Attorney General as to the exercise of their functions. Functions such as making an application to the court for the removal of a trustee, issuing a direction that the name of a charity be changed, or exercising the regulation and inspection powers under Part 8 will continue to be exercisable solely by the Attorney General.

2935 For the purpose of any appeal, a decision of a person appointed under clause 45 is treated as if it were a decision of the Attorney General.

Mr Speaker, I beg to move that clauses 44 and 45 stand part of the Bill.

**The Speaker:** Dr Allinson.

2940 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** I put the question that clauses 44 and 45 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 46, Mr Thomas.

2945 **Mr Thomas:** Thank you, Mr Speaker.  
Clause 46 makes provision as regards the making by the Attorney General of regulations to carry the provisions of the Bill into effect. Tynwald approval is required.  
Mr Speaker, I beg to move that clause 46 stand part of the Bill.

2950 **The Speaker:** Dr Allinson.

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

2955 **The Speaker:** Thank you.  
I call on Mr Harmer to move amendment number 14.

**Mr Harmer:** Thank you, Mr Speaker.  
2960 This is an amendment which, on reflection, the Council of Ministers have agreed should be included. Clause 46 is principally a re-enactment of section 11 of the Charities Registration Act 1989. The amendment is typographical to correct an error in subparagraph (a) which arose during the transcribing of the text of the existing provision the effect of which is to bring clarity to the interpretation of this subparagraph.

2965 Mr Speaker, I beg to move the amendment standing in my name:

*Amendment to clause 46*  
*14. Page 39, line 35 after 'registered charities' insert 'and'.*

**The Speaker:** Mr Ashford.

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

2970 **The Speaker:** Mr Hooper to move amendments 13, 15 and 16 together, please.

**Mr Hooper:** Thank you very much, Mr Speaker.  
These amendments 13, 15 and 16 will place in the Bill an exemption for small charities. This exemption will sit in the regulations that are made under this section and not in the Bill itself.  
2975 This is in common with nearly all the other exemptions in the Bill.

2980 It seems to me very appropriate that the smallest of our charities that are dealing with the smallest amounts of money should be exempt from these Registration and Regulation requirements, although it will only be from the Registration requirements as far as I understand the Bill. This exemption may also in fact cover the ecclesiastical charities we talked about earlier on as their income will be negligible, as I am led to believe. This will take the approach of replicating the UK's approach of deciding that the small charities which are defined here as charities with a gross income of less than £5,000 would not be required to register under this Act.

2985 I think we all accept that this Bill places an increased burden on charities on the Island. That is exactly the point that was made by the Lord Bishop and exactly the point that has been made by Minister Thomas and by Mr Robertshaw, that this Bill will place an increased regulatory burden on charities; and I think this burden might be too much for the smallest of our charities.

2990 The main thrust of this Bill is aimed at protecting both the public and the reputation of the Island and in my view neither of those are put at significant risk by the actions of small local charities who are not handling significant amounts of public funds. And so it seems disproportionate to subject them to the full extent of this Bill. This issue was in fact raised by a few people in the consultation – 10% of respondents, I believe – but it was dismissed simply on the grounds that it was not on the cards right now.

Mr Speaker, it is a very straightforward amendment and I beg to move:

*Amendments to clause 46*

*13. Page 39, on line 31 renumber the existing text as subsection (1) and at the beginning of the line insert 'Subject to subsection (2),'.  
Adjust cross-references accordingly.*

*15. Page 40, omit line 9.*

*16. Page 40, after line 9 insert—*

*'(2) Regulations under subsection (1) may confer a discretion on the Attorney General to determine any matter.*

*(3) Regulations under subsection (1) must provide an exemption from the requirement to register in the case of a charity which has a gross income not exceeding £5,000.*

*(4) The Attorney General may by order increase the amount specified in subsection (3)*

*(5) In this section a reference to a charity's gross income is to be read, in relation to a particular time as a reference to the charity's gross income in its financial year preceding that in which the question of the requirement to register arises.*

*Tynwald procedure for regulations under subsection (1) and orders under subsection (3) — approval required'.*

2995 **The Speaker:** Mr Shimmins.

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

I rise to second and this is an issue I raised at the Second Reading of this Bill.

3000 It is interesting to hear from Mr Harmer earlier today who suggested that this posed a very real threat to very small charities. Mr Cannan also highlighted that the high levels of bureaucracy would really make small charities struggle. So it was a slightly different context but it is the same principle, clearly.

3005 My hon. friend, Mr Hooper, has pointed out that this would be consistent with the approach – the tried and tested approach – that is adopted in the United Kingdom; and I would suggest to Hon. Members, to use the words of Mr Thomas as he said earlier, this would be eminently sensible. So I urge you to support this amendment.

Thank you.

**The Speaker:** Mr Thomas.

3010

**Mr Thomas:** Thank you.

Amendment 14 tabled by Mr Harmer makes what was a typographical correction to paragraph (a) which is a re-enactment of an existing provision. This corrects a mistake and of course I am pleased to support this amendment.

3015 Mr Hooper's, and seconded by Mr Shimmins, amendments 13 and 15 are necessary only if  
amendment 16 is approved so I am going to focus on amendment 16 as such. The basic point is  
that amendment 16 tabled inserts a number of additional provisions into clause 46 and whilst  
the proposed subclause (2) may appear non-controversial, the effect to the proposed subclauses  
3020 (3) to (5) is to require regulations to be made which will exempt small charities – those with a  
gross income of £5,000 or less.

This is a major policy change which would have a significant effect on the local charity sector  
and as such should not be brought forward without express public consultation on the principle.  
Whilst one or two accountant responses to the consultation on the Bill did suggest that there  
3025 may be clear means of exemption for small local charities, this is not the same as suggesting that  
small charities be exempted at this stage, which proposition was not raised by any respondents  
and crucially there has been no request from the charity sector or the public at large that small  
charities should be exempt from registration.

Whilst registration does bring with it a burden on the charities concerned in terms of  
complying with reporting requirements, it does provide a benefit to the public in that they have  
3030 ready access to information from the Registrar, a point that has been argued previously, as well  
as the comfort that there is scrutiny of the activities which their donations are funding. This  
benefit to the public can be a positive for the charities themselves which should not be  
discounted too lightly.

As I have already indicated, the public consultation exercise that I am initiating this week will  
3035 solicit views as to whether small charities should continue to be required to register. In terms of  
means to exempt small charities, this is already provided by clause 10(3) which provides for  
regulations to be made under clause 46 and the exemption of any charity or class of charity from  
the requirement to register under the Bill. In other words, there is proportionality already under  
the Audit Act and various other provisions of proportionality in all of this.

3040 Accordingly, at this time, I am unable to support any of the amendments to clause 46 which  
have been tabled by Mr Hooper, although I acknowledge and appreciate the raising of the issue  
in this way by this amendment. I urge Members to reject them at this stage. We can look at  
them ...

3045 Mr Gawne came to speak to all Members on behalf of the Council of Voluntary Organisations  
and he expressed satisfaction with this Bill as proposed, and his pleasure that it had been  
proposed in this way. It might be that this is a useful way forward but we certainly should not  
initiate such a major policy change at this stage.

I beg to move that clause 46 stands part of the Bill and I urge Members to support the  
3050 technical amendment from Mr Harmer, but reject the quite significant policy changes proposed  
by Mr Hooper.

**The Speaker:** I had taken that you were speaking to the amendments so I need to give the  
right of reply to the two people who have moved amendments.

Mr Harmer? No.

3055 Mr Hooper, do you wish to reply to the debate on your amendments?

**Mr Hooper:** Yes, thank you very much, Mr Speaker.

3060 It is quite interesting that earlier on we were being told there was no requirement at all to  
register small ecclesiastical charities because people were not interested. And now, apparently,  
registration would have provided people with a massive benefit if we had gone ahead with  
that – ready access to information and scrutiny of activities, which is fantastic. Mr Thomas has  
done a complete 180° on this.

3065 He also said this would be a major policy change: earlier on he said major changes in policy  
should be made here in the Branches, not in regulations, which is what he is proposing we allow  
to happen. So, again, another complete 180° from his earlier position.

3070 He is absolutely right that he did not ask in the consultation whether there should be an exemption for small charities and inevitably it is a truism that if you do not ask something you are not going to get a response on it. So the fact that there was not a wide response from the public or from the small charities on the Island is not a surprise. He mentioned that the Council of Voluntary Organisations made no representations about this. I wonder, when he does sum up on the clause, if he could confirm that that organisation does actually consist of a lot of small charities and does represent them and their interests? My understanding is that body represents primarily the larger charities on the Island and so perhaps would not have raised this as a significant issue.

3075 I think it is a simple point of principle, we accept that when you increase the level of regulation you increase the burden on small organisations and I think it is the right thing to do, to say that those small organisations should be exempted in line with what they are doing in other modern 21st century jurisdictions. Again, the existing provisions in the Act may require ... which means they allow the Attorney General to make this should he decide it is appropriate at some later date. I do not see why we should wait for that process. I cannot see small charities coming back and decrying, 'Oh, no, we demand absolutely to be regulated. We demand to have all this burden placed on us. Really, really Mr Thomas, regulate us into the ground, we would love it!'

3080 I cannot see why that would happen especially of course if there is provision to enable voluntary registrations, so if any of those charities did decide they were minded to be so regulated they could opt to do so. I do not see why this would be a problem. So as far as this goes, Mr Speaker, I think it is an eminently sensible suggestion.

3085 In respect of the rest of the clause though, I did not comment earlier and I would like to now. These regulations do allow the Attorney General to make provision for certain things, specifically requiring the keeping of records with respect to transactions and the financial position of registered charities, and for the keeping of those records on Island. It does not make specific reference to the keeping of accounts. I assume that that is covered somewhere – it is just that in all the other subsections of this it makes specific reference to the form and content of annual accounts, and so I think it would be absolutely clear whether or not these record-keeping powers underneath this Act do extend to some of those other things that are not specifically mentioned as well.

3090 Mr Speaker, I beg to move those three amendments in respect of small charities exemptions.

**The Speaker:** Mr Thomas to reply on the clause.

3100 **Mr Thomas:** Thank you.

As always, some good points made by the Hon. Member for Ramsey, Mr Hooper.

3105 To start off with, let's just put this into some sort of perspective. Let's talk about what exactly this *huge* burden is that we are imposing on charities. The only additional burden is filling out a slightly longer application form and making an annual report for which a model is provided by the Attorney General's Chamber which can be used. It is hardly a huge burden.

3110 A point that the other Hon. Member for Ramsey does not mind me sharing with this House, is that we have talked about this quite a lot, him and I, and what we think, I think, is that small charities grow up to be big charities one day and in fact it is better to make your mistakes when you are a small charity and you can do it in a safer environment than when you are a bigger charity, and so on, and so on. So, for the time being before we have this major policy debate with small charities, it is right whether we change it in primary law which is always going to be my preference for policies, or whether we change it by regulations – it is my point to actually engage with people. And it is a small point, it is a debating point, but although Mr Gawne spoke with us and he is Vice-Chair of the Council of Voluntary Organisations and he is a person with a long-standing history and experience and acknowledged expertise with regard to all sorts of

charities, small to large, and I do think I would trust his words in respect of *all* charities not just the ones that are currently members of the Council of Voluntary Organisations.

3120 And just to be completely clear on the very specific question, the records in clause 54 include all documents received by the Attorney General under this Bill, so the accounts are included in that.

I beg to move, Mr Speaker.

3125 **The Speaker:** I will put first amendment number 14 in the name of Mr Harmer. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Putting now amendments 13, 15 and 16 together in the name of Mr Hooper. Those in favour, please say aye; against, no.

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

<b>FOR</b>	<b>AGAINST</b>
Mr Baker	Dr Allinson
Miss Bettison	Mr Ashford
Mrs Caine	Mr Boot
Mr Callister	Mr Cregeen
Mr Hooper	Mr Harmer
Mr Moorhouse	Mr Quayle
Mr Peake	Mr Skelly
Mr Perkins	Mr Speaker
Mr Robertshaw	Mr Thomas
Mr Shimmins	

**The Speaker:** With 10 for, and 9 against, the ayes have it. The ayes have it.

3130 Putting clause 46, as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 47 and 48, Mr Thomas.

**Mr Thomas:** Thank you very much, Mr Speaker.

3135 Clauses 47 and 48 re-enact existing provisions under the 1989 Act regarding the winding-up of institutions by the High Court and as to the invalidity of certain transactions of charitable companies.

I beg to move that clauses 47 and 48 stand part of the Bill.

**The Speaker:** Dr Allinson.

3140

**Dr Allinson:** Thank you, Mr Speaker.

I beg to second.

3145 **The Speaker:** I put the question that clauses 47 and 48 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 49.

3150 **Mr Thomas:** Clause 49 makes provision as to the reference on a registered charity's correspondence and other documents to matters to be prescribed. This will enable charities to be required to include information such as charity number, contact details and names of trustees on its correspondence and other communication methods such as its website, social media platforms and publicity documents.

Mr Speaker, I beg to move that clause 49 stand part of the Bill.

3155 **The Speaker:** Dr Allinson.

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

3160 **The Speaker:** I put the question that clause 49 stand part of the Bill. Those in favour, please  
say aye; against, no. The ayes have it. The ayes have it.  
Clauses 50 and 51. Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.  
3165 Clause 50 re-enacts the existing offence of knowingly or recklessly to furnish any information  
which is false or misleading in a material particular.

Clause 51 sets out supplementary provisions in relation to offences under the Bill, including  
re-enacting a provision which makes certain persons connected with an institution, which is not  
a body corporate, liable for its non-compliance. In the case of an institution which is a body  
corporate, the necessary liability of persons connected with it is provided by section 54 of the  
3170 Interpretation Act 2015. Thus, it is unnecessary to repeat them in the Bill.  
I beg to move that clauses 50 and 51 stand part of the Bill.

**The Speaker:** Dr Allinson.

3175 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** I put the question that clauses 50 and 51 stand part of the Bill. Those in favour,  
3180 please say aye; against, no. The ayes have it. The ayes have it.  
Clause 52. Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.  
Clause 52 makes provision as to the delegation by charity trustees of their functions so that,  
notwithstanding that a particular charity is not constituted as a trust to which the provisions of  
3185 the Trustee Act 2001 apply, only those functions which are described as 'delegable functions' in  
section 11(2) of that Act, i.e. those which may be delegated by the trustees of a charitable trust,  
may be delegated by charity trustees.  
I beg to move that clause 52 stand part of the Bill, Mr Speaker.

3190 **The Speaker:** Dr Allinson.

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

3195 **The Speaker:** I put the question that clause 52 stand part of the Bill. Those in favour, please  
say aye; against, no. The ayes have it. The ayes have it.  
Clauses 53 and 54. Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.  
3200 Clauses 53 makes provision as regards approved forms to be used for the submission of  
information and clause 54 makes provision as regards the keeping of records by the Attorney  
General, and for their destruction.  
I beg to move that clauses 53 and 54 stand part of the Bill.

3205 **The Speaker:** Dr Allinson.

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

**The Speaker:** Mr Hooper.

3210 **Mr Hooper:** Thank you very much, Mr Speaker.

I would be grateful if the Minister could confirm that the keeping of the records under this clause actually enables the Attorney General to continue to publicise those records and the information that is held, as that actually is not specifically mentioned in the clause, enabling this information to be made public.

3215 Thank you.

**The Speaker:** Mr Thomas to reply.

**Mr Thomas:** Thank you, Mr Speaker.

3220 I guess I can confirm that the purpose of prescribing information to be held on a register is so that institutions can be required to provide it. Once that information is provided it forms part of a public authority's records and thus subject to general disclosure provisions. I was asked earlier about specifics of removal and that sort of change – the removal of a charity from the register does not mean that it will be expunged from the record. The intention is that the register will  
3225 include a notation that a charity has been removed together with the date, circumstances, etc. The records will continue to be held for at least 25 years and may form part of the Island's public records if accepted by the Public Record Office.

Any removal will be publicised on the website and I can confirm that it is the Attorney General's intention to do everything possible to use the website and to make the website as  
3230 good as possible, and to use access to officers whenever possible to actually make sure all this information is as easily available as it possibly can be, given resources.

I beg to move.

**The Speaker:** Thank you.

3235 I put the question that clauses 53 and 54 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 55, Mr Thomas.

**Mr Thomas:** I turn now to clause 55 which, to enable the efficient use of public resources,  
3240 empowers the Attorney General to enter into arrangements with the Registrar General for the provision of services in connection with the delivery of the Attorney General's functions under the Bill, which will enable the register to be hosted within the Central Registry in the Department for Enterprise, thus taking advantage of existing IT provision.

Mr Speaker, I beg to move that clause 55 stand part of the Bill; and just to say actually that I  
3245 think it is subject to the Appointed Day Order on the Central Registry Act.

**The Speaker:** Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

3250 I beg to second.

**The Speaker:** I put the question that clause 55 stand part of the Bill. Those in favour, please  
say aye; against, no. The ayes have it. The ayes have it.

Clause 56, Mr Thomas.

3255

**Mr Thomas:** Clause 56 makes provision as regards the refusal of unacceptable documents.  
I beg to move that clause 56 stand part of the Bill.

**The Speaker:** Dr Allinson.

3260 **Dr Allinson:** Thank you, Mr Speaker.  
I beg to second.

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

3265 Clauses 57 to 59, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

Clauses 57 to 59 provide for the disclosure of information between public authorities and the Attorney General for the purpose of enabling them to discharge their respective functions.

3270 I beg to move that clauses 57 to 59 stand part of the Bill.

**The Speaker:** Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

3275 I beg to second.

**The Speaker:** I put the question that clauses 57, 58 and 59 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Thomas.

3280

**Mr Thomas:** Thank you, Mr Speaker.

As the substantive provisions of the Bill have now been adopted I shall turn to clause 3, which sets out the interpretation of certain terms used in the Bill.

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

3285

**The Speaker:** Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

I beg to second.

3290

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

Finally, I call on Mr Thomas to move clauses 60 to 69.

3295 **Mr Thomas:** Thank you, Mr Speaker.

Clauses 60 to 69 provide for certain consequential amendments as well as for the repeal of the Charities Registration Act 1989.

I would like to thank my seconder, Dr Allinson. I would like to thank everybody who has contributed to this debate. And with that, Mr Speaker, I beg to move that clauses 60 to 69 stand part of the Bill.

3300

**The Speaker:** Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

3305 I beg to second.

**The Speaker:** I put the question that clauses 60 to 69 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes consideration of clauses of the Charities Registration and Regulation Bill.