



LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH

PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 8th March 2016

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Present:

The President of Tynwald (Hon. C M Christian)

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),
The Acting Attorney General (Mr J L M Quinn),
Mr D M Anderson, Mr M R Coleman, Mr C G Corkish MBE, Mr D C Cretney,
Hon. T M Crookall, Mr R W Henderson and Mr J R Turner,
with Ms R Eastham, Acting Clerk of the Council.

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<i>The Council adjourned at 11.54 a.m.</i>	<i>209</i>

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, leave continues to be given to the Hon. Member, Mr Wild.

Order of the Day

1. Police (Amendment) Bill 2015 – Third Reading approved

Mr Coleman to move:

That the Police (Amendment) Bill 2015 be now read a third time.

The President: We come now to the Police (Amendment) Bill for the Third Reading stage.

10 I call on the Hon. Member, Mr Coleman, to take the Third Reading of the Police (Amendment) Bill.

Mr Coleman: Thank you, Madam President.

15 In moving the Third Reading of this Bill it is my pleasure to summarise the main objectives behind the Bill as follows: firstly, to clarify the law relating to the re-appointment of an incumbent Chief Constable; secondly, to enable the Department to contract out functions of the Constabulary currently performed by police officers; and thirdly, in respect of police complaints, to meet international and human rights requirements that incidents involving death or serious injury following contact with the Police should be investigated.

20 The changes will also enable the Chief Constable to refer other serious or important concerns for investigation, even though they may not have been the subject of a complaint by a member of the public.

Members were informed in the clauses stage last week of how the Bill had been further amended in the House of Keys, in respect of clause 4 and schedule 1, to ensure that the function of executing a search warrant on entry to premises cannot be contracted out, and to correct some proofing errors.

Clause 5 was wholly substituted for technical drafting reasons.

Schedule 2 was wholly substituted by the Keys in order to take account of further human rights issues raised by Chambers. The substitution included amendments to the appointment, terms of office, retirement from office and eligibility of the Police Complaints Commissioner.

30 In this Council a new clause 5A was inserted by Mr Crookall in order to include special constables in section 12 of the Police Act 1993 as members of the Police Force so they can become members of the Isle of Man Police Federation. The effect will be to give special constables proper recognition for the role they perform, and representation in terms of Constabulary structures and relationships between the command team, the Federation and the Department.

35 During the clauses last week, Mr Turner enquired, in relation to the referral of complaints to a police force or body outside the Island, as to why the issue of complaints was not simply handed over to the UK Independent Police Complaints Commission (IPCC). What we have done through schedule 2 in the green Bill and then further enhanced through the substituted schedule 2 is to enable those cases involving death or serious injury or other serious matters to be referred to any relevant person, meaning we could refer the matter to the IPCC, any body of a similar nature in the UK or the Republic of Ireland, or any police force within the British Islands other than the Isle of Man Constabulary. This actually gives the Island far more options to have matters investigated independently from the Constabulary, and to do so in the most efficient and cost-effective manner.

40 The Department considers the proposals within the schedule reflect not only the Island's position as a self-governing territory but one that may call on the assistance and resources of any number of its neighbouring jurisdictions.

45 Mr Turner also mentioned electing police and crime commissioners. The office was established to replace police authorities, which in the UK were constituted in various ways. In the Island we have a single Constabulary directly under the oversight of the Minister, who is elected by his constituents and is accountable to them and to the electorate as a whole through the Council of Ministers, Keys and Tynwald, and in this Chamber through myself as Member of the Department. In addition, the Department is responsible for the Annual Policing Plan. It is considered the arrangements in the Island ensure appropriate accountability with minimal bureaucracy and are effective whilst securing the operational independence of the Constabulary under the command of the Chief Constable.

55 Subject to reference back to the Keys in respect of the Council amendment, the Bill has completed its legislative passage through the Branches and it only remains for me to thank Mr Crookall, Mr Henderson and Mr Anderson for seconding the various elements of the Bill – Mr Crookall in particular for moving the new clause and the amendment contained therein – and to thank the Acting Attorney General for the assistance he is about to give (*Laughter*) with regard to the provisions of human rights law that were addressed by the Bill.

60 Madam President, I beg to move that the Police (Amendment) Bill be read for the Third time and be returned to the House of Keys to consider the amendment made by Council in respect of special constables.

65 **The President:** Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

70 **The President:** Did you wish to speak, sir?

The Acting Attorney General: Yes. Thank you, Madam President.

If I could start by thanking the Lord Bishop for this opportunity to explain briefly the nature of the provisions of the European Convention on Human Rights, which have had to be addressed in relation to this Police (Amendment) Bill 2015.

75 A number of amendments made by the House of Keys to the Bill have been advised upon by law officers in my Chambers as there were concerns that the Bill as originally drafted may not have adequately dealt with provisions of the European Convention on Human Rights.

80 The drafting of the Bill was outsourced by the Department and, before its introduction, my Chambers identified the areas which needed to be addressed, and rather than delay introduction of the Bill, the Department decided to progress the Bill and during its passage to deal with the amendments required by Chambers to address the possible human rights issues.

As requested by the Lord Bishop, I turn to mention and identify the particular human rights issues.

85 Parts of the substance of the Bill, the amendments to schedule 1 of the Police Act 1993 which are made by schedule 2 of the Bill, engage the subject matter of articles 2 and 6 of the Convention. Article 2 is the right to life and this is engaged in schedule 1 of the 1993 Act. It has been amended to make specific changes in relation to the investigation of deaths occurring in custody. Article 6 is the right to a fair trial, which may also be engaged in that the investigation of the circumstances of a death in custody is presided over by a commissioner, who has to make decisions which may
90 potentially alter the livelihood of police officers and may also result in decisions of great significance for the families of deceased persons. The changes which Chambers advise upon and which form the basis of the amendments are intended to help ensure that the commissioner is seen to be independent and impartial, and so the amendments address provisions as to the appointment and removal of the commissioner and to therefore help ensure an independent and effective
95 investigation to ensure not only a hierarchical or institutional independence, but more importantly a practical independence.

I hope, Madam President and hon. colleagues, that this brief explanation of provisions of the European Convention on Human Rights which raised concerns necessitating amendments introduced into this Bill is helpful to you.

100

The President: Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

105 I would like to thank the mover for explaining some of the queries I had at the previous stages of this Bill.

I am still a little bit concerned about the process he mentioned. Whilst I understand where the Department may be coming from, saying that this gives them the ability to choose where to refer complaints to, I feel that that is not exactly the most robust way of doing things. In the UK, such as deaths due to police operations would go to an independent police commissioner, and yet I cannot
110 see them referring those complaints to other police forces, which this Bill gives the Isle of Man Police Force the ability to do, but would appear to give the Department the ability to do.

The mover also mentioned that we could refer it to somebody from Ireland, for example. I would have thought as a British Crown Dependency we would have had it so that we would refer it to the UK's independent body, which is already constituted, already established and has clear processes in place. I feel that what this really says is that we can pick and choose to suit our own circumstances, which I do not think is entirely transparent. I would like to have seen that more definite that it would go to the appropriate body.

115 Those are the comments I have, Madam President, but I do thank the Member and hope that in the rare circumstances, hopefully, when we would need to use these particular provisions – one would certainly hope – the Department will think very carefully before appointing. I certainly would
120 not like to see other police forces appointed, because I think that really goes against the grain of

what you are trying to do, of getting it outside the police system where there can be no doubt that it is fully independent. Those are the comments I have and I do thank the mover for his answers.

125 **The President:** Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Madam President.

130 Just confirmation at the Third Reading: could the mover just confirm that there will be no expected revenue, extra expense, as he has given this indication earlier in parts of the Bill? Just to confirm.

The President: The mover to reply.

Mr Coleman: Thank you, Madam President.

135 With reference to Mr Turner's comments, I think that one of the options which is available to us is to use an IPCC in the UK, as I said in my previous statements. I think what we have done here is ... I think we have the options. By giving us options we can look at the specific nature of the complaint. It may well be that if we ask an IPCC somewhere they may be too busy and say, 'No, we cannot do it,' and so we may well have to shop around to be able to get a complaint looked at. My own feeling is that when we have options it is not necessarily a bad thing. It is a good thing; it gives us a lot of flexibility – and not in a nefarious way, which I think was implied, but in a very positive way.

140 With reference to Mr Anderson, I can confirm that we do not expect this to have any effect on expenses within the Department, in that we are paying for most of this stuff already anyway, so we do not expect any increase in costs to the Department.

145 Madam President, I beg to move that the Police (Amendment) Bill be read and returned to the House of Keys for the amendment to be considered.

The President: The motion before the Council 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.

**Procedural –
Item 2 deferred to later in the sitting**

150 **The President:** We go back now to the Road Races Bill, Hon. Members.
We had adjourned consideration of clause 9. I intend to invite the mover –

Mr Cretney: Madam President, we were notified shortly after five on Friday that this Bill would not be proceeding today. I have heard nothing further to the contrary.

155 **Mr Turner:** Nor have I.

The President: I have had no such notification.

160 **Mr Cretney:** From Dr King, from the Clerk of the Council.

Mr Henderson: There was a note that did go round, Eaghtryrane.

Mr Anderson: An email.

165 **Mr Turner:** Yes.

The Lord Bishop: The result of which is that at least I have not brought the papers for it.

170 **Mr Cretney:** I have not brought my papers.

The President: Could you communicate with Jonathan and find out what has been said?

175 **The Acting Clerk:** Yes.

The President: In that case, we will just hold that for the time being and we will move on to the next Item until we find out what has happened there.

3. Concessionary Travel Schemes Bill 2016 – First Reading approved

Mr Corkish to move:

That the Concessionary Travel Schemes Bill 2016 be read a first time.

180 **The President:** We move to the Concessionary Travel Schemes Bill for First Reading.
I call on the Hon. Member, Mr Corkish.

Mr Corkish: Thank you, Madam President.

I am pleased to be able to promote this very short Bill on behalf of the Department of Infrastructure.

185 The Concessionary Travel Schemes Bill's main objective is to regularise the current position by conferring a statutory power on the Department of Infrastructure to enable that Department to make concessionary travel schemes for passengers travelling by public road or rail transport. This objective will be achieved by the insertion of a new section 23A in the Isle of Man Passenger Transport Act 1982 so as to enable the Department to make concessionary travel schemes.

190 The Department is currently working on the details of the travel scheme and hopes to be able to issue the draft scheme for public consultation in the near future.

One of the objectives of the new scheme will be to ensure that any concessions will be targeted to the groups in society who are most in need. That is why the Department is currently working closely with the Treasury Social Services Division to refine the details of the new scheme.

195 By way of recap, Madam President, I would like to emphasise to Hon. Members that this Bill is purely inserting new enabling powers in the Isle of Man Passenger Transport Act 1982, which will introduce new provisions which will allow the Department of Infrastructure to make concessionary travel schemes.

200 I can also advise Hon. Members that whilst the origins of the original travel concessionary scheme can be traced back to 1974, that scheme was classified as a non-statutory scheme, although the scheme did require Tynwald approval. The original 1974 scheme was actually made by the former Board of Social Security, and that scheme has been revised over the years to take account of the introduction of the government department system and subsequent name changes and restructuring of those Departments.

205 Having outlined the broad principles of the Bill, I hope that Hon. Members will now give it support.

Madam President, I beg to move that the Concessionary Travel Schemes Bill 2016 be read for a first time.

210 **The President:** The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Turner.

215

Mr Turner: Thank you, Madam President.

I support the Bill but I would just like to make some comments.

220

We are trying to go for a more simple Government. I find it quite extraordinary that we actually need something like this to put these schemes together, because if we were running the bus company as a ... if it was a private operator they would be free to set whatever tariffs, discounts, concessions they wished to put on their tariff rate card.

225

Obviously, this is not about privatisation, corporatisation, of the bus company, and I accept that on the Isle of Man the viability of running a privatised service just is not there, so we have to have this in Government ownership, but I would have thought that the Department should be taking the opportunity to maybe simplify this completely, and whatever tariffs and charges, subject to oversight by the regulator, which I believe is still the RTLC ... then I do wonder why it requires primary legislation to enable them to do this. Are we not tying up these organisations in red tape, when really we should be allowing them to get on with it and do these things? Is the Department not considering a bit of a revamp in this area so that these sort of things are not necessary in future and they can get on and offer the services that they wish to offer for people?

230

The President: The Hon. Member, Mr Crookall.

Mr Crookall: Thank you, Madam President.

235

Just a couple of queries, really.

In section 9 of the explanatory note, it does say, and I quote:

This will allow the Department to ensure that any travel concessions do not apply at times when, for example, the buses are carrying lots of commuters.

240

I hope there is some allowance made for those who are concessionary ticketholders, whether they be pensioners or whatever who are attending Noble's Hospital or whatever, to get there using that. Are they going to stop them from using them? In which case, they need to work with DHSC with regard to appointment times so they do not clash.

Also, just on section 23A(5), it says:

A concessionary travel scheme may provide for the modification or revocation of any concessionary travel scheme relating to the carriage of passengers by road or rail established in the Island and in operation when this section comes into operation.

245

This is purely a hypothetical query, I suppose, at this time, but one that needs to be taken into consideration: should the Department of Infrastructure take over the horse trams, timing will become an issue as to when they take over, whether they are included in this, because this says 'when this comes into effect'. It may well be that they are outside, so it is just purely hypothetical but it is something they might need to think about.

Thank you, Madam President.

The President: The Hon. Member, Mr Cretney.

250

Mr Cretney: Yes, I was just wondering if the mover can expand a little bit on the terms of the discussions he is having with the Social Security Division in terms of the area of concession.

All I would say is that the concessions in particular for retired people were hard fought to achieve and I would hate to see us going backward in that area.

255

The President: The mover to reply.

Mr Corkish: Thank you, Madam President.

I thank Hon. Members for their interest in this short Bill.

260 I reply to Mr Turner regarding simpler government that indeed that is the wish of Government in general. This really is a tidying-up exercise which, at the end of the day, will make it much clearer because of ... Going back to when Departments have been redefined, there is a great deal of grey area around concessionary travel. This Bill is designed to tidy that up, and indeed, as I said in my opening remarks, there will be a degree of public consultation on this which we very much hope will
265 iron out and bring to the fore the needs. At the end of the day, this is for people who are in need of concessionary travel.

Mr Crookall, yes, public consultation is proceeding and, indeed, working with Social Security and will continue to, bearing in mind that of course that is the most important part of this Bill.

270 The query 'should the Department of Infrastructure have dominion over the horse trams, should it come – it is hypothetical and I am sure that will be taken on board as and when the times comes. Indeed, we have an officer from the Department here now.

To Mr Cretney – Social Security, pensioners – of course the first time that this concessionary travel was brought in was indeed in 1974 for the benefit of pensioners and those over pensionable age. The Department will have recourse to remember that, Mr Cretney, and your remarks are taken
275 on board by the Department.

Madam President, I beg to move.

The President: The motion is that the Concessionary Travel Schemes Bill 2016 be read a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2. Road Races Bill 2015 – Continuation of clauses stage deferred to next sitting

280 **The President:** Hon. Members, it is apparent that an email went round to say that the Road Races Bill was not going to be moved this week by the Hon. Member. Work has gone on in the meantime and he was ready to move it, but I think that given Members are not prepared for today we had better hold it over and put it on the agenda for our next sitting.

285 **Mr Corkish:** Madam President, can just say I acknowledge the concerns of Hon. Members and apologise to you and the Members for that oversight. A lot of assumptions perhaps had been made. I am sorry.

290 **The President:** Well, I think if there had been an email swiftly after the first one they may have had time; but as there has not been, we need to give them time to consider their views on the Bill.

4. Equality Bill 2016 – First Reading approved

HM Acting Attorney General to move:

That the Equality Bill 2016 be read a first time.

The President: We turn now then to the Equality Bill for First Reading.
I call on Her Majesty's Acting Attorney General.

The Acting Attorney General: Thank you, Madam President.

I only intend to give a comparatively short introduction to our debate on the Equality Bill today. This is because, whilst the principle of the Bill is quite straightforward, it cannot be denied that the Bill is lengthy and detailed; and, if the Bill passes its First Reading today, Hon. Members will no doubt wish to discuss parts of that detail in some depth in subsequent stages. However, I will, of course, do my best to address any issues that Members may wish to raise today. In this, with your permission Madam President, I will be assisted by the drafter of the Bill from Chambers and the lead policy officers from the Cabinet Office and the Department of Economic Development, two of whom are in attendance of those mentioned.

Madam President, I believe that, without exception, the Members of Council will be supportive of the principle that, so far as possible, people should be treated equally and protected from discrimination. I say 'so far as possible' because it is simply not practical, and sometimes not desirable, for all people to be treated entirely equally in all situations all of the time. For example, it is appropriate to restrict the sale of certain items to children, and also for the eligibility to compete in a country's football or rugby team to be restricted on the basis of a person's nationality. So a Bill that just had a title 'Equality Bill' and one clause stating that discrimination is prohibited might be a fine idea, but it would simply not work in practice – although it would, from a purely selfish point of view, be extremely lucrative for the legal profession arguing what amounts to discrimination in a particular set of circumstances..

Although some people may be uncomfortable with lengthy and detailed legislation, such as the Equality Bill before us, it is important to bear in mind that its length and detail is not without purpose. In a large part of the detail of the Bill, together with the supporting secondary legislation and guidance that will be made, it is necessary to provide as much legal certainty and clarity as possible. And a significant part of the Bill also deals with the circumstances under which differences in treatment are permitted.

It should also be remembered that, whilst the Bill certainly does broaden and strengthen the protection of people in the Island against discrimination, in part the Bill is an updating and consolidation exercise, with a number of existing Acts of Tynwald being repealed and replaced either entirely or in part.

Madam President, Hon. Members will be aware that our Equality Bill is closely based on the Equality Act 2010 that applies in Great Britain. There are a number of reasons for this.

Firstly, it is good deal easier to start with a piece of legislation that is already in operation and which has been tested, rather than start with a blank piece of paper. Such an approach would not only have required considerably more time and drafting resource in Chambers, it would also have needed a huge amount of more policy consideration and direction from all across Government. This is an area of law in which I do not believe that it is necessary to reinvent the wheel. Like the Isle of Man, England is a common law jurisdiction and English case law is persuasive, although not binding, in the Island.

There is a large amount of relevant and valuable English case law, not just in respect of the Equality Act 2010, but also the various separate pieces of legislation that preceded it. I mentioned a moment ago that our Bill is partly a consolidation exercise, but this was very much more the case for the 2010 Act in the UK, and so there is relevant case law dating back many years in some areas. And certain issues in relation to equality have not just been considered by the courts in the United Kingdom but also by the European Court of Human Rights, and indeed by other jurisdictions throughout the Commonwealth, notably Canada.

Another reason for using the Equality Act 2010 as the basis for the Island's Equality Bill is the fact that businesses or organisations operating in both the Isle of Man and the UK should already be familiar with the legislation.

And, finally, as I have said, there will be a need for secondary legislation and guidance to support the effective implementation of the Bill, particularly in the area of guidance, where the Equality and Human Rights Commission and the UK government's Equalities Office have produced a large amount

of documentation, which information will provide us with a considerable advantage by being able to use and adapt existing material.

Madam President, whilst the primary purpose of the Equality Bill is to ensure that vulnerable people, those in minorities, and the people of the Island in general are protected from unjustified discrimination, it is worth noting that this legislation is also important from the point of view of the Island's reputation and its compliance with its international obligations.

There are a number of United Nations conventions that have been extended to the Isle of Man to which this Bill is relevant. These include the Convention on the Elimination of all forms of Discrimination against Women, the Convention on the Elimination of all forms of Racial Discrimination, and the International Covenant on Economic, Social and Cultural Rights. Although the Island may largely comply with these conventions, there are a number of areas where we are open to criticism and where the Bill will improve our position. It might be asked why the UK would agree to extend these conventions I have mentioned to the Island in the first place if we were not fully complying with them. The simple answer is that when they were extended some years ago their implementation was not considered in the same level of detail that is now required.

There are also certain other important conventions which are seen as setting the standards for all modern countries that have not as yet been extended to the Island, precisely because at present we cannot adequately comply with them. The United Nations Convention on the Rights of Persons with Disabilities is one; the International Labour Organisation's (ILO) Equal Remuneration Convention and its Discrimination (Employment and Occupation) Convention are others. These two ILO conventions are included in that organisation's list of just eight of the nearly 190 conventions that are considered to be core or fundamental to the protection of all workers' basic rights.

So, Madam President, having hopefully given some helpful background to the Bill, I will now turn to a brief overview of what it actually contains.

The basic concept of the Bill is that unjustified discrimination is prohibited on a number of grounds, namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Why these particular grounds? Well, here we are back to using the Equality Act 2010 as a starting point. The grounds in our Bill are the same as those set out in that Act. They are the grounds on which people had some protection from discrimination in a number of separate pieces of UK legislation prior to the 2010 Act, because experience in the UK over a number of years had shown that people could be subject to discrimination on these stated grounds.

In the Bill, as in the 2010 Act, the grounds on which discrimination is generally prohibited are called 'protected characteristics'.

The Bill applies to the public, private and voluntary sectors, and it basically covers all areas of life, including employment, the provision of goods and services and the carrying out of public functions. There are, however, a wide range of circumstances under which treatment that could be discriminatory is permitted, or which may be permitted depending on the facts of a particular case.

The main forms of conduct which are prohibited under the Bill in relation to people with the protected characteristics are direct discrimination, indirect discrimination, harassment, victimisation, and discrimination arising from a disability.

Direct discrimination is the most obvious form of discrimination, where, for example, a person is refused service because of his or her race.

Indirect discrimination is where a policy or practice is not necessarily targeted at persons with a particular protected characteristic, but it nevertheless disproportionately disadvantages such persons. For example, the height requirements that used to exist for police officers could disadvantage people of an Asian ethnic origin, who tend to be shorter. However, indirect discrimination can be permitted if it can be shown that it is a proportionate means of achieving a legitimate aim.

There are three strands of harassment under the Bill, but basically in all cases it is unwanted conduct related to a protected characteristic, such as a person's disability, religion or sexual

395 orientation, being conduct which has the purpose of affecting or violating a person's dignity, or of
creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

Victimisation is where a person suffers a detriment because they have asserted their rights under
the Bill or have supported another person in asserting their rights. However, a person is not
protected from victimisation where he or she maliciously makes or supports an untrue complaint.

400 Discrimination arising from a disability is a rather technical matter which I propose to deal with in
more detail as the Bill progresses, but essentially it is discrimination related to a consequence of a
person's disability, rather than on the grounds of the disability itself.

Having mentioned disability, it is perhaps appropriate that I turn to what is required under the
Bill in respect of the duty to make reasonable adjustments for disabled persons. This was
405 undoubtedly one the issues that elicited the greatest level of support during the consultation on the
Bill, but it was also perhaps the area about which businesses and service providers had the greatest
level of concern in relation to costs. Obviously we have to balance the potential costs with the rights
of disabled people, and that is exactly why only *reasonable* adjustments have to be made. From the
UK's guidance and case law it is clear that a number of factors can be taken into account in
410 considering whether a possible adjustment may or may not be reasonable. For service providers
these factors include how effective the change will be in assisting disabled people in general or a
particular customer, client, service user or member; it will take into account whether it can actually
be done; also it will take account of the cost, and also the organisation's resources and size. Similar
considerations apply in relation to disabled employees, workers and office holders.

415 Madam President, I should just make the point here that although most people probably think
about disability in terms of wheelchair users, persons with reduced mobility and perhaps people
with sight and hearing issues, these are just a fraction of the conditions that are covered by the Bill.
In essence, the definition of disability in the Bill is any physical or mental impairment which has a
substantial and long-term adverse effect on a person's ability to carry out normal day-to-day
420 activities. This is expanded upon somewhat in schedule 1 to the Bill and, as with the Equality Act
2010, it is intended that there will be further clarification in secondary legislation and guidance.

Returning to the issue of reasonable adjustments, it is not possible to come up with a hard and
fast definition of 'reasonable' for the purpose of adjustments for disabled people, and this was
recognised by the Isle of Man Chamber of Commerce in its response to the consultation on the Bill.
425 Each case must be considered on its own merits, resulting in some unavoidable uncertainty for
organisations; and what is or what is not reasonable, at least to a degree, is therefore subjective.
There may well be some disagreements. When this happens, conciliation will be available through
the Manx Industrial Relations Services for cases relating to employment, and through the Office of
Fair Trading in cases relating to goods and services. But, ultimately, where a mutually acceptable
430 position cannot be reached, there has to be a mechanism for rights under the Bill to be enforced or,
for that matter, to determine whether a person's rights have been contravened or that there is a
legal justification for any restriction of rights that may have taken place.

Under the Equality Act 2010, the great majority of employment cases are dealt with by
employment tribunals, whilst goods and services cases are dealt with by the civil courts. For a small
435 jurisdiction like the Isle of Man, this split responsibility did not appear to be the most effective
approach. Instead, the Bill will expand the remit of the Island's existing Employment Tribunal and
rename it as the Employment and Equality Tribunal. This is the same approach that Jersey has
adopted with its development of anti-discrimination legislation.

It is expected that the majority of cases which come before the Tribunal will continue to be
440 related to employment; and it should be remembered, of course, that it can already hear
employment-related cases concerning discrimination on the grounds of certain of the protected
characteristics in some circumstances, although it is understood that there have been very few such
cases.

The current Chair and Deputy Chairs of the Tribunal and the members of the employers' and
445 employees' panels are, by and large, interested generalists rather than employment law experts. As
such, extending the remit of the Tribunal so that it also covers cases of discrimination in the

provision of goods and services appeared to be both practical and appropriate. However, it is envisaged that some additional training in respect of its expanded remit will need to be provided.

Madam President, I would just like to touch upon a couple more issues before I finish.

450 The first of these issues is equal pay for work of equal value. This is not actually a new concept. It is something that has been in effect in the United Kingdom for more than 30 years, and it is also a specific requirement of the UN Convention on the Elimination of Discrimination against Women that I mentioned earlier. For the Isle of Man it is an extension of the existing equal pay provisions under the Employment (Sex Discrimination) Act 2000 rather than an entirely new concept.

455 We are already very familiar with the idea in the Island's public service that people may be employed in very different jobs which are of the same pay grade. Equal pay for work of equal pay is essentially the same idea, but extended to include the situation where an organisation has not carried such a job evaluation study or, potentially, has carried out such a study incorrectly. The new provisions will enable a worker, who may be either male or female, to claim parity of pay with a comparator of the opposite sex who is engaged in work that they consider to be of equal value to his or her own work in terms of matters such as responsibility, level of training required, experience, and so on. Enforcement of the right will be through application to the Tribunal, though the Manx Industrial Relations Service would attempt to bring about a conciliated settlement, which would avoid the matter having to be determined by the Tribunal. The Service will also be responsible for engaging experts in this field to assist the Tribunal in its consideration of these cases.

460 Hon. Members will be aware that there have been a number of long-running and costly cases in the United Kingdom in this area, particularly in the public sector. With these cases in mind, the Cabinet Office and the Department of Economic Development have adopted a cautious approach to the implementation of the provisions. Accordingly, it is intended that there should be a two-year lead-in period after Royal Assent before the equal pay for work of equal value provisions come into operation. The maximum of pay arrears that the Tribunal will be able to award will be two years, which is in line with the current equal pay provisions in the Employment (Sex Discrimination) Act, rather than the six-year period in the United Kingdom.

470 In addition, in the United Kingdom compound interest is added to an award of pay arrears but, again in line with our current equal pay legislation, it not intended that compound interest will be added to such awards in the Island while simple interest would be allowed. Finally, it would not be possible in a successful appeal value case for pay arrears to be awarded for any period prior to the date on which the new provisions come into operation – that is, two years after Royal Assent.

475 In closing, Madam President, I would like to draw the attention of Hon. Members to schedule 21 to the Bill. In some ways, this schedule might described as a Bill within the Equality Bill, with that Bill being an Employment Law (Amendment) Bill. Obviously, the main equality provisions of the Bill are significantly concerned with rights in relation to employment, so it was considered to be both opportune and appropriate to use the Bill as a vehicle to make some additional employment amendments and updates. The majority of the amendments were included in either the public consultation document or in the Government response to the consultation. Some of the amendments contained in the schedule to existing provisions are actually consequential on the new equality, whilst others deal with some issues that have arisen since the Employment Act 2006 came into force or are potential cost-saving measures. In a number of cases these amendments are new enabling powers to make secondary legislation, for which additional consultation and Tynwald approval would be required.

485 Madam President, I said at the start that I would be giving a comparatively short introduction to the Equality Bill. It may not feel like that to Hon. Members but, given the scope of the Bill, I have been true to my word. There is much more that I could have spoken about at length – such as age discrimination and retirement, for example – but instead I will now turn the Bill over to Council.

490 So, Madam President, I beg to move that the Equality Bill be read for the first time.

The President: The Hon. Member, Mr Coleman.

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

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The President: Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Madam President.

505 I am sure we all welcome equality, and I thank the mover for his introductory comments that temper the ambitions of equality through this Bill for our community. However, I look forward to common sense being demonstrated as we progress through this Bill, because quite clearly there are areas where equality is not sensible. The mover has already mentioned that and I look forward to that being demonstrated.

510 However, I believe this Bill should have been programmed before another Bill that is today receiving its Third Reading through another place. This would allow exceptions at the moment not in place in our Island. So I think you can say that this Bill is being progressed in the right place because it has come here first. However, I believe the originality of the same sex marriage Bill does not have the provisions that this Bill would put in place, so in fact I think the cart has been put before the horse in another place. However, it is coming to this Branch in the right order.

515 I am happy to give this Bill its First Reading, I believe we all believe in equality, but I ask the mover could he give us some indication of the anticipated progress of this Bill, bearing in mind that the end of this administration is within sight.

Thank you, Madam President.

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

Mr Turner: Thank you, Madam President.

525 I support the First Reading of this Bill and, like the previous Speaker, we all support the principle of equality. What concerns me, though, is that sometimes the whole equality issue can be abused. It has to be a balance.

530 We have duties to have social inclusion for people who are less fortunate, and I agree with the mover that efforts should be made to ensure that people with disabilities are given the same opportunities as everybody else, but what concerns me from time to time is that there seems to be a flag waved by people about positive discrimination, and there are examples of that in here which do concern me. Once we start looking at that, well then we are not looking at equality at all; we are looking at trying to tick some boxes. One of these, I think, in the Bill ... and we will come to more of these as we go through the clause-by-clause stage, but there are issues in here of duty to promote equality. That in itself, I think, can raise tensions that are not currently there, and I think we have to watch that we do not have maybe minority interests superseding democracy for the sake of box-ticking, which goes on. We hear quite often, mainly on the television across, the public sector saying they have not got enough of this part of society, they have not got enough of that part of society. Well, when it comes to employment, Madam President, I am a great believer that we should be looking to have the best people for the job. All these other factors should be irrelevant. It should be down to the competence and ability of the individual, not a box-ticking exercise that we have not got enough from this particular background on our books. I find that quite an outrageous situation – and, if anything, it is discriminatory.

535 If you look at different parts of the world where you have predominantly a nationality or race of people, it can be down to simply a numbers game. If you have got a thousand people applying for one particular job, then the probability is that x percentage of those are going to be more suitable than the minority. It is a simple numbers game. It has nothing to do with people trying to skew the outcome of the job. It is purely a numbers game and it does concern me when there is ... In the explanatory notes we have an example that says:

A police service which employs disproportionately low numbers of people from an ethnic minority background ...

Well, that in itself ... Who decides what are disproportionately low numbers? It says if they identify 'a number of candidates who are as qualified as each other for recruitment to a post, including a candidate from an under-represented ethnic minority background, it would not be unlawful to give preferential treatment'. So here we are already giving preferential treatment

I think we have to be really careful about this. In the ideal world, which of course we are not in, it would quite simply be who is competent for the role, who is going to do that role the best, and they are the person for the job, whether they be from an ethnic background or not, because surely the service wants the best person for the job. But when you start including the ability to give preferential treatment, I think that is discriminatory against the others. I cannot really see that that is fair.

So there are a number of things; but there are also practical issues, for example, and we have discussed these before, that if you are employing ... and I believe the Bill before us does enable this, and it does in previous Bills where we have had ... For example, if you are applying for a job, say, as cabin crew for an aircraft, it is important that the people there are fit and able bodied enough to be able to deal with people, getting them off in an emergency. So there are factors there which are included that do permit the correct view that not every job is going to be suitable for everybody to have a chance at applying for it. If we end up regulating ourselves to the extent where it becomes difficult, then I think that will be a bad thing.

It is a very complex Bill. I do agree with the learned Acting Attorney that we should not be reinventing the wheel. It is based on the United Kingdom. Not all United Kingdom laws are entirely what we would consider great, but nevertheless I do agree that we should not be trying to reinvent the wheel, we should have some sort of parity.

There are lots of examples through here. The explanatory notes are very helpful in the fact that they do give examples, which is something that I know Members of Council would have found quite helpful in other Bills that have come before us, so I think as we go through this we are going to find it quite a fascinating process.

I do not think it is going to be entirely easy. I think because you have got people ... People have their own views, people have their own beliefs, people have their own cultures, and where all these views, cultures and beliefs converge there is always tension. And to think we are going to pass a Bill here of goodness knows how many pages and everything is going to be great – well, we would be deluded in thinking that, because this is the world, people have their views, and as I said, what we have to do is put that framework in place.

One thing I am *very* keen on is I do not like to see wholesale positive discrimination at the expense of equality. If this is about equality, then we should ensure it is true equality and every person gets their fair chance. We have to accept that in life you are not entitled to everything. You have to go for it, you have to do your best, and simply because you are from whatever background it is does not give you more of a right over the next person. If you want it, you have to go for it.

Thank you, Madam President.

The President: The Lord Bishop.

The Lord Bishop: Thank you, Madam President.

I speak with a certain amount of diffidence about this because I am entirely in favour of an Equality Bill and I am entirely in favour of exploring this Bill as a possibility for the Island.

The size of the Bill is a problem and I hope, Madam President, that we will be able to give the clauses a good deal of time, because there are places in this Bill where little things could easily slip through that we might miss if we do not give it a great deal of care.

There is a thing known as the 'bicycle shed mentality', in which the board of a multinational company approves almost on the nod a several-million-pound advertising campaign – that is the parallel with this – and yet spends four or five hours discussing spending £10,000 on bicycle sheds. We could argue that we proportionately have spent more time on the Police (Amendment) Bill than we might spend on this one, which is enormous. So I do hope that we will spend plenty of time on it.

600 I am concerned about a couple of practical things coming from the explanatory memorandum. The explanatory memorandum on page 2, at paragraph 8, says:

The Bill will in due course repeal and replace the Disability Discrimination Act ...

And on page 9, under paragraph 18, it says:

following the Resolution of Tynwald in July 2015, the Disability Discrimination Act 2006 is to be brought into operation in advance of the Equality Bill.

605 Does that mean the Disability Discrimination Act (DDA) is coming into force and then is going to be repealed? Because, if I look at the list of repeals in clause 166 I do not see the Disability Discrimination Act in that list of repeals. So I am just concerned about that particular question.

When one thinks of equality, I suppose George Orwell comes to mind:

All animals are equal, but some animals are more equal than others.

610 The word 'discrimination' is a word which has gained an additional level of meaning. Discrimination is not wrong in itself. This Act says very clearly that some discrimination is to be deemed unlawful. That does not mean that all discrimination is wrong. If I am driving my car and I see a red traffic light it is right that I discriminate between the red traffic light and the green traffic light. If I were offered a place on the national football team, I suppose I could join Scotland or Wales because I would qualify for both in terms of birth and family, but I could not claim discrimination for not being selected because I have got two left feet. That is not unfair discrimination.

615 So we have this Bill in front of us, which has got more sex in it, I suppose, than any other Bill that we have seen. I suppose this is a Bill with a lot of sex in it, and words like 'belief' appear fairly frequently. So we are in the world where the issue is the extent to which discrimination should be declared unlawful.

620 The Church of England has quite a lot of experience in this. Over the last 40 or 50 years – and yes, it does take that long for the Church of England to come to any kind of resolution – we have been arguing about whether women should be ordained, and eventually it has been enshrined in a Tynwald Measure, a Measure of the United Kingdom Parliament. I have a parish in this diocese where the parochial church council has expressed the view that they do not wish to have a female incumbent vicar. I do not happen to agree with them on a personal level, but the Measure asks me to make a judgement as to whether I consent or not to their embargo on a female priest. There might be a risk that they may be threatened by that and that they may be forced to take a point of view – to take my point of view – over their point of view because the doctrine and practice of the Church of England, of which they are part, is that there is no barrier to women in holy orders. So it is not just, it seems to me, an issue about discrimination but the extent to which we can apply rules about discrimination.

630 Voltaire once said 'I may disagree profoundly with you, but I will always defend your right to say it.' And so the serious issue becomes the right to freedom of speech.

We have seen how in the British legislation there has been some vexatious use of this legislation. We want to make sure that this excellent Bill is not subject to that kind of vexatious legislation, so I hope we will be looking at it very carefully with that in mind.

635 I want to agree with Mr Anderson also, in that because the gay marriage Bill has not yet come to us and we have not made our minds up about whether to process that Bill, I am rather concerned that if we were to pass this Bill on to the Keys we would effectively be saying the provisions of the gay marriage Bill are acceptable to us, and there may be elements of that Bill that will not be.

Thank you, Madam President.

640

The President: The Hon. Member, Mr Corkish.

Mr Corkish: Thank you, Madam President.

I am happy to support the First Reading of the Bill. It contains many if not all good points, and indeed, to quote from the Chief Minister, the Equality Bill is landmark social legislation for the Isle of Man.

Inevitably, the very comprehensive Bill that we will probably struggle through will be passed in totality, but there will be sections within it that will present difficulties to many residents of this Island and indeed to Hon. Members here.

As Chair of the Tynwald Advisory Council on Disabilities, I welcome particularly the rights being offered and promoted to members of our disabled community – long overdue – and also echo the remarks and concerns relating to the Disability Discrimination Act.

There will be sections of the Bill, a very wide-ranging Bill, that through freedom of conscience will simply need a yes or no vote with no grey areas.

Madam President, I look forward to further debate on this Bill and its sections as it passes through this Hon. Chamber. It is a great feat in front of us and we will need a lot of stamina, I think, to persevere through it.

Thank you.

The President: The Hon. Member, Mr Cretney.

Mr Cretney: Yes, thank you.

I do not think I could be more welcoming of a Bill than what is before us today, and I will tell you why: the Isle of Man I want to see is one which is an inclusive society. I think what we do generally is we look to see what has gone on elsewhere and after a period of time we come up with legislation which is appropriate to the Isle of Man. I think that is exactly what this piece of legislation is doing, because there are elements of it which differ from the United Kingdom legislation, and that follows on from the consultation which took place and which ... where it has been adapted in places to be appropriate for the Isle of Man. However, citizens of the Isle of Man should not, as they have in the past in a number of areas, have to wait and wait for many, many years to get similar provisions to their brothers and sisters elsewhere, and that is why I welcome this warmly. Indeed, myself and the current Chief Minister, when the disability discrimination legislation was being proposed, felt that an all-encompassing Bill would have been more appropriate. We made our views known at the time; however, the majority went with the Disability Discrimination Bill yet to be introduced here, and that has been referred to again this morning. So I welcome that we have got to this point now and I will be offering my full support during the progress of the Bill.

What I would say, in response to one point that was raised by Mr Turner, if I can, and that was ... He used the example of the Police Force. Again, I think the Police Force on the Isle of Man should be best equipped to represent all elements of our society if they are going to carry out their work to the best of their ability, and in so doing I think that a proper mix which represents elements of our society is exactly the right thing to do. And yes, it may well be positive discrimination in order to achieve that, but I think that in that instance I am not sure that was the best example he could have used. So I am saying that I think that that is the right thing, that they should represent all elements of society if we are going to have a cohesive, inclusive society, which is what I want to see.

Again, my support for this Bill is 100%.

The President: The Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

I too agree with the Hon. Member of Council, Mr Cretney, with reference to this. I think there are a number of things which are only going to ... with this Bill, even when it is passed. I think the Tribunal is going to be quite busy initially, but I think in everything that has been mentioned there is still the concept of material factors to be able to amend something which is here. For instance, you must not discriminate by sex, but in the workplace there can be material factors – and that has been present in the employment discrimination law in the UK for a long time – and I would imagine that

material factors will be developed by the Tribunal in other circumstances for the Isle of Man. So I have no hesitation in fully supporting the First Reading.

The President: Hon. Member, Mr Henderson.

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Mr Henderson: Gura mie eu, Eaghtyrane.

I would just like to add my 100% support to this Bill and would just like to add, not a concern exactly, but because of the complexity of the Bill, as we go down this route and in subsequent years perhaps the law of unintended consequences may creep in to other areas this Bill may affect, and I just hope we and the legislative draftsmen and comments from consultations can be taken on board as fully as possible to mitigate those effects as we go down that path.

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I have to say, Eaghtyrane, I am drawn by some comments from the Hon. Member, Mr Turner, in regard to the point that some of the phraseology in a Bill that is supposed to be anti-discriminatory almost does discriminate by the nature of the way it is laid out and what it is trying to achieve, and it would be nice at some point in the future to have legislation, Government policies, parliamentary policies ... It may be some considerable time in the future but wording, nonetheless, that does not stigmatise, does not label, does not point fingers in any particular way, but in fact unites the community in common humanity rather than some of the undignified phraseologies that are still currently used, and which I find offensive at times, when we should be moving forward with more sensitivity. Hopefully, at some point we will arrive at that landmark day, but in the meantime I am certainly fully supportive of this legislation.

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The President: The learned Acting Attorney General to reply.

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The Acting Attorney General: Yes, thank you, Madam President.

If I could start by thanking Hon. Members for their support for this First Reading of the Equality Bill 2016.

If I could then, Madam President, address some of the issues which some of the Hon. Members have raised, I will do my best to answer those now.

725

If I could just turn to the issue raised by the Hon. Member of Council, Mr Anderson, with reference to the anticipated progress of the Bill, the intention is that the Bill will progress as far as possible through both Branches. However, the progress of the Bill will be reviewed carefully as we, here in Council, dedicate the appropriate time that is going to be necessary to look at the detail, and I will be seeking the approval of Madam President, in effect, to have a number of sittings when we go through what I would describe as bite-size chunks of the clauses so that we can give it the detailed and measured consideration which the Bill deserves.

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So the intention, the aim, is to try and get it through both Branches, but my task is to try and persuade Council to get it through here, and I think we need to dedicate, with respect, the amount of time which is going to be necessary to look at the very detailed provisions of the Bill, then, turning to the Hon. Member Mr Henderson's point, to even address the language or phraseology that might be of concern to Hon. Members, to make sure that the intention of what the Bill is trying to achieve is clearly understood and causes no offence. So we will be looking at that type of detail, I am sure.

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Mr Anderson: Madam President, on a technicality, can I just ask the learned Attorney what happens if a Bill – Madam President might be able to help me here – progresses through this Branch: does it sit on a shelf? It is not time limited until it comes to another Branch in another place?

740

The President: It goes straight to the other Branch.

745

Mr Anderson: For example, if the administration comes to an end, the reading of our Bill, does it carry forward to the next administration?

750 **The Acting Attorney General:** Madam President, my understanding is that if it completes its passage through Council, it is then available to be picked up by the House of Keys, be it this administration or the next.

Mr Anderson: It is not time limited?

755 **The Acting Attorney General:** It is not time limited.

Mr Anderson: Thank you.

The Acting Attorney General: That is my understanding, Madam President – I hope that is right! Then, back to the Hon. Member, Mr Anderson, it will require, when we consider this, a commonsense approach, and certainly in drafting the Bill it is hoped that the Departments and the drafters have adopted that approach in the way that it is presented to you.

760 Turning then to the Hon. Member of Council, Mr Turner, I am grateful to the Hon. Member for highlighting for Members his notes of caution. They are pertinent, and certainly when we come to consider the detailed provisions of the Bill his concern with reference to achieving the right balance have certainly got to be considered very, very carefully.

765 The Bill does not provide for positive discrimination, clearly. Positive discrimination in employment can only take place if two people are equally qualified. So, clearly, when you are considering the detail you will see no obligation under the Bill for positive discrimination. But clearly we will see these points as we go through in the detail. It could be perceived in that way, but that is another matter – but again, we will have to look carefully at the detail to ensure it is not perceived by the public that there is an opportunity under the Bill for employers to positively discriminate. And what we certainly do not want to achieve, which Mr Turner cautions against, is a box-ticking exercise when implementing the provisions of the Bill, and again we will be able to pick that up when we look at the detail.

770 Turning then to the Lord Bishop and his comments, again I thank him for his support to the principle of the Bill and his caution with reference to the necessity of Council giving it the required scrutiny I have already addressed, and I will be inviting Council to take its time when dealing with these bite-size bits of the clauses so that it can give the time to the detail.

775 The point which the Lord Bishop made with reference to the Disability Discrimination Act ... I say to Hon. Members that the DDA will be brought into operation and then repealed, and if there is any uncertainty with reference to the provisions in the explanatory notes I can only apologise for that. In the Act itself it is actually brought into operation and then repealed, and if you can see page 267, line 29 of the Bill you will see that. But again, that is the type of detail we will pick up as we go through the Bill.

780 As the Lord Bishop has already indicated to us, some discrimination is lawful and we need to be very careful when considering the detail of the Bill to ensure that that is appropriate and proportionate. No doubt the experience of the Lord Bishop and the Church of England's experience as well will add value to our considerations. I am advised that the difficulty with reference to ... if I describe her as the female vicar of St Matthew's ... will not be affected by the Bill. St Matthew's will still have the opt out, but again we will see that when we look at the detail.

785 Then, with reference to the point which has been made in respect of the Marriage and what is now the Civil Partnership (Amendment) Bill, if I could just mention to Hon. Members that in framing the Bill we were very conscious of the possible interaction between that Bill and the Equality Bill. The passing of this Bill will not decide any of the issues under the other Bill. And on Same Sex Marriage, again there is reference in schedule 3, paragraph 3 of the Bill for the power to make amendments necessary to this legislation as appears to the Council of Ministers as a consequence of an Act of Tynwald making provision permitting the marriage of two persons of the same sex. That is accommodated, so that can be looked at again if that Bill actually is passed.

790 Sorry – Madam President.

800 **The Lord Bishop:** Madam President, is it possible for me just to ask –

The President: For clarity, yes.

The Lord Bishop: At the discretion of the Council of Ministers?

805

The Acting Attorney General: As it appears necessary or expedient.

The Lord Bishop: To the Council of Ministers?

810 **The Acting Attorney General:** Yes. (**The Lord Bishop:** Right.) But there is an element of flexibility, put it that way.

Mr Anderson: Or not.

815 **The Acting Attorney General:** Turning then to Mr Corkish, I thank him very much for his support to the First Reading of the Bill, again noting his caution, quite properly, that there will be areas of the public who will be concerned as to the impact of provisions of the Bill, and no doubt Council will consider those concerns very carefully when they come to deal with the detail.

820 Similarly, to Mr Cretney, I thank him for his support – and also to Mr Coleman and Mr Henderson. It is a complex Bill, as you say, and it deserves the scrutiny which I am sure Council will give it.

At that point, if I could then simply move that the Equality Bill be read for a first time.

The President: The motion is that the Bill be read for a first time. Those in favour, please say aye; against, no. (**Mr Anderson:** Divide.) I have not said the ayes have it yet! (*Laughter*)

825

Mr Corkish: Far too eager!

The President: All right, a division has been called, Hon. Members.

Voting resulted as follows:

FOR	AGAINST
The Lord Bishop	None
Mr Turner	
Mr Coleman	
Mr Cretney	
Mr Anderson	
Mr Corkish	
Mr Henderson	
Mr Crookall	

830 **The President:** Hon. Members, 8 votes for, no votes against. The Bill carries its First Reading.

5. Preferential Payments Bill 2016 – First Reading approved

Mr Anderson to move:

That the Preferential Payments Bill 2016 be read a first time.

The President: We turn then to Item 5, Preferential Payments Bill 2016. I call on the Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Madam President.

This long and complex Bill we are about to embark on!

835 The Preferential Payments (Amendment) Bill 2016 will amend the Preferred Creditor Regime to
place deposit amounts eligible for compensation under the Isle of Man Depositors' Compensation
Scheme above all other preferred creditors except liquidator expenses and secured creditors. This
will ensure that if in the future the Depositors' Compensation Scheme is triggered, then rapid
840 payments can be made to depositors. The latest international standards regarding depositor
compensation schemes require payments to depositors to be made within seven days from the
default of a bank.

This will also address recommendation 3R/2 of the report of the Select Committee of Tynwald on
Kaupthing Singer & Friedlander (IOM) Ltd, which stated:

we recommend that Government consider all options to enhance the position of and speed of repayment to retail depositors in the
review of the Depositors' Compensation Scheme.

845 The proposed amendment Bill also enables Treasury, by order, subject to the approval of
Tynwald, to vary or reduce the priority of debts, and also to recognise the depositor compensation
scheme of another jurisdiction as a preferred creditor if the scheme is equivalent or similar to the
Isle of Man's Depositors' Compensation Scheme.

Madam President, I beg to move the Item standing in my name.

850 **The President:** The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

855 **The President:** The motion is that the Preferential Payments Bill 2016 be read for a first time.
Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes our business for this morning, Hon. Members. The Council will now adjourn. The
adjournment will be to Tynwald Court on the 15th, and thereafter in this Chamber on 22nd March.

Thank you, Hon. Members.

The Council adjourned at 11.54 a.m.