

**3.1. Property Service Charges (Amendment) Bill 2019 –
Third Reading approved**

Mr Harmer to move.

That the Property Service Charges (Amendment) Bill 2019 be read a third time.

The Speaker: Item 3, Bill for Third Reading, Property Service Charges (Amendment) Bill 2019. I call on Mr Harmer to move.

Mr Harmer: Thank you, Mr Speaker.

Firstly, I would like to thank Members for supporting this Bill during last week's sitting of this House to consider the clauses of this Bill.

This Bill was brought about as a response to a recommendation of a Tynwald Select Committee which considered that an extension of the Property Service Charges Act 1989 should apply to freehold property in certain circumstances of contract. This is in order to allow an appeal to the Isle of Man Rent and Rating Commissioners for a determination with regard to the reasonableness of expenses which make up a service charge.

This Bill seeks to implement that recommendation by enabling the Department to apply, by order, the Property Service Charges Act 1989 to the owners of freehold dwellings who are legally obliged to pay a service charge through the possession of the freehold. This may, amongst other things, enable such persons to apply to the Isle of Man Rent and Rating Appeal. Commissioners for determination on the reasonableness of the service charge as tenants of dwellings subject to service charges may already do so under the Act.

During last week's consideration of the Bill, the Member for Ramsey, Mr Hooper asked what is the difference between a person who has a right to enforce payment of a service charge and a person to whom a service charge is payable by the specified person. I would like to provide further clarity to this issue.

I can confirm there is a difference; however, it is a very subtle difference. Firstly, it has to be remembered that the Property Service Charges Act is intended to deal with the landlord and tenant relationship. The landlord has a right to apply a service charge as a condition of the lease, for example to maintain the common areas and attributes of a property. Failure to adhere to the terms of the lease may result in the forfeiture of the tenant's interest to the landlord. In respect of a person to whom a service charge is payable by a specified person, this is dealing with the relationship between a freeholder of a property and a landowner/management company who may look after the common areas of an estate, such as unadopted spaces or highways, or deliver a particular service to that freeholder etc. A service charge may be written into the deeds of the property and therefore it becomes a covenant of the property for the freeholder to pay the landowner or a management company a service charge to maintain those areas. The landowner or management company could seek resolution on the matter through the courts, who could determine that the said charge is unreasonable and therefore the charge is not payable by the freeholder.

Finally, I would like to thank my seconder, Ms Edge, for seconding this Bill.

Mr Speaker, I beg to move that the Bill is read a third time.

The Speaker: Ms Edge.

Ms Edge: I beg to second and reserve my remarks.

The Speaker: I put the question that the Property Service Charges (Amendment) Bill 2019 be read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.