



# LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH

# PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 24th February 2015**

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**Volume 132, No. 8**

**ISSN 1742-2272**

**Present:**

**The President of Tynwald (Hon. C M Christian)**

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),  
Mr R P Braidwood, Mr D M W Butt, Mr M R Coleman, Mr C G Corkish MBE,  
Mr E A Crowe, Mr A F Downie OBE, Mr J R Turner and Mr T P Wild  
with Mr J D C King, Clerk of the Council.

**Business transacted**

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# Legislative Council

*The Council met at 10.30 a.m.*

[MADAM PRESIDENT *in the Chair*]

**The President:** Moghrey mie, Hon. Members.

**Members:** Moghrey mie, Madam President.

5 **The President:** The Lord Bishop will lead us in prayers.

## PRAYERS

*The Lord Bishop*

### Leave of absence granted

**The President:** Hon. Members, the learned Acting Attorney General has leave of absence to attend a conference.

## Order of the Day

### 1. Designated Businesses (Registration and Oversight) Bill 2014 – Second Reading approved

Mr Braidwood to move:

*That the Designated Businesses (Registration and Oversight) Bill 2014 be read a second time.*

10 **The President:** So, we turn now to the Designated Businesses (Registration and Oversight) Bill, for Second Reading. I call on the Hon. Member, Mr Braidwood.

**Mr Braidwood:** Thank you, Madam President.

15 Madam President, the Designated Businesses (Registration and Oversight) Bill 2014 seeks to provide the Financial Supervision Commission with new powers and duties relating to the oversight of compliance with anti-money laundering and countering the finance of terrorism legislation by designated businesses, in order to address deficiencies identified by assessors of the International Monetary Fund in 2008, which resulted in the Island being rated partially compliant with the Financial Action Task Force recommendations 22 and 23.

20 MONEYVAL is due to assess the Island in 2016 and therefore the implementation of this Bill is critical to enable the Island to demonstrate its compliance with international standards and prevent an adverse rating in MONEYVAL's report. Designated businesses are already subject to the AML/CFT legislation, but to date little or no oversight of compliance with that legislation has taken place.

25 The effect of this Bill is to place responsibility for that oversight with the FSC. It should be noted that responsibility for designated businesses' core activities will remain with the relevant professional bodies. The Bill has been the subject of wide consultation and all comments received, which related mainly to how the Bill will be implemented and what fees would be charged, have been addressed.

30 The Bill will place some additional administrative burdens on designated businesses, such as the submission of annual returns. In addition, designated businesses will be required to pay a registration fee to the FSC, which is expected to be in the region of £250 to £500. An annual fee will also be payable, either to the FSC or, where oversight is delegated to a professional body, to that body.

35 The Bill makes consequential amendments to the Financial Services Act 2008, and the Insurance Act 2008, in respect of the registration and oversight regime and to address some deficiencies identified in recent enforcement cases. The Bill also makes a specific amendment to the Proceeds of Crime Act 2008, to enable the three Island regulators, the FSC, the Insurance and Pensions Authority and the Gambling Supervision Commission as well as the Office of Fair Trading to take civil proceedings in relation to the assessment of a person's, fitness and propriety. Madam President, my hon. colleague in Council, Mr Downie, will be moving two amendments to the Bill at clauses. The first addresses a definitional issue and the second corrects a drafting error in a consequential amendment to the Financial Services Act 2008.

40 Madam President, I beg to move that the Designated Businesses (Registration and Oversight) Bill 2014 be now read a second time.

45 **Mr Crowe:** Madam President, I beg to second, and reserve my remarks.

**The President:** The motion is that the Bill be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We turn now to clauses.

#### **Designated Businesses (Registration and Oversight) Bill 2014 – Clauses considered**

50 **Mr Braidwood:** Thank you, Madam President.

55 Madam President, as outlined in the Second Reading, the Designated Businesses (Registration and Oversight) Bill 2014 seeks to provide the Financial Supervision Commission with new powers and duties relating to anti-money laundering and countering the financing of terrorism. The Bill has 37 clauses in four parts, as well as three schedules.

Madam President, clause 1 provides for the short title of the Bill.

Madam President, I beg to move that clause 1 stands part of the Bill.

60 **Mr Crowe:** I beg to second Madam President, and reserve my remarks.

**The President:** The motion is that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2.

65 **Mr Braidwood:** Thank you, Madam President.

Clause 2 provides for the Bill's commencement. The Bill will come into operation on days specified in orders made by the FSC.

Madam President, I beg to move that clause 2 stands part of the Bill.

70 **Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 2, stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

75 **Mr Braidwood:** Thank you, Madam President.

Clause 3 provides general definitions for the Bill. It also specifies the legislation that is included in the concept of AML/CFT legislation and relevant Act, which may be amended by subordinate legislation.

80 Madam President, I beg to move that clause 3 stands part of the Bill.

**Mr Crowe:** I beg to second and reserve my remarks, Madam President.

85 **The President:** The Hon. Member, Mr Downie

**Mr Downie:** Thank you, Madam President.

As a result of the Interpretation Bill currently progressing through the other place, I propose an amendment to clause 3 of this Designated Businesses (Registration and Oversight) Bill 2014.

90 This Bill seeks to ensure that the Financial Supervision Commission is able to oversee how certain businesses and professions or designated businesses comply with the Island's anti-money laundering and countering the financing of terrorism legislation. Many of these designated businesses will be unincorporated associations. In the Interpretation Act 1976, person includes unincorporated associations. However, under the Interpretation Bill, 'person' does not extend to such associations. As the Interpretation Bill is likely to receive Royal Assent before the Designated Businesses  
95 (Registration and Oversight) Bill 2014, it is important to include a definition of 'person' which continues to include unincorporated associations. This change is necessary so that unincorporated associations can register under the Bill, rather than have each individual having to register in their own right.

Madam President, I beg to move the amendment to clause 3 standing in my name:

*Amendment to clause 3*

*Page 11, after line 23 insert —*

*“person” includes any body of persons, whether incorporated or unincorporated, as well as an individual;’.*

100 **Mr Butt:** I beg to second, Madam President.

**The President:** Thank you.

I have put first the amendment, Hon. Members. Those in favour of the amendment in the name of Mr Downie, please say aye; against, no. The ayes have it. The ayes have it.

105 I now put the clause as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4 and schedule 1.

**Mr Braidwood:** Thank you, Madam President.

110 Clause 4 provides the definition for 'designated businesses' by reference to schedule 1, which may be amended by subordinate legislation. This is so that it can keep track with any new types of business that may, in the future, be brought within the scope of AML/CFT legislation.

Madam President, I beg to move that clause 4 and schedule 1 stand part of the Bill.

115 **Mr Crowe:** I beg to second and reserve my remarks, Madam President.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you.

120 Two queries for the mover, if I may? The consultation with all the businesses listed in this schedule, including estate agents: can you give any feedback as to how they received this? They now do regulator and pay fees.

Secondly, the term 'lawyer' is used. Now, as far as I know in the Isle of Man, the word 'lawyer' is never used. It is always 'advocate'. I think it is the Advocates Act that actually regulates advocates.

125 So I wonder why the word 'lawyer' is used, rather than 'advocate', because that is not a Manx term.

Thank you, Madam President.

**The President:** The Hon. Member, Mr Turner.

130 **Mr Turner:** Thank you, Madam President.

My question relates to the schedule, paragraph (1)(h). It says:

'the business of dealing in goods or services of any description (including dealing as an auctioneer) whenever a transaction or series of linked transactions involves accepting a total cash payment (in any currency) that is equivalent to at least €15,000.'

I just wondered how that impacts on retail, because in theory, any product or service could be purchased using cash. So, reading this, would it be the moment they accept a transaction, they then have to register? I am just not clear on whether that is the purpose of that particular paragraph,  
135 because if so, it is a bit open-ended, that they can, in fact, then regulate just about anybody. (**A Member:** Car dealers.) Yes, car dealers was one I had in mind, and there are other such larger items that people... I know there are still quite a lot of people actually pay cash these days.

**The President:** The Hon. Member, Mr Coleman.

140

**Mr Coleman:** Thank you, Madam President.

I wonder if I could just ask the mover if there is a definition anywhere of the 'series of linked transactions'. Does that have to be within a certain time frame? What is the definition of a linked transaction?

145 Thank you.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

150 I would just like to ask my hon. colleague, again, what was the reaction of the participants in the consultation that forms schedule 1? I would merely comment on the fact that I would say that a transaction involving cash nowadays is unusual, because of the fact that you have got electronic payments and you would not be carrying that sort of amount around in your back pocket.

155 **Mr Turner:** You would be surprised. *(Laughter)*

**A Member:** Mr Turner does. *(Laughter and interjections)*

**The President:** The mover to reply.

160 **Mr Braidwood:** Thank you, Madam President.

Madam President, there was wide consultation. In actual fact, it was extended. It was for eight weeks, and then it was extended for another four weeks, with as many bodies as possible, which were as you can see in schedule 1, where these businesses have to be registered. So there was extensive consultation.

165 On the question of 'lawyer' and 'advocate', I think it depends on the interpretation. I think, Madam President, we have been putting legislation through which says 'judge', and of course, in the Isle of Man, it is always 'Deemster'. So, through the interpretation of 'judge', it is interpreted as 'Deemster'. So, I presume that 'lawyer' again through the interpretation will be 'advocate'.

170 On the question of Mr Turner and the €15,000, I think my hon. colleague in Council, Mr Butt, mentioned such as car traders, where somebody could go and purchase a vehicle and then go down the road and resell it to another person. And, of course, that is like laundering the money.

175 Also, I think, as well, with cash payments are already covered by the anti-money laundering legislation, because if you go to any bank, post office and you try to put money in, you are only allowed to put in up to a certain level. If you go over more, you are then asked where you got this money from, and there is investigation that way.

Mr Coleman mentioned a series of linked transactions. I am just looking if there is anything which I am passed here...

180 My own presumption on the series of linked transactions is the same as if you are purchasing something and then you are trying to sell it to another car dealer, and then it goes down the chain of trying to launder the money. So, I hope that explanation, in my response to the queries, is satisfactory to such as Mr Coleman.

The linked transactions are also defined, Madam President, in the anti-money laundering legislation already available. And lawyers, it is because it needs to cover UK solicitors as well. So, the definition covers notaries, advocates and foreign lawyers.

185 So with that, Madam President, I would like to move clause 4 and schedule 1 stand part of the Bill.

**The President:** The motion is that clause 4 and schedule 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

190 Clause 5.

**Mr Braidwood:** Thank you, Madam President.

195 Clause 5 sets out the functions of the FSC under the Bill, which are to assess compliance by designated businesses with existing AML/CFT legislation and investigate potential breaches of that legislation, which may give rise to criminal liability.

Madam President, I beg to move that clause 5 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President and reserve my remarks.

200 **The President:** The motion is that clause 5 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it

Clause 6.

**Mr Braidwood:** Thank you, Madam President.

205 Clause 6 provides for the FSC to delegate certain functions under the Bill to any persons it considers appropriate. It also provides for how such delegation will operate.

Madam President, I beg to move that clause 6 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President and reserve my remarks.

210 **The President:** The motion is that clause 6 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 7.

**Mr Braidwood:** Thank you, Madam President.  
215 Clause 7 makes it an offence to carry on a designated business, either in, or from, the Island unless the business is registered, acts in accordance with that registration and complies with the AML/CFT legislation. The clause defines 'carrying on a designated business'.  
Madam President, I beg to move that clause 7 stands part of the Bill.

220 **Mr Crowe:** I beg to second, and can I just mention at this point, at the First Reading I did mention crypto currencies, which seems to be a growth industry in the Isle of Man and I know the hon. mover mentioned that it would be taken as secondary legislation in Tynwald. Perhaps, for the record, he could just confirm how this would be implemented in secondary legislation if that is available, Madam President.

225 **The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Yes, thank you, Madam President.  
In this section, I am interested in subsection (2), where it says:

'A person is treated as carrying on a designated business – ...  
(b) from the Island if the person is – ...  
(vii) an individual resident ... and carries on a designated business outside the Island.'

230 So, if somebody has got a business somewhere else, but they live here, then is this saying that they have to then be registered under this because, I mean, are we able to do that? Where a resident has registered somewhere else or operates somewhere else, how really can that be pursued and enforced?

235 **A Member:** It doesn't cover.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.  
240 I was going to ask a similar question, but in the list of those in the schedule, there will be some businesses out there who do not know about this legislation and perhaps have not registered. Will there be any form of amnesty to actually give them time to register, or what are the Commission going to do to try to capture them and find out who is out there to let them become registered? Because at the moment as soon as this becomes law, they will be committing an offence.

245 **Mr Braidwood:** Six months.

**The President:** The mover to reply.

250 **Mr Braidwood:** Thank you, Madam President.  
In response to Mr Crowe, I did give an explanation at the First Reading. A number of businesses, for example, virtual currency businesses are not included in schedule 4 to the Proceeds of Crime Act 2008 and are therefore not currently subject to the AML/CFT legislation. Although amendments are being drafted to include these as soon as possible after the Bill receives Royal Assent and subject to the approval of Tynwald, schedule 1 to the Bill will be amended by order to include these additional businesses. (**Mr Crowe:** Thank you.) So I did check on that when Mr Crowe raised it, Madam President.  
255

260 In response to Mr Turner, it is only businesses which are from the Isle of Man which have to be registered. If you are resident in the Isle of Man, but have a business which is from the UK, this Bill does not apply to it.

And in regard to Mr Butt, they have six months to register. So if the Act is brought in and a person is carrying on a designated business, they have six months to register with the FSC.

265 **The President:** Yes, Mr Turner.

**Mr Turner:** Can I come back? Madam President, thank you.

I am just a little bit confused about you saying that the Member says it does not cover it, but it says here, 'an individual resident in the Island and carries on a designated business outside the Island'.

270 **Mr Braidwood:** Yes, then he is covered. If the business is registered in the Isle of Man and he is doing work outside of the Island, he is registered. If the business was in the UK, it is the other way. He does not have to. The Bill does not apply.

275 **The President:** Thank you for that clarification.

The motion is that clause 7 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

280 **Mr Braidwood:** Thank you, Madam President.

Clause 8 requires that a person who intends to carry on a designated business must apply to the FSC to be registered, unless they are exempted from that requirement. The clause enables the FSC to specify the format for applications and for accompanying information. Applicants may be required to provide additional information and they must notify the FSC of any alteration or inaccuracy in any information supplied, which may materially affect the applications. Applications may be withdrawn.

Madam President, I beg to move that clause 8 stands part of the Bill.

290 **Mr Crowe:** I beg to second and reserve my remarks, Madam President.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

295 May I just ask my hon. colleague, Mr Braidwood, is there any feel for the volumes of registration that will come through, in terms of numbers and resource needed to actually manage the process?

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you.

300 May I just go back to the six months again? I cannot see anything in the Bill which gives six months' leeway – maybe I am wrong – so it is important that it goes on the record that is this what the Commission are planning to do, to give a six months' leeway. I think that it is important that it is recorded.

305 **Mr Braidwood:** Yes. It is a transitional period and they will have six months to apply from when the Bill becomes law.

**Mr Butt:** It is not in the Bill itself.

310 **Mr Braidwood:** Madam President, I have read it to you in the Bill and I am trying to think what clause – *(Interjection by Mr Butt)* It is clause 36, Madam President, which provides transitional provisions and it says it enables a person who applies for registration within six months of clause 7 coming into operation to continue to carry on a designated business until the application is finally determined.

315

**Mr Butt:** Thank you, apologies, I did miss that. Thank you.

**The President:** The mover jumped in. Did anybody else wish to speak before we move on?

320 **Mr Braidwood:** Sorry, it was with Mr Butt, who wanted a clarification on the previous clause, Madam President.

**The President:** Yes, yes, okay. The motion is that clause 8. do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

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**Mr Braidwood:** There is only one clarification, Madam President. I think Mr Wild –

**The President:** I have already taken the clause, sir.

330

**Mr Braidwood:** Right, sorry.

**The President:** Clause 9.

335 **Mr Braidwood:** Clause 9 requires that on application the FSC must either register an applicant with or without conditions, or refuse the application if the FSC is not satisfied that the applicant or a specified person of the applicant is fit and proper, or the application is not made in accordance with clause 8, application for registration.

The clause details circumstances where an applicant may not be a fit and proper person and enables the FSC to publish guidance setting out the criteria. It will normally apply when assessing whether to refuse registration or to attach conditions to any registration. The FSC must inform the applicant of its decision and if registration is refused, it must give written reasons for the refusal.

340 Registration remains effective until revoked under clause 11 or until a person is deregistered under clause 12. A person may appeal to the Financial Services Tribunal, against the FSC's refusal to register it.

345 Madam President, I beg to move that clause 9 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

350 **The President:** The motion is that clause 9 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 10.

**Mr Braidwood:** Thank you, Madam President.

355 Clause 10 enables the FSC to attach conditions to any registration and to amend or revoke any such conditions, or to attach new conditions. The FSC must give the registered person notice of, and reasons for, attaching a condition or changing a condition. A person may appeal to the Financial Services Tribunal regarding any conditions on its registration.

Madam President, I beg to move that clause 10 stands part of the Bill.

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**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 10 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

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**Mr Braidwood:** Thank you, Madam President.

Clause 11 details the circumstances when the FSC may revoke registration and permit an appeal to the Financial Services Tribunal against revocation. When a registration is revoked, the FSC must notify the registered person in writing, giving reasons for the decision, and must, as soon as practicable, take appropriate steps to notify the public. Where the decision to revoke is based on a registered person's failure to comply with AML/CFT legislation, the FSC may refer the matter to the Attorney General for potential proceedings under the AML/CFT legislation.

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Madam President, I beg to move that clause 11 stands part of the Bill.

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**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

380

As with lots of legislation that comes through, it is designed for a certain purpose. Can we have the mover's assurance that we are not going to see the regulator use this as a sledgehammer to crack a nut? We have seen in other anti-terrorism legislation being used for things by local councils, spying on people, what they are putting in wheelie bins and things. If you take that principle, you are looking at prosecuting firms for non-compliance. Can we have assurance that there is a scale of non-compliance and we will not be seeing silly prosecutions over minor matters and that this is used for the intention that it is set out for, when it comes to comes to referring matters for proceedings.

385

**The President:** The mover to reply.

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**Mr Braidwood:** Thank you, Madam President.

I think, Madam President, this was raised by Mr Turner at the First Reading and I assured him that we have had robust talks with the FSC and, as I have already said, there was wide public consultation. In actual fact, because of this Bill, it is a lot narrower now with the AML/CFT legislation and, of course, a lot of the oversight will be delegated to their own bodies, such as with the accountants, such as with the lawyers. That came through, Madam President, on clause 6, where the FSC intends to delegate the power of inspection, such as to the Law Society, the Institute of Chartered Accountants in England and Wales, the Association of Chartered Certified Accountants, the Institute of Financial Accountants and the Institute of Certified Bookkeepers with regard to possible delegation of inspection powers. So, this is going to be a light touch of the FSC, Madam President.

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400

I beg to move.

**The President:** The motion is that clause 11 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

405

Clause 12.

**Mr Braidwood:** Thank you, Madam President.

Clause 12 enables the FSC to deregister a person if the person has ceased to carry on any designated businesses and requests to be removed from the register, or if the FSC is satisfied that the person no longer needs to be registered, an appeal may be made to the Financial Services Tribunal against deregistration.

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Madam President, I beg to move that clause 12 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

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**The President:** The motion is that clause 12 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Part 3, clause 13.

**Mr Braidwood:** Thank you, Madam President.

Clause 13 requires a registered person to submit an annual return in the form specified by the FSC and an annual fee, as prescribed.

Madam President, I beg to move that clause 13 stands part of the Bill.

**Mr Crowe:** I beg to second and reserve my remarks, Madam President.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

If I could ask the Hon. Member of Council, Mr Braidwood whether he can give me the reassurance that the Commission is adequately resourced for this additional work, please.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Yes, it is just a comment really. Of course, we have seen, certainly this administration, with any excuse to raise fees and here is another one. It is, of course, an extra bureaucracy that businesses are going to have to cope with. I just wondered whether the mover could explain whether there are similar processes for these returns and fees and what other jurisdictions operate this regime, and if he could maybe explain that?

Thank you.

**The President:** The mover to reply.

**Mr Braidwood:** Thank You, Madam President.

It will be proportional, the fees. The FSC are resourced: they will be able to cope with all the work, which will be going on with their oversight within the own resources, at the present time. I mentioned, at the First Reading, that the annual fee will be up to £1,000, but it will be graded. (**Mr Wild:** Thank you, you.)

And in response to Mr Turner, in other jurisdictions, we are applying this because this is one of the reasons we are bringing it in because of the Financial Action Task Force and with the IMF report and with MONEYVAL coming in in 2016. But fees, yes, Jersey and Guernsey operate as does the UK, but we are a lot cheaper, Madam President, than those other jurisdictions.

**Mr Corkish:** Value for money.

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**Mr Braidwood:** I beg to move, Madam President.

**The President:** The motion is that clause 13 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 14.

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**Mr Braidwood:** Thank You, Madam President.

Clause 14 empowers the FSC to undertake inspections and investigations at a registered person's premises to assess the extent to which that person meets the requirements of the Bill, the AML/CFT legislation and the registered person's own compliance procedures. The FSC has powers of entry and

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access to investigate a registered person's transactions, inspect its books, accounts and documents and take copies of the same. These powers may also be exercised in relation to an unregistered person who is suspected of carrying on designated business.

Madam President, I beg to move that clause 14 stands part of the Bill.

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**Mr Crowe:** I beg to second and reserve my remarks, Madam President.

**The President:** The Hon. Member, Mr Turner.

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**Mr Turner:** Thank you, Madam President.

Where it says about inspecting the books, accounts and documents, this is section 14(2), it talks about the 'transactions of a registered person'. Now, the registered person, obviously, from earlier on is the entity, the business or the individual. Does that extend, where it says here the transactions of the registered person, to their personal transactions and documents? In other words, the registered person in the definition is the entity carrying on the business, but if there was a suspicion that that person, in a private capacity may be involved in something, do the powers extend to the private affairs of that person, if it is an individual?

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**The President:** The mover to reply.

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**Mr Braidwood:** Thank you, Madam President.

In response to Mr Turner, the transactions which are on the carrying on of the registered business... however, if, Madam President, the transactions of the registered business will be looked at under the AML, but on private transactions, if it is not relevant to any anti-money laundering legislation, then they cannot look at private transactions.

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**The President:** The motion is that clause 14 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

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**Mr Braidwood:** Thank you, Madam President.

Clause 15 empowers the FSC to request any person, which it believes may hold information relevant to its functions under the Bill to provide that information. The FSA may then issue a direction under clause 26 to ensure such information is provided. A statement in response to such a direction may not be used in evidence against the person in any criminal proceedings, except proceedings alleging contravention of clause 22(1). These powers may also be exercised in relation to an unregistered person who is suspected of carrying on designated business.

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Madam President, I beg to move that clause 15 stands part of the Bill.

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**Mr Crowe:** I beg to second Madam President, and reserve my remarks.

**The President:** The motion is that clause 15 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

510

**Mr Braidwood:** Thank you, Madam President.

Clause 16 enables the FSC to seek the written authorisation of a justice of the peace to investigate the affairs of any person, as far as it is relevant to assessing of a designated business compliance with AML/CFT legislation. The powers enable the FSC to require a person to, answer questions or provide information relating to the investigation or produce and explain documents copies of documents, which are relevant to the investigation. The FSC may copy or take possession of all such documents for as long as it considers necessary.

515

A statement and response to a requirement under this clause may not be used in evidence in any criminal proceedings, except proceedings alleging contravention of clauses 18(2)(a) or clause 22(2).

520 Madam President, I beg to move that clause 16 stands part of the Bill.

**Mr Crowe:** I beg to second Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Butt.

525

**Mr Butt:** Thank you, Madam President.

Reading this, it would appear that the only way that the Commission can obtain information is via an order from a justice of the peace. Does that mean then that if they ask for information, and they refuse to give it, if they have to go to a justice of the peace or can they ask for information and it can be given without requiring to go through that route?

530

**The President:** The mover to reply.

**Mr Braidwood:** They can request the information from the person who is running the designated business. If they refuse to give that information, then they can go to the justice of the peace, and if then they cannot get, and then we are coming onto the next clause, if they fail to provide the documentation, then they can actually go to the judge and get a warrant and be accompanied by a constable.

535

**Mr Butt:** Just to clarify, Madam President – they can ask for it and be given it; they do not have to go to the justice of the peace every time?

540

**Mr Braidwood:** No, they can just ask for it and be given it.

545

**Mr Butt:** Thank you.

**The President:** The motion is that clause 16 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 17.

550

**Mr Braidwood:** Thank you, Madam President.

Clause 17 enables the FSC to seek a warrant from a judge where a person has failed to provide documentation required under clause 16. The warrant would authorise a named individual to enter and search premises and to preserve or take possession of any document specified in the warrant or other documents that appear to contain evidence relating to any offence. A person executing a warrant must be accompanied by a constable.

555

Madam President, I beg to move that clause 17 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

560

**The President:** The motion is that clause 17 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 18.

565

**Mr Braidwood:** Thank you, Madam President.

Clause 18 provides for offences in connection with inspections and investigations. This includes where a person falsifies, conceals, destroys or disposes of information which they know or suspect is relevant to an investigation. An offence may be punishable with a fine of up to £5,000 or custody for up to two years.

570 Madam President, I beg to move that clause 18 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 18 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
575 Clause 19.

**Mr Braidwood:** Thank you, Madam President.

580 Clause 19 requires a registered person to notify the FSC within a specified period of any change in the information provided under clause 8, and that person has ceased to carry on a designated business.

Madam President, I beg to move that clause 19 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

585 **President:** The motion is that clause 19 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 20.

**Mr Braidwood:** Thank you, Madam President.

590 Clause 20 provides for offences in connection with; failing to notify any change in the information provided under clause 8; submitting false or misleading information; making a false or misleading statement and failing to provide required information to the FSC without reasonable excuse. An offence may be punishable with a fine of up to £5,000 or custody for up to two years.

595 Madam President, I beg to move that clause 20 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 20 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
600 Clause 21.

**Mr Braidwood:** Thank you, Madam President.

605 Clause 21 clarifies that a person is not obliged to disclose any information, subject to legal privilege within the meaning of section 13 of the Police. Powers and Procedures Act 1998.

Madam President, I beg to move that clause 21 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

610 **The President:** The motion is that clause 21 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 22 and schedule 2.

**Mr Braidwood:** Thank you, Madam President.

615 Clause 22 restricts the disclosure of information relating to the business or affairs of any person unless, the person to whom it relates has consented or the disclosure falls within the exceptions contained in schedule 2. Key terms in the clause are defined. Any person contravening this clause is guilty of an offence which may be punishable with a fine of up to £5,000 or custody for up to two years.

620 Madam President, I beg to move that clause 22 and schedule 2 stand part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 22 and schedule 2 do stand part of the Bill. Those in  
625 favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 23.

**Mr Braidwood:** Thank you, Madam President.

630 Clause 23 requires the auditors of designated businesses, if any, to report any proscribed matters  
to the FSC, which they become aware of, while discharging their functions. The FSC may proscribe  
such matters by order, after consultation with Treasury, the Department of Home Affairs and bodies  
representing the interests of auditors in the Island.

Madam President, I beg to move that clause 23 stands part of the Bill.

635 **Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 23 do stand part of the Bill. Those in favour, please say  
aye; against, no. The ayes have it. The ayes have it.  
640 Clause 24.

**Mr Braidwood:** Thank you, Madam President.

645 Clause 24 requires the FSC to keep and publish on its website a register of registered persons.  
This must include: the name of the registered person; a description of the designated business and  
the principal address in the Island from which the designated business is carried on. The register  
may contain details of formerly registered persons for up to one year after the person ceased to be  
registered. Copies of the published information may be offered for sale at a reasonable charge.

Madam President, I beg to move that clause 24 stands part of the Bill.

650 **Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Just out of interest, Madam President, I just wondered why this particular register by  
655 the regulator needs to be a public register. Is there any particular reason for that? Just a query.

**The President:** The mover to reply.

**Mr Braidwood:** Thank you, Madam President.

660 Madam President, if we look at schedule 1, on which are designated businesses, if you wanted an  
external accountant or whatever, at least you could look on the website and see that this person is  
registered and the FSC has oversight.

I beg to move, Madam President.

**The President:** The motion is that clause 24 stands part of the Bill. Those in favour, please say  
665 aye; against, no. The ayes have it. The ayes have it.  
Clause 25.

**Mr Braidwood:** Thank you, Madam President.

670 Clause 25 enables the FSC to issue reports of its findings from on-site inspections under  
clause 14(1). Reports may specify of failures to comply with AML/CFT legislation or designated  
businesses own AML/CFT procedures, actions to be taken and timescales for taking such action. If a  
registered person fails to take the necessary action within the timescale indicated, the FSC may issue  
a direction under clause 26 to require the action to be undertaken within a further timescale.

Madam President, I beg to move that clause 25 stands part of the Bill.

675

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 25 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

680

Clause 26.

**Mr Braidwood:** Thank you, Madam President.

Clause 26 empowers the FSC to issue directions to a registered person requiring action to be taken in respect of a designated business. A direction may be to suspend or discontinue a designated business, either in whole or in part. Alternatively, a direction may require a report on any matter that the FSC considers appropriate, by a person with relevant skills. Any direction may be varied or revoked under this clause and reasons must be specified for issuing or varying any direction. An appeal may be made to the Financial Services Tribunal regarding a direction.

685

Madam President, I beg to move that clause 26 stands part of the Bill.

690

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Butt.

695

**Mr Butt:** Thank you.

The mover may not be able to answer this today, but are these directions similarly imposed upon the corporate service providers and other persons registered with the Commission? Is this a similar process to those?

700

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

How is this going to work with foreign companies that are registered here? Is it really going to be effective, because, obviously, foreign companies, although on the F register, quite often they can be operated from elsewhere, and is the direction actually going to hold any water? Can it be ignored?

705

**The President:** The mover to reply.

**Mr Braidwood:** Thank you, Madam President.

710

In response to Mr Butt, who says where directions are given to corporate service providers or trust service providers: yes, directions are given to them. They come under the oversight totally of the FSC.

In regard to Mr Turner, directions will give a designated business if it is operated from the Isle of Man, directions will be given. If the directions are not complied with, then enforcement will take place, which I have already mentioned in some of the previous clauses. They have to be, if business is being from the Isle of Man and direction is not complied with, enforcement will be taken.

715

I beg to move, Madam President.

**The President:** The motion is that clause 26 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

720

Clause 27.

**Mr Braidwood:** Thank you, Madam President.

725 Clause 27 empowers the FSC to issue public statements regarding the issue of a direction under  
clause 26, any contravention of a prohibition under clause 7, a condition under clause 10, a direction  
under clause 26 or the AML/CFT legislation.

730 The FSC may also issue a public statement concerning a person it considers is carrying on  
designated business, if it appears to the FSC to be in the public interest to do so. If the statement  
identifies any person registered or otherwise, the FSC must notify that person in advance, unless, in  
the case of a non-registered person, it is not practicable to do so. The notice must, unless it involves  
a disclosure of confidential information, include, a copy of the statement, the reasons for its  
issuance, the date of issue, details of the appeals process and if it is issued before the required  
notice period has elapsed, the reason for so doing.

735 Madam President, I beg to move that clause 27 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 27 stands part of the Bill. Those in favour, please say  
aye; against, no. The ayes have it. The ayes have it.

740 Clause 28.

**Mr Braidwood:** Thank you, Madam President.

745 Clause 28 requires one month's notice to be given before a public statement is issued unless,  
each person identified in the statement agrees to earlier publication or the FSC determines that  
earlier publication is in the public interest and that the public interest outweighs any detriment to  
the persons identified in the statement. However, if an appeal is made and the Tribunal orders that  
this statement must not be issued before a specific date or event, the FSC must abide by this order.

Madam President, I beg to move that clause 28 stands part of the Bill.

750 **Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 28 stands part of the Bill. Those in favour, please say  
aye; against, no. The ayes have it. The ayes have it.

755 Clause 29.

**Mr Braidwood:** Thank you, Madam President.

760 Clause 29 enables the FSC to apply to the court for an injunction, where it is likely that a person  
will contravene or continue or repeat a contravention of, a clause 7 prohibition, a condition of  
registration, clause 19 regarding information, a direction or the AML/CFT legislation. Where the  
court is satisfied that steps could be taken to remedy the contravention, it may order a person to  
take steps to do so.

Madam President, I beg to move that clause 29 stands part of the Bill.

765 **Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 29 stand part of the Bill. Those in favour, please say aye;  
against, no. The ayes have it. The ayes have it.

770 Clause 30.

**Mr Braidwood:** Thank you, Madam President.

Clause 30 empowers the FSC to issue civil penalties to a person in breach of the clause 7  
prohibition. A penalty may also be issued if a registered person has failed to comply with the  
condition under clause 10 or a direction under clause 26, to submit the annual return, to pay the  
annual fee or to give the required notice for supply of information under clause 19(b).

775 The FSC may make other provisions for penalties and the circumstances in which they may be imposed. However, a penalty may not be imposed if the FSC revokes or intends to revoke the registration or if criminal proceedings have commenced in respect of the contravention. Penalties are payable to the general revenue of the Island and the FSC must give notice of a proposed penalty.

An appeal may be made to the Financial Services Tribunal regarding a penalty.

780 Madam President, I beg to move that clause 30 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Turner.

785

**Mr Turner:** Thank you, Madam President.

It is just a query really here about, well, it is more the process than the penalties. One of things that always concerns me when we bring legislation through is the extra bureaucracy that goes onto the person or in this case the businesses. I just wonder whether a lot of this will be able to be done electronically by web interfaces maybe, so that businesses can make their returns online rather than filling out endless forms to comply with all of this. Obviously if it is done electronically, like most things are these days then will there be automatic reminders going out that these returns are due because the whole idea of this is that the Commission want people to comply and really the Commission has a role in making the process as easy as possible. So, if there were this mechanism then there will be the least chance of people, while they are busy running their businesses, forgetting to file returns and other things.

790

795

**The President:** The mover to reply.

800 **Mr Braidwood:** Thank you, Madam President.

Madam President, I think that everything that Government does now, it tries to make it easier for businesses, for submitting National Insurance, for submitting Income Tax, because it is a lot easier and is far more efficient and it is far more efficient for businesses as well, Madam President. The FSC would like as much online as possible, so to save bureaucracy, which I know Mr Turner is against, Madam President. So, yes everything will be done to cut down on bureaucracy and forms.

805

I beg to move, Madam President.

**The President:** The motion is that clause 30 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

810

Part 4, clause 31.

**Mr Braidwood:** Thank you, Madam President.

Clause 31 enables the FSC to provide information and advice on the functions of the FSC under the Bill, or on any other matter which appears to be desirable. The FSC may publish the information or advice and offer copies for sale at a reasonable price.

815

Madam President, I beg to move that clause 31 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

820 **The President:** The motion is that clause 31 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 32.

**Mr Braidwood:** Thank you, Madam President.

825 Clause 32 enables the FSC to issue guidance for the purpose of establishing sound principles for compliance with the Bill and the AML/CFT legislation. The FSC may issue different guidance in

respect of different types of designated businesses and may indicate which guidance applies to which designated business. A failure to follow the guidance does not render any person liable to proceedings, nor invalidate any transaction. However, the guidance is admissible in proceedings and non-compliance with the guidance or with the code issued under the AML/CFT legislation may assist in determining whether a person's conduct contravenes this Bill. The guidance must be published and copies may be sold to the public at a reasonable price.

830

Madam President, I beg to move that clause 32 stands part of the Bill.

835

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 32 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 33.

840

**Mr Braidwood:** Thank you, Madam President.

Clause 33 provides that in specified circumstances, an aggrieved person may appeal to the Financial Services Tribunal, on the grounds that the FSC's decisions were unreasonable in a particular case. The specified circumstances are: refusing to register a person under clause 9; attaching or amending conditions of registration under clause 10; revoking a person's registration under clause 11; de-registering a person under clause 12; issuing a direction, or refusing to revoke or vary a direction under clause 26; issuing a public statement under clause 27; and imposing a civil penalty under clause 30.

845

A decision of the Tribunal is binding on the FSC and the applicant, except where it relates to a previous operation. An appeal may be made to the court on a question of law relation to any decision of the tribunal.

850

Madam President, I beg to move that clause 33 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

855

**The President:** The motion is that clause 33 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 34.

860

**Mr Braidwood:** Thank you, Madam President.

Clause 34 provides that, where an offence is committed by a body corporate, and the offence was committed with the consent or connivance of an officer of that body or was attributable to an officer's neglect, the officer and the body are both guilty of the offence. The clause clarifies that where an individual is convicted of an offence under the Bill that individual is liable to the penalty provided for the offence.

865

Madam President, I beg to move that clause 34 stands part of the Bill.

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

870

**The President:** The motion is that clause 34 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 35.

**Mr Braidwood:** Thank you, Madam President.

875

Clause 35 enables the FSC to proscribe by order any matter that may be proscribed under this Bill. Orders must be laid before Tynwald as soon as practicable after they are made and, if not approved, cease to have effect. The FSC is obliged to consult various parties before making any order.

Madam President, I beg to move that clause 35 stands part of the Bill.

880

**Mr Crowe:** I beg to second and reserve my remarks, Madam President.

**The President:** The motion is that clause 35 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

885

Clause 36.

**Mr Braidwood:** Thank you, Madam President.

Clause 36 provides transitional provisions. It clarifies that no offences committed under clause 7 by a person who carried on a designated business immediately before the clause came into operation. Furthermore, it enables a person who applies for registration, within six months of clause 7 coming into operation, to continue to carry on a designated business until the application is finally determined, including any potential appeal, or is withdrawn.

890

Madam President, I beg to move that clause 36 stands part of the Bill.

895

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 36 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 37 and schedule 3.

900

**Mr Braidwood:** Thank you, Madam President.

Clause 37 refers to schedule 3, which contains minor and consequential amendments to the Financial Services Act 2008, the Insurance Act 2008 and the Proceeds of Crime Act 2008.

Madam President, I beg to move that clause 37 and schedule 3 stands part of the Bill.

905

**Mr Crowe:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Downie.

910

**Mr Downie:** Thank you, Madam President.

As a result of a drafting error in the Bill, I propose an amendment to paragraph 1 of schedule 3 to the Bill:

*Amendment to paragraph 1 of schedule 3*

*Page 42, for sub-paragraph (9) substitute —*

*(9) For paragraph 3(1) of Schedule 2 substitute —*

*'(1) If, on an application made by the Commission, a justice of the peace is satisfied that there is good reason to do so for either or both of the following purposes —*

*(a) investigating the affairs, or any aspect of the affairs, of any person so far as it is relevant to any regulated activity that the person is or was carrying on, or appears to be or to have been carrying on;*

*(b) assessing compliance with AML/CFT legislation so far as it is relevant to any regulated activity that the person is or was carrying on, or appears to be or to have been carrying on, the justice may by written instrument authorise the Commission to exercise the powers under this paragraph which powers are not otherwise exercisable.'*

915

Schedule 3 details minor and consequential amendments to other pieces of legislation. The amendment in paragraph 1(9), in schedule 3 to the Bill, needs to extend the final Financial Supervision Commission's investigation powers in paragraph 3(1) of schedule 2 to the Financial

Services Act 2008, which relate to regulated activities, so that they also include the assessment of compliance with AML/CFT legislation, so far as it is relevant to any regulated activity.

920 However, the drafted amendment, erroneously, replaced the Financial Supervision Commission's investigation powers, relating to regulated activity, only with powers relating to the assessment of compliance with the AML/CFT legislation. It is crucial, therefore, that this error be corrected in order that the Financial Supervision Commission may continue to undertake its core function of oversight of regulated activity.

925 Madam President, I beg to move the amendments to paragraph 1 of schedule 3 to the Bill standing in my name.

**Mr Braidwood:** I beg to second, Madam President.

**The President:** The motion is that clause 37 and schedule 3 do stand part of the Bill. To that we have the amendment in the name of Mr Downie, which I shall now put. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

930 I now put the clause and the schedule as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Designated Businesses (Registration and Oversight) Bill 2014 –  
Standing Order 4.3(2) suspended  
to enable Third Reading to be taken at this sitting**

935 **Mr Braidwood:** Madam President, I wrote to all Hon. Members a fortnight ago and I mentioned that, of course, my term of office expires at the end of February and it was my intention to move a suspension of Standing Orders, to enable the Third Reading of the Designated Businesses (Registration and Oversight) Bill 2014 to be read for the Third Reading.

So I would like to move to seek a suspension of Standing Orders, Madam President:

*That Standing Order 4.3(2) be suspended to enable the Third Reading of this Bill to be taken at this sitting.*

940 **Mr Crowe:** I beg to second Mr Braidwood's move.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

945 Hon. Members will not be surprised that I do not support suspension of Standing Orders. I think Mr Braidwood's term of office date of expiry has been known for five years and I just do not think that this is a case that was made.

950 We had the Attorney General bringing through a Bill that was a matter of national security, and there was a case made as to why the Bill had to go through multiple stages at the one sitting. Mr Braidwood did pay Hon. Members the courtesy of writing, and I did make my view known to him then. There are further sittings of this Council in the diary when the Bill could take the remaining stage.

955 I think we are seeing multiple stages of Bills coming through too often in one sitting. I have said before, there have to be exceptional circumstances, in my view, that Standing Orders should be suspended, particularly when we are passing legislation that has such a wide effect on individuals, and in this case, on businesses. I think that it is important that the correct timetable is followed and I will not be supporting the suspension of Standing Orders.

**The President:** The Hon. Member, Mr Wild.

960 **Mr Wild:** Thank you, Madam President.

I just feel in the circumstances of my hon. colleague Mr Braidwood's retirement from the Council, it would be fitting for him to take this through to its conclusion, and it has my support.

**The President:** Lord Bishop.

965

**The Lord Bishop:** Thank you, Madam President.

I agree with the Hon. Mr Turner, in principle, but I think this is a case where the exception proves the rule, and therefore I will also support the suspension of Standing Orders.

970 **The President:** The Hon. Member, Mr Downie.

**Mr Downie:** Yes, Madam President.

I would like to speak in support of suspending Standing Orders. This is an area that businesses are expecting. They have been working up to this, a lot of dialogue has gone on between the Financial Supervision Commission and the business community about this and I think really the sooner it goes on and becomes implemented, the better because it will remove any of the suspicions or other issues that might have been raised.

Turning to the mover of the Bill, there is no doubt the mover has put a lot of time and effort into bringing this Bill forward and it has been quite a complex Bill to progress. I know he has been involved with numerous meetings with the Financial Supervision Commission and, as far as I am concerned, he is the man who has taken this through. I think we would be doing Council a disservice today if we voted against this. I know it is exceptional circumstances, but he is the man who has taken it thus far, and to leave it to some other Member of Council to take through at a later stage, I do not think would be right.

985

**Mr Wild:** Hear, hear.

**The President:** The Hon. Member, Mr Corkish.

990 **Mr Corkish:** Thank you, Madam President.

I would just speak in support of Hon. Members who have already supported the suspension of Standing Orders. There is expectancy in the business community, I think. It is a relatively complex Bill to put through and Mr Braidwood has expended a lot of time and effort into this. Notwithstanding Mr Turner's remarks, perhaps an election once every five years can be termed exceptional.

995

**The President:** The motion is... Do you wish to reply, sir?

**Mr Braidwood:** Yes, please, Madam President.

1000 Yes, I knew my term of office was expiring on 28th February 2015. However, I did not know that I was going to be given two Bills to take through, Madam President, just before my term of office was expiring.

**The President:** We will blame Treasury, shall we?

1005 **Mr Turner:** It's Treasury's fault, yes.

**Mr Braidwood:** But in response to Mr Turner, 'pot and kettle' come to mind, Madam President, because I think it was only a few weeks ago that Mr Turner moved a suspension of Standing Orders so that he could –

1010 **Mr Turner:** I didn't agree with that either!

**Mr Braidwood:** – so he could take a Bill through from his own Department! I think it was a Traffic Amendment Bill, Madam President.

1015 **Mr Turner:** Road Races Act.

**Mr Braidwood:** Yes, southern racing. So I do thank the support from...

**The President:** We have not had a vote, yet! *(Laughter)*

1020

**Mr Braidwood:** To support the suspension, Madam President, I was going to say, so I will leave it up to the Hon. Members of Council.

1025 **The President:** The motion is that suspension of Standing Orders take effect. Those in favour, please say aye; against, no.

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

**FOR**

The Lord Bishop  
Mr Braidwood  
Mr Butt  
Mr Coleman  
Mr Corkish  
Mr Crowe  
Mr Downie  
Mr Wild

**AGAINST**

Mr Turner

**The President:** With 8 votes in favour, 1 vote against, Hon. Members, suspension of Standing Orders is agreed.

**Designated Businesses (Registration and Oversight) Bill 2014 –  
Third Reading approved**

1030 **The President:** Would you care to move the Third Reading, sir?

**Mr Braidwood:** Thank you, Madam President.

1035 Before I move the Third Reading, a point which was raised in the Second Reading and clauses by the Hon. Member for Council, Mr Wild, who actually mentioned how many designated non-financial businesses and professions there were on the Island: there are about 400, Madam President.

1040 Thank you, Madam President. As described in the clauses reading, the Designated Businesses (Registration and Oversight) Bill 2014 seeks to provide the Financial Supervision Commission (FSC) with new duties and powers relating to the oversight of anti-money laundering and countering the financing of terrorism (AML/CFT) compliance. The Bill enables the FSC to oversee certain businesses and professions in respect of their compliance with AML/CFT legislation by: providing a system for designated businesses to register with the FSC; enabling the FSC to assess designated businesses' compliance with the AML/CFT legislation by means of onsite visits and annual returns; and providing action and enforcement powers, in the event of non-compliance with AML/CFT legislation.

1045 The provisions of this Bill aimed to address deficiencies identified by assessors of the International Monetary Fund, during their visit to the Island, in 2008. The IMF identified that, despite the AML/CFT legislation being in place, the Island lacked a suitable AML/CFT oversight regime for

designated businesses and rated the Island as only partially compliant with Financial Action Task Force recommendations 22 and 23.

1050 The implementation of this Bill is essential if the Isle of Man is to demonstrate the effectiveness of its AML/CFT framework and be assessed as compliant with international standards by MONEYVAL assessors in their inspection of the island in the first quarter of 2016.

1055 In moving the Third Reading, I would like to thank Hon. Members for their support in taking the legislation forward this far and I would also like to thank the Hon. Member for Council, Mr Downie, who seconded the First Reading, and Mr Crowe, who seconded the Second Reading, the clauses and, hopefully, the Third Reading.

Madam President, I beg to move:

*That the Designated Businesses (Registration and Oversight) Bill, 2014 be now read a third time.*

**The President:** The Hon. Member, Mr Downie.

1060 **Mr Downie:** Thank you, Madam President.  
I beg to second and reserve my remarks.

**The President:** The Hon. Member, Mr Wild.

1065 **Mr Wild:** Thank you, Madam President.

Just to comment as a former career banker, I do feel that this is robust legislation which closes loopholes and brings the Island into the high ranks of international financial standards and – I shall say it tongue in cheek – stops people wandering around with carrier bags full of cash.

1070 **The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

1075 I think we have to go back and look at the reason why we have to bring in this legislation. Whether it is entirely in the form that I would prefer is not the issue. What we have is, around the world, money laundering, which ultimately is to do with, involved in illegal activities – drugs, arms, people trafficking and a lot of other things that are most unpleasant – so it is important there is a framework in place where we can catch these transactions, because, ultimately, they are leading to misery somewhere down the chain for a lot of people.

1080 The double-edged sword, of course, is that the majority of transactions that are going on and for the majority of businesses, this is an enormous bureaucracy and is completely unnecessary to their everyday business, but unfortunately it is the few that result in lots... You have to look at a lot of airport security, the majority of people going through are just normal, law-abiding citizens. But you have to have the procedures in place to catch the minority.

1085 But what I will say is – and I have mentioned this before, so I will keep this brief – is that we have to watch we do not bring in legislation for the sake of it and regulate ourselves out of business. We had a plea, a few weeks ago, from the Chamber of Commerce that regulation here needs to be adequate to do the job and really this is for the mover to take back to the Treasury that when considering legislation such as this, and future legislation, I think the Chamber of Commerce hit the nail on the head when they said that we do not have to rush in to be the first. We do not have to be the best, we do not have to be cutting edge and leading, but what we need is sensible, adequate regulation for our country. I think we all support that principle.

1090 It is quite interesting that in the United States they actually have – and this comes back to my comments through the passage of this Bill about bureaucracy – they have the Paperwork Reduction Act, which came in in 1980 and then was amended in the mid-1990s. I noticed when filling out a form on entry to the United States, a few years ago, they had to declare the burden of filling out

1095 these forms was x number of minutes and maybe there is a Private Member's Bill waiting to come forward for the Isle of Man.

As I said about ways of streamlining, I know the mover said the FSC would like to streamline the process, so again for future legislation that we bring through, where there is going to be ultimately a burden on people and on businesses, all Departments, I think, should factor in exactly what they are going to do. I think it would be an interesting exercise, if you were to add up all these requirements that businesses do. What is the total burden in hours of a business or an individual in dealing with the Government every year? It would be quite interesting to know how many hours they give.

1100 So I think although this is an important piece of legislation, which I shall be supporting at this Third Reading, I think we have to go forward looking at everything we bring through.

1105 The regulation has to be adequate for the job and it has to be at a level that is not going to regulate us out of business. The future is, of course, we have to make sure that the information and the data we are collecting is the right data and that we do not just start making databases for the heck of it. Because a lot of this information is probably already held by the company registry and other Departments, so there should be some joined-up thinking of when there are further registrations going on, that they can simply add it to the database. With that being centrally-held by Government as an entity, then I am sure it is possible, maybe not now, but in the future.

1110 So I will support the Third Reading at this stage, notwithstanding the comments I have made. Thank you.

1115 **The President:** The Hon. Member, Mr. Butt.

**Mr Butt:** Thank you.

I would just like to comment, Madam President, how far we have come in recent years and it is good that we are now complying with the highest international standards.

1120 I can remember having a phone call from a bank in Douglas, saying, 'Could you come down, please? There is a man here with a suitcase with £50,000 in it.' That was the call we got. We suspect there were many calls we did not get, where the same thing was happening, and now we have extended the anti-money laundering regulations to such an extent now that we are including estate agents. I think that estate agents, politicians and newspaper journalists – and the bankers, of course, are the lowest of the low, aren't they? We have now finally captured the estate agents. *(Laughter)*

1125 I agree with my colleague, Mr Turner, that we have had representations to us on Public Accounts and other committees that the regulation is too onerous and it has become too extensive, and I suspect, despite consultation, we may get a few businesses saying the same about this legislation. If we want to show ourselves not to be in the business of taking in dodgy money, which we used to do, we need to make sure this legislation is used and is kept up-to-date.

1130 Thank you, Madam President.

**The President:** The Hon. Member, Mr Crowe.

1135 **Mr Crowe:** Thank you, Madam President.

Can I just say, while supporting this legislation, I think the implementation has to be done on a reasonableness basis because I think if you have 400 businesses sending in annual returns on the amount of cash they are dealing with, it is going to be quite some information to be processed by the FSC but a lot of this, such as estate agents, will be handling sums of less than €15,000, rent and deposits for property and so on. It is a case of to be careful that we do not create a bureaucratic minefield and that the implementation is done on a reasonable basis, that it picks out the ones where AML/CFT legislation is being breached, rather than a catch-all for everybody.

1145 **The President:** Hon. Member, Mr Downie.

**Mr Downie:** Thank you, Madam President.

1150 Yes, I think if we are going to be players in international finance, we have got to play by the rules and, on a daily basis now, we are seeing criticisms of banking and financial institutions – a general tightening up right across the global market. Sadly, a lot of money changing hands through terrorism, ISIS and so on, and all these other groups and organisations. Really, I think that if the Western world is serious about doing business, they have got to find ways in which they can stamp these cases out and not let money laundering and fraud and drugs money and so on – terrorism money – get into the money markets, as it were.

1155 As far as designated businesses go, I think there is an obligation on most businesses today to make sure that they are not getting involved in activities and I am sure that when this legislation is finally enacted there will be advice available for people so that they will understand fully. There will be proper guidance notes etc produced, so they will know what is required of them as a business and I think that is the most important thing and that is where the Island has always scored, because when we have embraced legislation we have always been in the position where we have gone the extra mile and helped people rather than hindered people. With the advent of further technology, it should be a simple matter nowadays to register and to re-register and do all the other things online.

1160 But in supporting the Bill today, I think we have got no other alternative, Hon. Members. If we do not have legislation like this, I think we will be picked off and pilloried, for all the wrong reasons, so I would urge Hon. Members to get behind it, support it and have some confidence in the people who are going to deliver the service and look after the customers in the Isle of Man: the businesses.

1165

**The President:** The mover to reply. Oh, sorry, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

1170 I too will be supporting the Third Reading here. I think a number of other Hon. Members mentioned the appropriateness of the actual implementation versus the benefits, so I think that we have to make certain with all future legislation, to use the Euro law term, it has to be proportionate to what you are trying to solve. I believe that this is appropriate to the problem that we might be facing.

1175 We do not know what the level of this is in the Isle of Man, because we have never looked at it. The banks might possibly be knowing about it because there will be quite high deposits of cash coming through. But what are we talking about? We are talking about £12,000? Rarely have I ever carried £12,000 around and yet when you go through airports, there are signs saying if you have more than \$10,000 in your pocket, you have got to declare it. So it does happen and there are nefarious people out there who will make use of the fact that we would not have this type of legislation, in place.

1180

So I support this and I think it is appropriate, and I think it is proportionate.

Thank you, Madam President.

1185 **The President:** The mover to reply.

**Mr Braidwood:** Thank you, Madam President.

I do thank everyone who has spoken this morning. The word I wrote down was 'proportionality' and Mr Coleman has just mentioned that word.

1190 As Mr Wild said, Madam President, we need robust legislation and compliance. I can understand Mr Turner's concerns because we did have the presentation from the Chamber of Commerce. But as I said at the First Reading, as a Treasury Member I met with the Chamber of Commerce, I have met with the Law Society before Christmas for the Budget, and even the FSC is trying to do the lightest touch possible, although to try to be transparent with the anti-money laundering legislation.

1195 The FSC also, as I mentioned, intends to delegate the powers of inspection to professional bodies, where professional bodies can demonstrate that they meet the FSC standards relating to inspection. Where, Madam President, inspection is delegated to professional bodies, it is likely that the body will combine the review of compliance with its requirements with the review relating to AML/CFT

1200 legislation, on behalf of the FSC, resulting in designated businesses being subject to one combined visit, which will reduce any duplication of effort.

So again, we are trying to cut down on the bureaucracy. The Treasury have spoken with the FSC, particularly with regard to MONEYVAL, and that we do not want to be ahead of the game, as long as we have got a level playing field in legislation and our standards are not so high, so that other companies or businesses will go to other jurisdictions, Madam President.

1205 So the whole point is a level playing field with our competitors, and with that, Madam President, I beg to move.

**The President:** The motion is that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

## 2. Payment Services Bill 2015 – Second Reading approved

1210

Mr Braidwood to move:

*That the Payment Services Bill 2015 be read a second time.*

**The President:** Turn now to Item 2, Hon. Members, the Payment Services Bill. I call on Mr Braidwood to take the Second Reading.

**Mr Braidwood:** Thank you, Madam President.

1215 Before I go into the Second Reading, Mr Crowe asked a question last time, Madam President, and my response was then that I would clarify this for the Second Reading and Clauses, but I think this will be placed under the European Communities (Isle of Man) Act 1973, but I said I would clarify it.

1220 Madam President, the two Directives can be under the European Communities (Isle of Man) Act 1973 Order. However, competition law would not be covered by going through the European Communities (Isle of Man) Act 1973. In actual fact, they will be made under the Payment Services Act 2015 itself. But they will modify the provisions of the Fair Trading Act, so that we can actually put appropriate sanctions in place for a SEPA participant, which is failing to comply with its obligations under the competition provisions. It is because the Office of Fair Trading competition provisions are not compatible with the SEPA provisions, Madam President. I just wanted to clarify that for the Hon. Member. (**Mr Crowe:** Thank you.)

1225 Madam President, as I said in the First Reading, this is rather a technical Bill, so I will try to be as quick as I possibly can.

The Payment Services Bill 2015 provides the enabling powers necessary to amend the Island's law as far as necessary for its banks to become participants in the Single Euro Payment Area (SEPA).

1230 SEPA is a mechanism designed to facilitate faster payments throughout the European Union, and also those third countries, such as Switzerland, which become adherent jurisdictions. The Bill is intended to facilitate the making of an application for the Island to become an adherent jurisdiction in accordance with the criteria for participation in the SEPA schemes for communities of banks or financial institutions outside the European Economic Area, by the European Payments Council (EPC).

1235 The key legislative changes made in clauses 4 and 5 will apply only to those institutions providing payment services under the SEPA schemes and to payments using those schemes.

Madam President, I beg to move the Second Reading of the Payment Services Bill 2015.

**The President:** The Hon. Member, Mr Downie.

1240

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Crowe.

1245 **Mr Crowe:** Thank you, Madam President. I thank the Hon. Member Mr Braidwood for clarifying that point that I raised about primary and secondary legislation, but he has covered the point I raised. Thank you for that.

**The President:** The motion is that the Payment Services Bill be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Payment Services Bill 2015 –  
Clauses considered**

1250

**The President:** Turning to clauses: clause 1.

**Mr Braidwood:** Thank you, Madam President.  
Clause 1 provides the resulting Act with its short title.

1255 Madam President, I beg to move that clause 1 stands part of the Bill.

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

1260 **The President:** The motion is that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 2.

**Mr Braidwood:** Thank you, Madam President.

1265 Clause 2 provides for the commencement of the resulting Act, other than clause 1, and this clause will come into operation by virtue of an order made by the Council of Ministers, on one or more appointed days

Madam President, I beg to move that clause 2 stand part of the Bill.

1270 **Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 3.

1275

**Mr Braidwood:** Thank you, Madam President.

1280 Clause 3 provides for the interpretation of key terms used in the Bill, and which will also appear in the related secondary legislation. In order to avoid the need for further amendments in the future, if there are changes in the EU legislation involving payment services and competition law, subsection (2) of the clause provides for references in the Act or secondary legislation to the Directives and the relevant competition provisions to be construed as references to the Directives and the competition provisions, as they have effect from time to time.

Madam President, I beg to move that clause 3 stands part of the Bill.

1285 **Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

1290

**Mr Braidwood:** Thank you, Madam President.

Clause 4 authorises the Financial Supervision Commission to make regulations giving effect in the law of the Island to the two Directives, transposition of which is critical to the Island being recognised as a SEPA jurisdiction. Regulations under this clause and clause 5 can make any provision that might be made by an Act of Tynwald.

1295

Once again, this is intended to avoid the need for further primary legislation and to ensure the Island can react rapidly to any changes in the regulatory framework for payment services. This point, Madam President, is dealt with in clause 8.

Madam President, I beg to move that clause 4 stands part of the Bill.

1300

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 4 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

1305

Clause 5.

**Mr Braidwood:** Thank you, Madam President.

Clause 5 enables the Isle of Man Office of Fair Trading to make regulations to secure effective competition between SEPA participants in the Island and those elsewhere. This is a requirement for the Island to become a SEPA jurisdiction, because EU competition law is largely contained now in the Treaty on the functioning of the European Union. The necessary legislation can be put in place under the European Communities (Isle of Man Act) 1973, which is the reason for the need for the present Bill.

1310

Madam President, I beg to move that clause 5 stand part of the Bill.

1315

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Coleman.

1320

**Mr Coleman:** Thank you, Madam President.

I have a question about what this is really all about. Are we talking about an umbrella organisation which allows other institutions that transfer money to be allowed to operate within this area, such as SWIFT or international CHAPS and things like that, or are we talking about a new system for moving money around within the European Community? I have not quite got it into my head what it actually is going to achieve. SWIFT is already pretty well regulated and you can send payments all over the world with that. Would SWIFT have to apply to operate within SEPA to be able to actually work within Europe? I just wondered what the model is going to be.

1325

Thank you.

1330

**The President:** The mover to reply.

**Mr Braidwood:** Thank you, Madam President.

If we look at the explanatory memorandum, and particularly to... SEPA is an area within which banks which are participants can secure value for their customers' payments transactions earlier than apply under other payment schemes. So in actual fact it is a quicker method of transferring money.

1335

**The President:** Yes, we will allow you the clarification.

1340

**Mr Coleman:** It is a point of clarification.

1345 But does that mean that those participants have to get necessary equipment or necessary telecommunications? When you put SWIFT in you have to get specific equipment. I was just wondering – you can calm me down later if you want on this one – I just wondered just how it works, that you do it. Do you have to put in a specific network, which is secure, which only SEPA communicants can access?

1350 I am sure the other banking Members within the Chamber at the moment would understand what I am talking about, if they have ever put in banking communications systems. It is not only terminals. It is also secure communication links, secure locations and all that sort of stuff. I just wondered how it was going to be achieved, purely out of professional interest really – just how are they going to be doing it or what it is, in fact.

**The President:** It is enabling, isn't it? It is enabling.

1355 **Mr Braidwood:** As I said, Madam President, if I may reply, it is a very technical Bill, which I said on the First Reading, and it is enabling legislation. It is enabling our banks to participate as SEPA participants. I think I mentioned, there are about 31 types of jurisdictions that are in this SEPA and I know the banks in the Isle of Man are wanting this legislation to be implemented as quickly as possible. As far as I know, all the equipment they have will be able to make them participate in the SEPA jurisdictions.

1360 **The President:** The motion is, Hon. Members, that clause 5 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 6.

1365 **Mr Braidwood:** Thank you, Madam President.  
Clause 6 provides, as I mentioned earlier, that regulations under clauses 4 and 5 can make any provisions that can be made by an Act of Tynwald. This reflects the position in relation to regulations under section 2B of the European Communities (Isle of Man) Act 1973.

1370 Subsection (2) of the clause requires the makers of regulations under the Act to consult with such persons as appear appropriate. This is deliberately flexible, because while the regulations will normally only be of concern to the payment service providers themselves, the competition regulations will confer benefits on consumers and wider consultation may therefore be appropriate in that situation.

1375 Madam President, I beg to move that clause 6 stands part of the Bill.

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

1380 **The President:** The motion is that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 7.

1385 **Mr Braidwood:** Thank you, Madam President.  
Clause 7 is intended to provide an element of future proofing for the legislation. It empowers the Council of Ministers by order to amend this Act if it appears necessary or expedient to do so, in the light of developments in the operation of payment services, regulated by the European Payments Council, or any change in EU Law relating to payment services.

Madam President, I beg to move that clause 7 stand part of the Bill.

1390 **Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 7 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

1395 **Mr Braidwood:** Thank you, Madam President.

Clause 8 provides that regulations and orders under this Act do not have effect unless approved by Tynwald.

Madam President, I beg to move that clause 8 stand part of the Bill.

1400 **Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The motion is that clause 8 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Now...

**Payment Services Bill 2015 –  
Standing Order 4.3(2) suspended  
to enable Third Reading to be taken at this sitting**

1405

**Mr Braidwood:** Madam President, in a similar vein to the Designated Businesses (Registration and Oversight) Bill of 2015, I would like to move a suspension of Standing Orders, in order that this Bill can be read a third time. I move:

*That Standing Order 4.3(2) be suspended to enable the Third Reading of this Bill to be taken at this sitting.*

**The President:** The Hon. Member Mr Wild.

1410

**Mr Wild:** I beg to second, for all the reasons we discussed with the previous Bill.

1415 **Mr Downie:** Madam President, I think this is a non-contentious Bill, and to satisfy the concerns of my hon. colleague, Mr Turner, at clause 8, Tynwald are in the driving seat here, because all of the regulations and orders under the Act must be approved by Tynwald before they come into operation. So if you are not happy with various aspects of this, I suggest that is the place to raise it.

1420 But there again, this is another supporting measure that we are trying to bring in to assist business and to enable business to work faster and smarter, particularly within the European Union. Hopefully it will give the Isle of Man another slight advantage over some of the many competitor jurisdictions that are out there and not within the European Union.

We are seeing big expansion in the Middle East, in the Far East and so on and I think this is an attempt here to try and do more to encourage business within Europe itself, and I think we should be supporting this.

1425 **The President:** the Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

1430 I do agree with virtually everything that the Hon. Member, Mr Downie, has said. I made the point about parliamentary process. I have listened to the points raised about the suspension of Standing Orders. It is clear, obviously, that it is Council's will to take the Third Reading.

My view is well-known, that I do not agree with it, and I do not think there is any point in voting against the suspension of Standing Orders on this occasion. I have made my point earlier. The will of the Council is to get this matter, and as Mr Downie said, there is extra scrutiny in Tynwald, control

1435 over what is going to underpin this legislation so on this occasion, I am happy to go with the will of the rest of Council, Madam President.

**The President:** The motion is that Standing Orders be suspended in order to take the Third Reading of the Payment Services Bill. Is that agreed?

1440 **Members:** Agreed.

**Payment Services Bill 2015 –  
Third Reading approved**

**The President:** Mr Braidwood.

**Mr Braidwood:** Thank you, Madam President.

1445 I have not got much to say on the Third Reading. But as I said, and I would like to repeat what I said at the First Reading.

The Payment Services Bill, 2015 is a short and rather technical Bill and it is necessary to enable the island's banks to compete in the field of payment services, involving payments into the European Union and the other countries which form part of the Single Euro Payment Area (SEPA). As I mentioned previously, that area now embraces 31 states, many of which are within the European Union, but also including Switzerland, Monaco and the French territories, Saint Pierre and Miquelon.

1450 So we have been trying to have the Island part of SEPA for the last six years, Madam President. This Bill will enable us to be able to participate, hopefully, in the SEPA jurisdiction and therefore I would like to move:

*That the Payment Services Bill 2015 be read a third time.*

1455 **Mr Downie:** Beg to second, Madam President, reserve my remarks.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

1460 It is the chance to put forward a small query I have, to consider the Office of Fair Trading making regulations. It seems to be to secure compliance with the relevant competition provisions. I do not quite understand why the Office of Fair Trading need to do that. Could you perhaps clarify that, hon. mover.

1465 **The President:** The mover to reply. I am sorry, the Hon. Member, Mr Wild – did you wish to speak?

**Mr Wild:** Just say that this is, as we said, enabling legislation and it keeps certainly the banking sector content because they were working on SEPA before I left, and that was five years ago. It has taken a long time to get to this stage. It has my full support.

1470 **The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President.

1475 I think the OFT are responsible, in response to Mr Butt's comment, because they look after competition issues, so I think they are the body set up to bring forward the secondary legislation, which is why the OFT is mentioned in particular in this Bill.

That is my understanding, Madam President.

1480 **The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

1485 There could possibly be competition issues because people who have not joined this club may be getting their financial transactions transmitted at a slower rate, or processed at a slower rate. So that is the only concept of competition that I could conceive here.

Thank you, Madam President.

**The President:** The mover to reply.

1490 **Mr Braidwood:** Thank you, Madam President, and I thank the Hon. Member of Council, Mr Crowe, in answering Mr Butt's query, which has saved me looking through, Madam President, and he is quite right. It is to do with the competition law, which the OFT regulate.

1495 I would just like to thank Mr Wild for his support. As he said, before he retired, five years ago, the banks were looking to participate in SEPA, and, as I said, the Government wanted an application for 2009, but there were some problems, which I mentioned in the First Reading.

I also thank Mr Coleman for his comments.

I beg to move, Madam President.

1500 **The President:** The motion is that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**3. Tribute to Outgoing Members –  
Expression of appreciation to Mr Braidwood, Mr Butt, Mr Crowe and Mr Downie –  
Motion carried**

Mr Turner to move:

*That Council do express its appreciation of the parliamentary, governmental and other public service of Mr Braidwood, Mr Butt, Mr Crowe and Mr Downie who shortly vacate office as Members.*

**The President:** Item 3. I call on the Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

1505 It is a sad day, really, but it is a privilege to move this Item. Whatever happens, I think we are going to be seeing... well, we will be seeing three new faces on Council and, of course, this is the final sitting of our colleagues, Mr Braidwood, Mr Crowe, Mr Downie and Mr Butt.

1510 Mr Braidwood has indicated that he will be seeking re-election. This is the conclusion of his first term in the Legislative Council, and he has had a varied career, both in the other place, more recently, as Treasury Capital Projects, Minister in various Departments, including DoT and DHA and of course I think Council would all wish him well in seeking re-election for another term here with us when we next meet. **(Members:** Hear, hear.)

The other outgoing Members, however, as you Madam President, said in Tynwald Court will be sadly leaving us.

1515 Mr Crowe was elected first to this Council in 1998 and then again in 2007 and this was the same round of elections when I also was elected, although I entered the game much later on, when there

was the final seat and there were many attempts going on. I think Members will recall that and it went on and on and on for quite some weeks, so I came in late in the day.

1520 But them – if I may call him Alan – Alan was re-elected in 2010 for the term that comes to an end this week. What I did not realise was that he was originally a teacher – is that right? That was in England and in Canada, and I suppose that put him in good stead for one of his first roles in the other place when he was elected, and that was in the Department of Education.

1525 He has served in many Departments, including DTI, Agriculture, Fisheries and Forestry, Department of Transport, and I actually took over from Alan in the role of Works, back in those days. Also DoLGE, he was Chair of Planning. He served on Manx Museum and National Trust, DHSS and was also one of the political chairs of the FSC, when the regulator had a political head. He contributed to the deliberations of many Tynwald and Legislative Council Committees over the years.

1530 And out of the Chamber, I know that Alan enjoys supporting his grandchildren. I regularly see him and Dorothy at Marown School functions, where my daughter also attends, so I am sure in retirement, they will both enjoy plenty of time with the family.

1535 Mr Downie – Alex – I have known Alex since childhood. He has been a family friend for many years. His parliamentary career stems back to 1991 and he was actually my MHK for a number of years as well. He joined this Council in 2005, and like Alan, Alex has served on many Departments, some as Minister. During his reign at the DTI, he oversaw the expansion of the shipping sector and the Island's embarkation into aircraft registration.

1540 I think when I was working in the press, one of the biggest decisions that Mr Downie faced was as DAFF Minister and the decisions surrounding foot-and-mouth, when it had broken out, in Cumbria, only 45 miles across the water there. I was working for Border Television at the time and I was aware of the dilemma that Alex and his team at DAFF were facing. His decisions were no doubt instrumental in keeping the disease at bay from the Island and probably the biggest decision, I think, was the cancellation that year of the TT. A huge risk, but in the end, the Island escaped the disease and the TT came back bigger and stronger.

1545 Latterly he has become best known for his work in e-gaming and e-business. But away from the Chambers, Alex enjoys vintage motorsport, in particular the motorcycles, and I have had the pleasure of Alex's company many times at the TT Grandstand where he would join us for the skeet in the press centre. Usually Alex always had a story or two from around the paddock and we always know that if Alex didn't know them, then they are probably not worth knowing. He is also an enthusiastic collector of collectable weapons and enjoys scouring eBay and other collectable 1550 websites, looking for rare or interesting items to add to the collection – most of which I think are probably upstairs in the office!

The one thing I will say is that I just wonder who the poor new recruit is that is going to join this Council and is going to inherit Alex's filing system, (*Laughter*) because I believe that comes with the job.

1555

**Mr Coleman:** It's a challenge to find the desk!

**Mr Turner:** There is a desk in there somewhere!

1560 Finally, Mr Butt: Dudley and myself have had quite opposite political views over the years, yet we have worked together brilliantly. Between us we have shaped legislation and we have had some great debates upstairs and in this place.

1565 I think what strikes me about Dudley is that he really cared about the subject matters that he was involved in. I know that he was quite angry over issues such as nursery education, tuition fees and fought the cases with vigour, but with dignity. He was also the first of recent times to have been elected here, not from the Keys, but from outside – outside of the constituency world. And of course it was met with... well, the public were not always kind to us outsiders who came into this place, but I think that what it has proved is that Dudley has made a lasting contribution to the work of

Government, this council and Tynwald Court. I am grateful for the advice and friendship he gave me when I joined this place.

1570 He also started the 'After Work Beverage Club', which has gone on to be a great success. After the first Tynwald, that I came to, he said to me, 'Do you fancy going for a drink across the road?' and he was surprised how everybody just scuffled off home. Well, he started the trend and now I think up to 10 Members sometimes come along for a bit of a wind-down and a chat after work. So that is another legacy as well.

1575 Finally, if I may, I have thoroughly enjoyed Dudley's stories about his time in the Police, often recounting stories from time to time, and indeed that role has brought a great deal of experience to this Council. The stories sometimes are gripping, sometimes tragic and sometimes hilarious, and I keep telling him that maybe he should write a book. I think maybe in retirement, this is something I would urge him to do.

1580 If I may just mention one of the stories he told me, which is one of my favourites. I will not spoil the ending or name the character, even though we do have an element of privilege in this place, but I will just say a local character had to give Dudley a piggyback across a river to get to a suspected crime scene, and Dudley was convinced he was going to be dumped in the river. Was he or wasn't he? Well, we will have to read that in the book, so I hope he will maybe do that at some time!

1585 *(Laughter)*

So to all our Members, the motion on the Order Paper, which I am sure we will all support, is that Council to express its appreciation of the parliamentary, governmental and other public services of Mr Braidwood, who will be standing again in a couple of weeks, but our retiring Members, Mr Butt, Mr Crowe and Mr Downie, who will shortly vacate office as Members.

1590

**The President:** Lord Bishop.

**The Lord Bishop:** Thank you, Madam President.

1595 I am delighted to second this motion proposed by the future Father of the House. *(Laughter and interjections)*

It is a great privilege to be able to pay tribute to four people whose dedication, ability, integrity and sense of humour are without parallel. And it has been a great privilege to have been part of a body in which they have served. My only serious disappointment relates to Mr Butt, who like me, is an avid follower of *The Archers* and he is leaving at a very critical moment in the story. *(Laughter)*

1600

Thank you, I am pleased to second this motion.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

1605 Just to briefly say, as the new Member of Council on the block, I came in December 2011, I just have to thank all four of my colleagues for their kindness, friendship, counsel and wisdom. It was very much appreciated.

And I would also like to ask the proposer, my hon. colleague, Mr Turner, whether he proposes to withhold Standing Orders so that we can take this to a Third Reading? *(Laughter)*

1610

**Mr Turner:** The case is made.

**The President:** Hon. Members, I think I am going to rule out the retiring Members from voting on this! But I am sure that the rest of us – I put the motion to you –

1615

**Mr Downie:** Have we got not right to reply, Madam President?

**Mr Crowe:** Do we need to reply?

1620 **The President:** Yes, I will give you a reply in a minute. Let us vote on it first. Is that agreed, Hon. Members?

**Members:** Agreed.

1625 **The President:** Thank you.  
If any retiring colleague wishes to speak... Mr Downie as the senior, longest-serving –

1630 **Mr Downie:** Yes, as the oldest incumbent, could I first of all, thank Mr Turner for his very kind remarks. I have thoroughly enjoyed my time in Tynwald, and in particular my time in the Legislative Council, because I do think this is the intelligentsia of Manx politics. We have a different approach to things, but do we get things done? Yes. Do we go into things in depth? Yes. And as far as I am concerned that has been the most satisfying part of the job for me.

1635 It would be very remiss of me not to mention Jonathan King, our Clerk. Jonathan has been a tower of strength, really. He is always available for us if we require anything and I know within the Committee system itself, within Tynwald, he is a really good adviser, good researcher and an excellent officer.

I would also like to thank our Messenger Keith, whose smiling face greets us at every sitting and not only has he been an excellent Messenger in Tynwald, but he has also become a good personal friend to most of us and we are appreciative of that. (**Members:** Hear, hear.)

1640 I think I will miss my colleagues, but I think I would like to finish off, Madam President, by thanking *you* for the patience, courtesy and assistance shown to the Members of this Court.

**Members:** Hear, hear.

1645 **The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President

1650 I think Dudley will have the last word! But if I could say a few words, and I do thank Mr Turner and Hon. Members for their kind words. I also join with Mr Downie in thanking you, Madam President. I think looking back at the Class of '98, you and I are the last surviving Members of the class, retiring in 2003.

**The President:** Were we? Old age catches up! (*Laughter*)

1655 **Mr Crowe:** I bear to be corrected on that, but I am sure that is correct. You and I are the last survivors of that. So you will be the sole survivor of the 1998 intake.

But each Member of Council brings to the table the benefit of their experiences in life and in the workplace. We all have a common goal and that is to help the Isle of Man by carrying out public service for the people of the Isle of Man and that in itself is a great honour and a privilege.

1660 President Kennedy once stated, 'Ask not what your country can do for you. Ask what you can do for your country', and that sums it up. Do your best, try to add value in every facet of the work of Tynwald, the Council and the Government.

1665 So I join with Alex in thanking you all for your friendship and I will look back with fondness at all the good times. I also thank Jonathan King for his assistance and service, and to Keith for his loyal service to Tynwald and the Council. So again I will miss the Council, but I will move on to different pastures. But thank you all for your friendship.

**The President:** Mr Butt.

1670 **Mr Butt:** Thank you. I made certain note of what the Bishop said this morning between prayers. He always says a little piece and I often try to follow the message for guidance, and today he said

something about it is not the beginning, but the continuation of the thing. So I thought maybe I should change my mind! (*Laughter*)

1675 **The President:** You still have a few days! (*Laughter*)

**Mr Butt:** I do feel still like a new boy. I feel like I have only just arrived and I am still learning things. The 10 years I have had here have flown so quickly, and I still feel like there is lots to do, as I am sure we all do, because we are now imbued in that way of working.

1680 My very first time in the Legislative Council was on the day I got sworn in. It was 15th March, and I came in straight from swearing in, to sit round. It was across the road then, and it was the Coastal Erosion Bill, and I sat there, not a clue of what was going on. The very first time I spoke in either here or Tynwald was over there on the Coastal Erosion Bill, the word 'connivance' was in the Bill, and I actually asked the Attorney General, how could such a word be in legislation.

1685 And I note today, full circle has come round as in clause 34 of the Designated Businesses Bill there is the word 'connivance' again. (*Laughter*) I have not seen it since that first day, and it is there again on the last day, which is full circle. So maybe the continuation of the beginning is now closed off.

I would just like to thank everybody of course, for all the time I have had with them over the years.

1690 Concerning the function of the Legislative Council, I really do think it does work and it works properly. The attempts to change it are not foolish, I can understand why people want to change, but they should leave it as it works – otherwise, scrap the whole system and go back to one Chamber. I think it is very important, as has shown in recent weeks, that – I think I mentioned this morning in another place – the Government and the Council of Ministers can usually rely on getting their things through downstairs in Tynwald, but they are not certain of us. So my message to you all is in the future: keep them on their toes. Make sure Government do not do anything really silly because they have always got to get through Legislative Council, and I hope that Council do keep them on their toes.

1700 Thank you, Mr Turner, for your motion and the things you said. I do apologise for the stories – I can't help coming out with these stories! (*Laughter*)

**Mr Turner:** I've enjoyed them!

1705 **Mr Butt:** It is called swinging the lamp, I think, in the old days, and I keep doing it. I will write them all down, one day. I did not get wet – the conclusion of that story.

Can I also thank Jonathan too. Jonathan has been in many Committees with me over the years, as well. I was actually on the Selection Committee to appoint him, with former President Noel Cringle, and I think we made the right choice on the day. He has been a stalwart to us all, over the years, (**Two Members:** Hear, hear. ) especially on Committees and in here.

1710 And for Keith too, thank you, Keith. We do share a mutual history: 13 weeks square bashing at a place called Bruche, (*Laughter*) so we do have a lot in common, between us. We did not quite join together at the same time, but we were there.

1715 I do not know what else to say, Madam President. I would like to actually thank you, for your time with me over the years on the MEA Committee in particular, where I discovered your forensic analysis, your patience, your actual commitment to doing things properly and being correct in all you do. And that comes out in your time on the Council before you became President and now as President. I think I did say this morning, that you are probably a better politician than your father. I hope your father does not mind me saying that, (*Laughter*) but I do believe that is the case and Tynwald is – (*Interjection*) I know! Tynwald is all the better for your presence and I thank you for time over the years.

1720 Thank you everyone for your comments and I look forward to the future. Thank you.

**A Member:** Hear, hear.

**The President:** The Hon. Member, Mr Braidwood.

1725

**Mr Braidwood:** Thank you, Madam President.

First of all I would like to thank Mr Turner for his kind words.

1730

Also, the Lord Bishop as well for seconding the motion and his kind words, and I know it is his birthday this coming Friday, 27th February, Madam President –I won't tell you how old he is, but he has been getting his pension for a year. *(Laughter)*

My fate, Madam President, unlike my other three colleagues, is in the hands of 24 people on 16th March. So this could be my swansong, or if I am very fortunate I could be sitting back here on 17th March. But no matter which way it goes, I have thoroughly enjoyed my time in Legislative Council.

1735

As Mr Downie said, and Mr Crowe as well, it is completely different to the House of Keys. I think, you know, how we scrutinise legislation, how we do it is completely different. It is more informal, because in the Keys, once you have spoken, you cannot speak again unless it is an amendment. Here, with your indulgence, *(Interjection and laughter)* we can go back if we have felt we have missed something.

1740

So if I do not get the votes, as I said, I have thoroughly enjoyed my time. Again, I would like to thank you, Madam President. I would also like to thank Jonathan for his support and for Keith for bringing the sparkling water around, although Mr Turner keeps forgetting the Vimto cordial, which he has promised for the last few months.

1745

So for my three totally retiring colleagues, Mr Butt, Mr Crowe and Mr Downie, I hope they will enjoy their retirement. I know Mr Butt does a lot of walking. Mr Downie, as Mr Turner said, will be on the website looking for Napoleonic memorabilia. And Mr Crowe has had his... well, Dorothy has told him, because they have moved into a new house in Glen Vine, near enough opposite where my son lives, so I can keep an eye on him, and he has been told, he has got quite a large garden and I have told him to bring the wine out of the garage so that next time I come over, he can offer me a glass or two. But I know Dorothy is a very keen gardener and she will encourage Alan to help her put the garden into the situation as it was in First Avenue, when they lived just a couple of doors away. So they have gone from living near enough opposite me, just a few yards away, to opposite my son in Glen Vine. So they cannot keep away from the Braidwoods, Madam President. *(Laughter)*

1750

**The President:** Hon. Members, thank you, all very much indeed. We do thank you all for your service. That concludes our business this morning.

1755

Council will now adjourn, until 3rd March and I would ask continuing Members to bear in mind the quorum.

I am also asked to remind you that there is a presentation on epilepsy at lunchtime. However, I do hope you will join me before that, as we conclude our business. Thank you, Hon. Members.

1760

*The Council adjourned at 12.44 p.m.*