

## Order of the Day

### 2. Regulation of Care (Amendment) Bill 2019 – First Reading approved

Mrs Sharpe to move:

*That the Regulation of Care (Amendment) Bill 2019 be read a first time.*

**The President:** Item 2, Regulation of Care (Amendment) Bill, First Reading. Hon. Member, Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President.

Hon. Members, I am pleased to move the First Reading of the Regulation of Care (Amendment) Bill 2019.

The Regulation of Care (Amendment) Bill 2019, which I will refer to as ‘the Bill’, is receiving its First Reading in the Legislative Council rather than another place for the following reasons. Firstly, it is to ensure that there is a fair balance of Bills between the Branches. This, it is hoped, will prevent another place from becoming unnecessarily overloaded, to prevent delay in the progression of legislation. Secondly, the Bill is purely technical in nature and no change in policy is being effected.

The Bill amends the Regulation of Care Act 2013, which I will refer to as ‘the Act’, which makes provision for the registration and regulation of care services and consequently the Employment Agencies Act 1975. Section 52 of the Act makes it an offence for a person to carry on an independent medical agency or a nurses’ agency unless they are registered with the Department of Health and Social Care, which I will refer to as ‘the Department’, in accordance with the provisions of the Act.

The Department is introducing this Bill to amend the definitions of ‘independent medical agency’ and ‘nurses’ agency’ in sections 28 and 29 respectively of the Act. The Bill will exclude from the definitions of an independent medical agency and nurses’ agency businesses supplying or introducing doctors, nurses and midwives solely to the Department. The exclusion of those businesses from the definitions will ensure that the Department retains the ability to recruit essential temporary medical staff, who will help provide vital health and care services on the Island. Without the amendments proposed in this Bill, the requirement for those agencies to register with the Department would remain.

To give some background to this, it was never the intention of the Act to capture businesses that supply and introduce nurses and doctors solely to the Department. This anomaly was recognised by the Department, with assistance from the Attorney General’s Chambers, when work was being undertaken to establish a framework for employment agencies supplying staff. As this anomaly has only recently been highlighted, the Department has not historically required such businesses to register and nor would it wish to. The Department already requires agencies supplying staff solely to the DHSC to register with the Registration and Inspection Unit. It would be highly likely that the registration process and associated fee would deter such businesses from operating on the Island.

Many of these businesses have an established longstanding relationship with the Department. It would be a considerable risk if the Department were to now enforce the registration requirement. Any such action could lead to a significant shortage of essential health care workers, which would in turn hinder the Department’s ability to provide vital health care services.

Hon. Members will be aware that one of the five themes of the Programme for Government 2016 to 2021 is a Healthy and Safe Island, two outcomes of which are to improve services for people who really need care in hospital, and to work to ensure that everyone receives good-value health and social care services. In the Department's 'Health and social care in the Isle of Man – the next five years', the third strategic goal is to improve services for people who really do need care in hospital; and the fifth strategic goal is to ensure people receive good-value health and social care.

Mr President, I beg to move that the Regulation of Care (Amendment) Bill 2019 be read for the first time.

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

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

**The President:** Mr Henderson.

**Mr Henderson:** Thank you, Eaghtyrane.

I would just like to clarify from the Hon. Member: what it seems to me to be doing in a brief overview is rectifying a situation with recruitment agencies. (**Mrs Sharpe:** Yes.) Basically – so that they do not fall foul of trying to be professionally registered, in other words, and they can, as would doctors and nurses, apply to the Department's register anyway in a registration process, so that they can actually carry on being a recruitment agency, trying to recruit staff at the request of the DHSC – in loose terms.

**Mrs Sharpe:** I am wondering if the Hon. Member, Mr Henderson, would mind just summing up his last statement please.

**Mr Henderson:** Yes, I am just clarifying basically that we are dealing with predominantly recruitment agencies that the Department use to recruit staff from. The current position is that there is a potential through the current legislation that they have to somehow register with the Department under the Regulation of Care Act, say as a chiropractor has to. And in reality, there is no need for them to do this at all because they are a private employment agency that undertakes recruitment.

**Mrs Sharpe:** That is correct, Hon. Member, and also if they are supplying staff solely for the DHSC, they have to register anyway.

**Mr Henderson:** Right, okay. Thank you.

**The President:** Mr Cretney.

**Mr Cretney:** Yes, I am sure that this is an acceptable move. Just for clarification, this would not affect in any way the fact that the Department would be able to check out the validity of any professional people who want to be used by the Department, by not requiring them to register?

And secondly, I just express a little concern about the use of agencies, inasmuch as there have been a number of social workers used by the Department who have had no knowledge or little knowledge of Isle of Man legislation, and this is a concern sometimes.

**The President:** Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President.

To answer the Hon. Member, I understand where he is coming from with his first question and that was also a question which I had. But there is no way that this Bill would in any way, shape or form affect the registering of the agencies, which need to register with Registrations and Inspections anyway.

As far as agency staff are concerned, it is true that we, as a Department, are trying to reduce use of agency staff but agency staff may ... There is always a need, for example, with private care homes, etc. for private agency staff.

Thank you.

**The President:** Mrs Maska.

**Mrs Maska:** Thank you, Mr President.

Again for clarity really from the Hon. Member. I do share my colleague, the Hon. Mr Cretney's concerns about the scrutiny of qualifications of medical practitioners, who would be coming to work on the Island. I wonder if the Hon. Member could clarify what the current position is: are the agencies that we are talking about all based off Island? Are some on Island? And given that there has been no deemed requirement for a consultation, has there been any engagement with those stakeholders who are engaged in this process at the moment and how that might affect them?

Thank you, Mr President.

**The President:** Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President.

There has been no consultation, because this Bill will not actually cause any difference in the mechanisms which are already in place. The Bill is very technical in nature and it is just rectifying an anomaly in an existing Act.

**Mrs Maska:** Thank you, Mr President.

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

**Mrs Poole-Wilson:** I wanted to actually just put on record and reflect on the fact that even though this is a technical change to correct an anomaly, the impact assessment that has accompanied the Bill, setting out the different options that were considered to correct this anomaly, I have found to be extremely helpful so that we have understood why this has come before us as primary legislation, as opposed to any of the other options. I just wanted to put that on record and see if the Hon. Member wanted to make any comment on that, but I suppose I would express that I would hope to see more impact assessments of this nature coming forward to assist in the scrutiny of legislation and the options and direction that has been chosen.

Thank you, Mr President.

**Mrs Maska:** Hear, hear.

**The President:** Mrs Sharpe.

**Mrs Sharpe:** Yes. Thank you, Mr President.

I would agree with the Hon. Member. I think that, clearly, to have this impact assessment takes you through the thought processes which have led to this decision and that is very useful to understand.

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

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

I would just like to ask the Member moving the Bill – and accepting that it is well within the right of Legislative Council to receive Bills before Keys – but I wondered if perhaps you might be able to explain why this particular piece of legislation, in its technical nature, has been received by Legislative Council first before having gone to the policymakers before – usually seeing that we might see it following that.

**The President:** Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President.

To answer the Hon. Member, it was felt that once this anomaly had been spotted, it really did need to be dealt with as soon as possible because the Department did not wish there to be a situation whereby agencies which have been supplying staff solely to the DHSC would suddenly have to register under this Act and pay fees, as this could put agencies off and the Department relies on agency staff at the moment.

Also, it was felt that because it was purely technical in nature, it could perhaps pass more swiftly through if it started its life in Legislative Council, especially at the moment in this current climate where we are not swamped with legislation.

**Miss August-Hanson:** Thank you.

**The President:** Thank you. Mrs Lord Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

I am taking the introduction of the Bill to Legislative Council absolutely at face value as an opportunity to rectify a single small issue as it was described by the learned Attorney and also explained by the hon. mover. I actually think it is quite helpful, when there are these things identified, if it is thought a useful and helpful function of the Legislative Council to be able to fix a piece of legislation where it is known that it is something that is not actually a policy question, but something that has gone awry and needs to be corrected. I think that is a useful function that we can play.

I also welcome the impact assessment very much: that can help guide us in what we are doing and where we should look to for the level of appropriateness, in terms of the other options considered.

I did actually speak to the Member who was the Minister at the time of when the original Regulation of Care Act 2013 passed through the Branches. It was a very substantial piece of legislation at over 100 pages long. These things will happen and actually if there is a role that we can play to aid the other place and get things going, I am satisfied that we do that here and I welcome all the information that has been provided.

Thank you, Mr President.

**The President:** Mrs Sharpe, you may reply to the debate if you wish.

**Mrs Sharpe:** Thank you, Mr President.

I thank Hon. Members for their contributions. I think that the Bill is very short in nature and I do not really have anything further to add, other than to thank Hon. Members for their understanding.

Thank you.

**The President:** Hon. Members, I put to Council the question that the Regulation of Care (Amendment) Bill be read for the first time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.