



HOUSE OF KEYS OFFICIAL REPORT

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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 28th February 2012

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Present:

The Speaker (Hon. S C Rodan) (Garff);
The Chief Minister (Hon. A R Bell) (Ramsey);
Hon. D M Anderson (Glenfaba); Mr L I Singer (Ramsey);
Hon. W E Teare (Ayre); Mr A L Cannan (Michael); Hon. T M Crookall (Peel);
Hon. P Karran, Mr Z Hall and Mr D J Quirk (Onchan);
Mr R H Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North);
Hon. D C Cretney and Mrs K J Beecroft (Douglas South);
Hon. C R Robertshaw (Douglas East);
Hon. J P Shimmin and Mr C G Corkish MBE (Douglas West);
Mr R A Ronan (Castletown); Mr G D Cregeen (Malew and Santon);
Hon. J P Watterson, Mr L D Skelly and Hon. P A Gawne (Rushen);
with Mr R I S Phillips, Secretary of the House.

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The House adjourned at 11.06 a.m.

House of Keys

The House met at 10.00 a.m.

[MR SPEAKER *in the Chair*]

5 **The Speaker:** Moghrey mie, good morning, Hon. Members.

Members: Good morning, Mr Speaker.

The Speaker: The Chaplain will lead us in prayer.

PRAYERS

The Chaplain of the House of Keys

Leave of absence granted

10 **The Speaker:** Hon. Members, I have given leave of absence to the Hon. Member for Douglas East, Mrs Cannell, for the whole of the sitting and to Hon. Member for Rushen, Mr Gawne, until approximately 11 o'clock.

15 Welcome to BBC Scotland

The Speaker: At this point, I wish to acknowledge the presence of Mr Ian Hamilton and his team from BBC Scotland.

20

Questions for Oral Answer

25 TREASURY

Water rates Charging levels

30 1.1. The Hon. Member for Ramsey (Mr Singer) to ask the Minister for the Treasury:

(a) *If he considers that the present system of water rate charging is fair and equitable; and*
(b) *when the last general rating revaluation was and whether those levels are balanced to our*
35 *present distribution of rural and town dwellings?*

The Speaker: Hon. Members, we turn to Item 1 on the Order Paper, Questions for Oral Answer, and I call on the Hon. Member for Ramsey, Mr Singer.

40 **Mr Singer:** Thank you, Mr Speaker.
I beg leave to ask the Question standing in my name.

The Speaker: I call on the Hon. Member for Ayre, Mr Teare, Minister for the Treasury, to reply.

45 **The Minister for the Treasury (Mr Teare):** Thank you, Mr Speaker.

In response to part (a), it is difficult to argue that the present system of water rate charging is fair and equitable. The current system does not consider the volume of water used by a property, simply a value of each property, and there are instances where comparing two property valuations results in one property having a higher value under the current rating valuation basis and the other property having a higher value when current capital values are used.

50 Moving to part (b), the last general revaluation was conducted to a valuation date of 1st April 1971 under the provisions of the Rating and Valuation Act 1953, as amended, and assessments in the current valuation list reflect the distribution of rental values as at that valuation date. Under the current legislation it would not be possible to alter this rental valuation distribution unless a full revaluation exercise is completed.

55 Thank you, Mr Speaker.

The Speaker: Mr Singer, supplementary.

60 **Mr Singer:** I thank the Minister for his Answer, but he has not suggested any way that we might make this more fair. He recognises, I understand, as he says, that the last general rating evaluation was in 1971 and this was when tourism was declining. Does the Minister not agree that there is justification therefore, for a general re-evaluation after 41 years and that perhaps his Department might come forward with some ideas as to when this would be done, and that we do not have to wait another 41 years?

65 **The Speaker:** Minister to reply.

The Minister: Minister to reply.

70 **The Minister:** Yes, there are certainly ways to make it fairer. This issue has been discussed many times over the years, but to do a full revaluation now would cost well over £1 million and also, if we were to do that, we would have to divert resources from other areas – not only financial resources, but in terms of headcount resources within the Treasury as well and those are resources that I just do not have.

75 **The Speaker:** Mr Singer.

Mr Singer: I understand that the Minister is saying that, as far as the general population is concerned, particularly in the towns, they have to grin and bear it. Is that correct?

80 **The Speaker:** Minister.

The Minister: I am saying that we have to determine our priorities and my priority at the moment is balancing the budget.

ECONOMIC DEVELOPMENT

Second casino licence Expressions of interest

1.2. The Hon. Member for Ramsey (Mr Singer) to ask the Minister for Economic Development:

- 85 (a) *How many expressions of interest have been received by his Department in response to the notice it issued in 2011 in relation to a second hotel resort and casino operation;*
(b) *how many of these are considered viable, with consultation with the applicants in progress;*
(c) *whether a successful applicant would be eligible for grant assistance;*
(d) *whether, in conducting any negotiations, his Department will keep in mind the Council of Ministers press release of April 2011 which says that a second casino licence must not damage the viability of the existing operation?*
- 90

The Speaker: We turn to Question 2. Again, the Hon. Member for Ramsey, Mr Singer.

Mr Singer: I beg leave to ask the Question standing in my name.

95 **The Speaker:** I call on the Minister for Economic Development, Mr Shimmin.

The Minister for Economic Development (Mr Shimmin): Thank you, Mr Speaker.

I can confirm that my Department has received a total of seven expressions of interest in relation to establishing a new five-star hotel and casino complex on the Island. The Department
100 now intends to enter into a dialogue with those who have expressed an interest, in order to better understand their proposals, their viability and potential economic benefit to the Island. Only after this stage is complete will a decision be taken as to whether to invite formal tenders.

With regard to grant assistance, my Department has available published grant assistance
105 schemes, under which appropriate applications could be considered. At this time, no applications have been received for consideration. Both I and my officers are fully cognisant of the importance of avoiding, as far as possible, any adverse impact on the existing casino licence holder. Indeed, the Department would only recommend awarding a second licence, if the proposed new development was very significantly different from the existing casino and associated hotel and
110 leisure complex.

The Speaker: Mr Singer, supplementary.

Mr Singer: I thank the Minister for his Answer and whilst, obviously, he cannot give us
115 details, can he possibly give us the general detail of whether these applications also would include a five-star hotel within the complex?

The Speaker: Minister to reply.

The Minister: The invitation for expressions of interest referred to a five-star hotel and
120 certainly that would be the ambition. The issue now is to see whether this is actually viable in order to make any project move ahead. So yes, it is the economic benefit of the Isle of Man that we are taking into account and we have to make sure that a viable project benefits not just the incumbent operator, but also the Island.

125 **The Speaker:** Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

Is the Minister aware that planning consent for a new apart-hotel and casino was granted
130 around two years ago? Could he explain why it is taking so long, given that we have got a hard-pressed construction industry in the Isle of Man? It seems an awful long time to have to wait for any progress on this matter. Would he agree that it is almost like a very good example of the culture change that needs to happen in the Isle of Man, if we are to move forward at a speed that will help our people?

135 **The Speaker:** Reply, sir.

The Minister: Thank you, Mr Speaker.

I share her frustration at times that the process appears to take a long time; however, I hope the
140 Hon. Member is not suggesting that we should merely move ahead with one operator who comes forward with an idea, rather than getting the best value and the best outcome for the people of the Isle of Man.

Two Members: Hear, hear.

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

Mr Houghton: Thank you, Mr Speaker.

In the considerations of the Department of Economic Development, do they favour bringing
150 forward the ideal submission for a super casino, one which would attract a worldwide audience of high quality? Would that not be the way forward in this case to attract even new high net-worth people to the Isle of Man?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

155 That is one of the difficulties of the evaluation that we have to make. Many people will talk
about a super casino as being a magnet to attract people into our Island. We have to be convinced,
not only by the proposed developer, but also ourselves, that in actual fact that would be
commercially viable. Those persons who wish to go to super casinos have alternatives elsewhere
160 which have a much larger package of measures and it would therefore need to be something which
could be viable and operate in the depths of winter on the Isle of Man, to bring sufficient people in
to a five-star hotel in order to actually make it economically viable.

It is certainly something that the Department is keen on progressing and looking at that idea;
however, I would caution against considering that this is going to be an easy option, because it has
got to be commercially viable, and if we are realistic, the idea of having sufficient bed spaces
165 filled in the middle of the winter is a challenge that any operator would find a difficulty to
overcome.

The Speaker: Hon. Member for Onchan, Mr Quirk.

170 **Mr Quirk:** Thank you, Mr Speaker.

Could I ask the Minister on the... he indicated there were seven applicants that were tipped to
be tested. Of those seven applicants, could the Minister indicate how many have a local
connection?

175 **The Speaker:** Minister to reply.

The Minister: Some of them do, Mr Speaker.

180 **The Speaker:** Mr Singer.

Mr Singer: Thank you.

Can I just ask the Minister – thanking him for all his answers, and obviously he has got to look
at all the seven applications – has he got any timetable in mind as to when the Department might
185 come to some final recommendation, if there is to be a recommendation?

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

190 I think all Hon. Members will be aware of the length of time it has taken for development of a
hotel on the Lord Street station site. This is a matter which is going to be quite a complex and
delicate balance to come forward. My Department received the final firm proposals by the end of
January and therefore we are, at the moment, genuinely looking at talking to all those parties
involved to see if they are serious or not. If they are, then there will be a significant cost to those
195 companies to bring forward significant tender documents. We want to avoid those persons who are
aspirational, rather than serious, so I would expect that the dialogue with the seven parties will be
continuing through February and certainly no later than the end of March. At that stage, we would
then be clear as to how many of them were viable propositions that we would take to the next
stage.

200 **The Speaker:** Mrs Beecroft, a further supplementary.

Mrs Beecroft: Thank you, Mr Speaker.

205 Would the Minister agree with me that I did not make any reference to accepting the first one
that came along? My concern – and I still have not had the explanation – is why it took
approximately 18 months from the initial application to when the Minister has decided to go for
expressions of interest. It seems that there was a big timeframe between those two. We now have
seven coming forward. We could have had seven coming forward well over a year ago.

210 **The Speaker:** Minister to reply.

The Minister: I think, Mr Speaker, my Department works under the normal processes,
whereby something of this significance has to be approved by the Council of Ministers to go
forward. It was approved by the Council of Ministers; the scheme was progressed.

215 I am not at loggerheads with the Hon. Member for South Douglas. I do understand the
importance of moving these things forward. However, I would reiterate a comment I alluded to
earlier: that many people see this as being a solution which is relatively straightforward and
beneficial to the Island. I do not believe it is as black and white as that, and we need to make sure
that, if we are going to get an advantage for the people of the Isle of Man, it is something which is
220 commercially viable for many years to come. That is a difficulty that everybody is looking at this
as being a solution. It is actually a significant problem for all involved. We have to try and do this
right and regrettably, the Department and Government have seen in the past, good ideas and
schemes coming forward but then wilting after many years of proposals.

225 I cited previously the time it has taken to vote to develop on the Lord Street site. It is because it
is difficult to attract such a major development. Hotels nowadays are operated under a turnkey
process, where the developer takes all of the risk and the hotel operator comes in at the last
moment and merely runs the operation. So, for a developer to come forward, we have to be
satisfied that the proposal is viable.

230 I share her concern about the length of time it has taken. Since taking over the office in
October, I believe the Department has progressed this in accordance with the Council of Ministers'
timescale, and we do take it as a serious proposition.

The Speaker: A supplementary, Mr Hall, Hon. Member.

Mr Hall: Thank you, Mr Speaker.

235 Could the Minister explain why, when the decision was made, it took something like another
six months to actually implement the Council of Ministers' decision? Can he give me some
assurances that it was not due to any inefficiencies on the part of officers or as a result of
instructions from the Minister or from somebody else in the Department?

240 **The Speaker:** Minister to reply.

The Minister: I think it is somewhat disappointing, once again, to have people looking for
skeletons in the closet. The reality is that those persons who have visited the Department see that
we have actually a relatively small number of people involved in these areas and we do have to
245 prioritise. This is an issue which is not going to be an immediate overnight success and my limited
Department staff have been working on a number of fronts, of which this is just one.

250 So if the Hon. Member regrets that we are not moving at a speed, I would point out to him the
amount of progress we have made with those officers in many other areas that have actually
achieved progress, income to the Island and jobs. This is something which will take time and
historically, in our Island and other places, developments of this nature tend to be medium-term,
rather than short-term benefits.

At the moment, as we have seen last week in the Budget, the economic difficulties we are
facing mean that my Department have to prioritise those which are immediate and urgent to
actually bring revenue to our Island.

INFRASTRUCTURE

Mobile phone mast West Drive, Onchan

1.3. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Infrastructure:

255 *Whether his Department has approved the siting of a mobile phone communication mast on
land in the vicinity of West Drive, Onchan?*

The Speaker: We turn to Question 3. Hon. Member for Douglas North, Mr Houghton.

260 **Mr Houghton:** Thank you, Mr Speaker.
I beg leave to ask the Question standing in my name, sir.

The Speaker: I call the Minister for Infrastructure, Mr Cretney.

265 **The Minister for Infrastructure (Mr Cretney):** Mr Speaker, in answer to the Hon. Member's Question, I can confirm that officers of the Planning and Building Control Division of the Department, under a Permitted Development Order, approved the site of a mobile phone communication mast on land in the vicinity of West Drive, Onchan. The application was approved on 27th January 2012 under application no. 11/01783/TEL.

270 **The Speaker:** Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

275 Can the Minister advise, in relation to a Council of Ministers' Report published in Tynwald in June 2009, what regard there was made to the siting of this mast and the approval of Planning... what regard Planning had to the recommendation here, where the Planning department has been drawn in to having regard for the siting of mobile phone masts near schools, where the phone mast itself is likely to cause harm to children in the brand new school located at Bemahague in Onchan?

280 **The Speaker:** Minister to reply.

285 **The Minister:** In terms of the health issues for the telecommunications mast, the Isle of Man itself has no specific guidelines on how to deal with such concerns. However, the United Kingdom government has produced such advice on Planning Policy Guidance Note 8: Telecommunications (PPG8). It expressly advises that, where a proposed telecommunications installation conforms to the recommendations of the independent expert group on mobile phones, the Stewart Report, and the guidelines for the public exposure set by the International Commission on Non-Ionising Radiation Protection (ICNIRP) then the local planning authority should have no concerns with regard to Health and Safety issues. The application was accompanied by a certificate of compliance with the World Health Organisation ICNIRP guidelines for public exposure.

The Speaker: Mr Houghton.

295 **Mr Houghton:** Mr Speaker, can the Minister advise whether he or his Department, in Planning, had any regard for this publication? It was heavily consulted on throughout Government. The Committee was chaired by the Hon. Member for Ayre, Mr Teare, a Member of the Council of Ministers. Can he confirm whether he or his Department had any regard for this?

300 Secondly, Mr Speaker, if they have not had any regard for it, would the Minister take regard for this particular document, read it and see in the recommendations, that these mobile phone masts should not be beamed in the area of where children are going to be – in this case, the brand-new school at Bemahague? Can the Minister, therefore... If he has not paid regard to this document, would he do so; and, after reading the document, would he consider withdrawing the offer of the siting of this potentially harmful piece of equipment on this land?

305 **The Speaker:** Yes, a very long... I do not know how many supplementary questions were in there, but Minister...

310 **The Minister:** This application meets best international standards. I had no input into this. The Hon. Member asks did I or will I... Under the Town and Country Planning (Permitted Development) Order 2005, permission is granted for the erection of masts under 15 metres high for telecommunication purposes. It is something that is done by a process which this Court has approved... by this House... I am sorry, by another place, and it meets best international standards.

315 **The Speaker:** Mr Quirk, Hon. Member for Onchan.

Mr Quirk: Thank you, Mr Speaker.

Could I ask the Minister if it was done on a Permitted Development Order?

320 Recently, the House commented on a Permitted Development Order, and could I ask the Minister, because the new Permitted Development Orders have not come out, would the Minister review the situation: (a) where a mast is to be placed near a school; and (b), when it is on Government-owned land? (**Mr Houghton:** Hear, hear.)

325 I do think that if it is on Government land, and I am sure the Minister would agree with me, for openness and transparency, it should have been advertised in the paper, (**Mr Houghton:** Hear, hear.) the local authority should have known, plus the Members from the area should have known.

Mr Houghton: Hear, hear.

The Speaker: Minister to reply.

330 **The Minister:** There is a process in relation to Permitted Development Orders, Mr Speaker, and that process has been followed. I am happy to ask the planners and the Chairman of the Planning Committee to look at the point that is made in relation to whether additional elements should be included or should be excluded from the revision of the Permitted Development Order shortly to be placed before Tynwald Court.

335 **The Speaker:** Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

340 In view of the Minister's answers and the clear fact that we in this Hon. House have been let down by the Planning Division, by the fact that they have overseen this document, that they knew all about – it was approved in Tynwald – in view of the fact that the Permitted Development Order has been approved now, could he give a view to see whether (a) it could be withdrawn, but certainly (b), because this mast is likely to be sited on Department land... withdraw the approval for it to be sited?

345 **The Speaker:** Minister to reply.

The Minister: My concern, Mr Speaker, is that this meets best international standards. Are we saying that the Isle of Man – with respect, a committee of Tynwald – has standards which are better than those which apply everywhere else in the world?

The Speaker: Mr Quirk.

355 **Mr Quirk:** Thank you, Mr Speaker.
Could I ask the Minister a straight question: what is the power of the mast?

The Speaker: Minister.

360 **The Minister:** I know the size of the mast; I do not know the power of the mast. It was approved under Permitted Development Order.

The Speaker: I am taking two more supplementaries. Firstly, Mr Hall.

365 **Mr Hall:** Thank you, Mr Speaker.
I appreciate the Minister may not have been directly involved in this, but is he aware of a recent recommendation by a leading neuroscientist, stating that all mobile phone masts should be banned within one mile of all schools, nurseries and residential areas, in order to protect children's health? Will he give assurances that he will revisit this as a matter of priority (**Mr Houghton:** Hear, hear.) to stop any mast going up in places where children congregate and follow the lead of New Zealand, Sweden, Italy, Australia and parts of the United States in banning them from such areas?

Mr Houghton: Hear, hear.

375 **The Speaker:** Minister.

The Minister: If the Hon. Member would be kind enough to pass on the advice he got from the leading neuroscientist, we will obviously consider that.

380 **The Speaker:** Final supplementary, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

385 In view of the potential seriousness of this and the fact that Isle of Man Government, in 2009, took this most seriously, may I ask if the Minister would also have this document reviewed in his own Department, reminded to the Planning Division for the fact that they have overseen this error, and then, as he has already agreed to do so, please give serious consideration to the fact that the

school is about to open in September, probably at the time of the erection of the mast, and the fact that the approval requires to be withdrawn. Would he at least give consideration to those factors, sir?

390

Mr Quirk: And we own the land.

The Speaker: Minister to reply.

395

The Minister: I am happy to consider the points that have been made in here this morning.

Mr Houghton: Thank you.

400

The Speaker: Thank you, Hon. Members. That concludes Questions for Oral Answer. There are three Questions for Written Answer and the replies will be distributed.

Questions for Written Answer

CHIEF MINISTER

Judicial Code of Conduct Complaints

2.1. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Chief Minister:

In respect of the Judicial Code of Conduct introduced in August 2011 by His Honour the First Deemster –

405

(a) *on what grounds a member of the public may make a complaint under the Code;*
(b) *whether judicial misconduct is principally distinct from so called ‘legal niceties’ that would form the grounds for an appeal;*

(c) *whether judicial misconduct is a ground envisaged by the Code for a complaint to be cited;*

410

(d) *before deciding whether or not to investigate a complaint, what advice the Lieutenant Governor receives and from whom;*

(e) *under each category of the Code, how many complaints have been –*

(i) *received by the Lieutenant Governor;*

(ii) *investigated beyond the first instance;*

(iii) *proven;*

(iv) *dismissed; and*

415

(f) *where a complaint has been dismissed, whether the decision to dismiss is accompanied by a reasoned and detailed explanation;*

(g) *where a complaint has been proven, what disciplinary action has been taken against the judicial officer concerned?*

420

Answer: The Judicial Code of Conduct introduced in August 2011 by His Honour the First Deemster underlines the high standards of personal conduct expected from members of the judiciary in the Isle of Man. In response to the information sought by the Hon. Member, I am given to understand that:

425

(a) A member of the public may make a complaint where they consider that a judicial officer’s personal conduct, whether inside or outside of the courtroom, does not meet the standards set out in the Code of Conduct.

430

(b) Personal judicial misconduct is a separate matter from a judicial officer’s application of the law. If a complainant disagrees with the decision of a judicial officer or their case management or if the complainant believes that a judicial officer has made a legal error, there may be grounds for an appeal. Judicial independence is a fundamental principle of the legal system and decisions made by judicial officers can only be challenged through any appeal procedures that are provided by law.

435 (c) As set out above, the Code of Conduct addresses the personal standards expected of members of the judiciary of the Isle of Man. Personal judicial misconduct provides grounds for a complaint; disagreement with a judicial decision does not.

440 (d) Before deciding whether a complaint should be investigated, the Lieutenant Governor will refer the complaint to the Chief Registrar who will advise the Governor whether a complaint should be investigated. The advice will take a number of factors into consideration – for example the nature of the complaint (does it concern a judicial decision, for example), the length of time since the issue/s occurred, whether the matter is still the subject of judicial proceedings and whether more information is required in order to make an assessment of the complaint. The First Deemster and Clerk of the Rolls holds primary responsibility for the promotion and maintenance of high standards of judicial conduct, in keeping with the internationally recognised Bangalore Principles of Judicial Conduct whereby standards of judicial conduct are seen as the responsibility of the judiciary itself in order to preserve independence. Procedures for making judicial complaints are currently being drafted for publication by the General Registry.

445 (e) In the six months since the publication of the Code of Conduct, six complaints have been received, one of which was later withdrawn. All of the complaints received were assessed as falling outside the parameters of the Code and therefore it is not possible to categorise them as requested.

450 (f) Where a complaint is dismissed, the response will clearly identify the reasons for this dismissal.

455 (g) None of the complaints made to the Lieutenant-Governor since the publication of the Code have established a *prima facie* case of personal misconduct on the part of a judicial officer and therefore no formal disciplinary action has needed to be taken.

**Advocates Disciplinary Tribunal
Value for money; effectiveness**

2.2. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Chief Minister:

In respect of the Advocates Disciplinary Tribunal established under section 15A of the Advocates Act 1976 (as amended) if he will confirm –

- 460 (a) *that he is content that the tribunal represents value for money;*
(b) *what steps are taken to ensure a complaint is dealt with in a reasonable timeframe;*
(c) *having regard to the tribunal's structure, format and procedures what steps are taken to ensure that the ordinary individual, aggrieved but unrepresented in an alien environment can achieve justice; and*
(d) *the reasons why the Island maintains an adversarial system as against the international practice of arbitration in such matters?*

465 **Answer:** (a) I have no reason to doubt that the Advocates Disciplinary Tribunal ('the Tribunal'), which is an independent judicial body established in law to hear and determine complaints about an advocate's professional misconduct, represents value for money.

470 (b) The Advocates Disciplinary Rules 2009 ('the Rules') (Statutory Document No: 44/09), made under section 16(2) of the Advocates Act 1976, prescribe the manner in which the Tribunal will hear and determine applications.

The Rules look to strike a balance between ensuring that complaints are heard in a prompt manner, whilst at the same time ensuring both the complainant and the advocate concerned have adequate and fair opportunity to present their respective cases.

475 It would appear from research carried out that the timeframes from receipt of complaint through to hearing are broadly in line with those in the adjacent isles.

(c) In accordance with section 15A of the Advocates Act 1976, the Tribunal consists of a Chairman, two persons nominated by the Council of the Isle of Man Law Society and two persons, not being Members of Tynwald, nominated by the Isle of Man Office of Fair Trading.

480 The Chairman of the Tribunal is an advocate, barrister or solicitor of not less than 10 years' standing who will be familiar from practice over such period with the difficulties a litigant in person often faces. The Chairman, in conjunction with the other members of the Tribunal, seeks to ensure that persons appearing before the Tribunal, whether represented or not, receive a fair hearing.

485 The Tribunal cannot help a party to present their case; however, it will use its best endeavours
to ensure that no party is intimidated or fearful of the procedure. By way of example, Rule 22 of
the Rules enables the Tribunal to relax or dispense with any time limit imposed by the Rules
provided that to do so will not cause injustice to any person concerned. Rule 23 further provides
490 the Tribunal with discretion to determine any matter arising following a complaint that is not
covered by the Rules to ‘ensure that there is a fair and proper determination of the issues
involved’.

It should be noted that a person aggrieved by a decision of the Tribunal also has the right for
the matter to be referred to, and considered by, His Excellency the Lieutenant-Governor. Where
this arises, His Excellency the Lieutenant-Governor will hear and determine the complaint in the
495 presence of the Deemsters.

(d) Alternative Dispute Resolution is available on the Island, in the form of a Conciliation
Scheme provided by the Council of the Isle of Man Law Society, in relation to more minor
complaints about advocates such as poor service or communications. Conciliation is of course
always to be welcomed, where appropriate, as a means of dispute resolution.

500 Formal complaints about an advocate’s professional misconduct should be made to the
Tribunal. If the Tribunal is satisfied that a complaint may be settled without a formal hearing and
determination, the Tribunal may, with the consent of the complainant and the advocate concerned,
refer the complaint to the Council of the Isle of Man Law Society for conciliation.

505 Under the circumstances, should conciliation not be agreed to, or indeed be unsuccessful, it is
entirely appropriate that a process consistent with adversarial court processes should be in
operation in view of the fact that an advocate’s professional status is potentially at risk. The
process allows for facts to be determined, in circumstances where such may often be in dispute,
and applied in the light of the applicable law to ensure all parties receive a fair hearing.

HOME AFFAIRS

Drink-drive testing Statistics

2.3. The Hon. Member for Onchan (Mr Hall) to ask the Minister for Home Affairs:

510 *In each of the past five years, how many –*
(a) *roadside screening breath tests; and*
(b) *blood alcohol tests were conducted, and in each case –*
(i) *how many individuals tested positive;*
(ii) *how many individuals refused and/or were unable to provide a specimen; and*
515 (iii) *how many individuals were subsequently convicted of related offences?*

Answer: (a) It is not, regrettably, possible to establish how many roadside screening tests have
been conducted as the equipment does not store data to show how many times it has been used.

(b) One hundred and sixty-one blood alcohol tests were conducted, broken down as follows:

520 2007 – 30
2008 – 32
2009 – 32
2010 – 33
2011 – 34

525 (i) This information is not available without the extensive use of scarce resources because it
is not held on a database.

(ii) Please see third line of table below.

(iii) Please see table below.

530 **Persons convicted**

	2007	2008	2009	2010	2011	2012	Total
Drive vehicle exceeding prescribed limit	121	117	105	77	73	2	495
Driving whilst unfit through drink or drugs	16	10	8	6	6		46
Fail to provide specimen for analysis	9	6	7	17	9		48
In charge of m/vehicle while unfit – drink	3	2	1	3	3	1	13
535 Total	149	135	121	103	91	3	602

It is gratifying to note the table shows the number of drink drive offences has been falling, year on year, over the last five years.

Orders of the Day

BILLS FOR FIRST READING

Legal Aid (Amendment) Bill 2012
Partnership (Amendment) Bill 2012
Casino (Amendment) Bill 2012

The Speaker: Item 3, Bills for Reading. I call on the Secretary of the House.

540 **The Secretary:** Bills for First Reading: Legal Aid (Amendment) Bill 2012 – Member in charge, Mr Teare; Partnership (Amendment) Bill 2012 – Member in charge, Mr Henderson; Casino (Amendment) Bill 2012 – Member in charge, Mr Henderson.

BILL FOR CONSIDERATION OF CLAUSES

Gambling Duty Bill 2012
Clauses considered

4.1. Mr Henderson to move.

The Speaker: We turn to Item 4, Bill for Consideration of Clauses, and we are dealing with the Gambling Duty Bill 2012.

545 I call on Mr Henderson to move clause 1, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 1 contains the short title of the Bill.

550 I beg to move, sir.

Mr Watterson: I beg to second and reserve my remarks.

The Speaker: I put the motion that clause 1 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

555 Clause 2.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 2 deals with the commencement of the Bill and the elements of the Bill that shall come into operation upon Royal Assent. Its various provisions are to be brought into operation by Order or Orders and different provisions may be brought into operation at different times. The Order or Orders can also contain any necessary savings or transitional measures.

560 I beg to move, sir.

Mr Watterson: I beg to second and reserve my remarks, sir.

565

The Speaker: I put the motion that clause 2 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3, please.

570 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

This clause contains definitions of various terms and words used throughout the Bill, including 'betting', 'betting intermediary', 'bookmaker', 'on-course betting', 'on-line gambling', 'pool betting', 'spread bet' and 'user'.

575 I beg to move, sir.

Mr Watterson: I beg to second and reserve my remarks.

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

580 Clause 4, sir.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

585 This clause provides that the term 'gambling' includes gaming, betting, participating in a lottery and on-line gambling where the operator, as defined in clause 6, is acting in the course of business and regardless of whether or not licensed in the Island.

590 However, participating in a lottery forming part of the National Lottery and playing a game of chance or skill on a controlled machine... In the papers issued to Members, we cite here the Gaming, Betting and Lotteries Act 1998 as part of the definition. I wish to draw to the House's attention that this is an incorrect citation and hopefully, in a moment, my hon. colleague, Mr Houghton, will move the tabled amendment to rectify that particular citation to ensure that this clause is absolutely correct and refers to the Gaming (Amendment) Act 1984. Gaming machines in the Island, such as fruit machines etc, are not currently subject to any excise duty.

I beg to move, sir.

595 **The Speaker:** Mr Teare.

Mr Teare: Thank you, Mr Speaker.

I beg to second and reserve my remarks, sir.

600 **The Speaker:** Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

605 I beg to move an amendment. It is a simple amendment, Mr Speaker, in this particular clause, dealing with subsection (2)(b): for 'Gaming, Betting and Lotteries Act 1988' to substitute 'Gaming (Amendment) Act 1984'.

This correction provides for the correct location of the definition of a controlled machine – that is to say, a gaming machine licensed by the Gambling Supervision Commission. Playing on a controlled machine is not to be considered as gambling liable to gain gambling duty under the Bill.

610 Mr Speaker, I beg to move:

Amendment to clause 4

Page 8, lines 5 and 6, for 'Gaming, Betting and Lotteries Act 1988' substitute 'Gaming (Amendment) Act 1984'.

615 **The Speaker:** Mr Cregeen.

Mr Cregeen: I beg to second.

620 **The Speaker:** Mr Quirk.

625 **Mr Quirk:** Mr Speaker, not on the amendment really, I suppose on the original proposal, just reference to: could the Member, or could he pass in the future, how these machines are actually regulated? What sort of powers does the Department have? Can it come in? Does it have to have notification? Can somebody walk in with a warrant and check to see those people who are on the machines are over the age?

The Speaker: Mr Henderson to reply.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

630 Yes, the use of these type of machines do come under forms of regulation and certainly I will make some enquiries for the Hon. Member and circulate him and other Hon. Members with that information.

The Speaker: I put the amendment to clause 4 first. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

635 Clause 4 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

640 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Clause 5 defines the meaning of 'a lottery' and deals with situations that involve skill or judgement or a degree of knowledge, but which are still to be regarded as games of chance and liable to duty.

I beg to move, sir.

645

The Speaker: Mr Teare to second.

Mr Teare: I beg to second and reserve my remarks, sir.

650 **The Speaker:** I put the motion 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 Henderson: Gura mie eu, Vainstyr Loayreyder.

655 Clause 6 defines the meaning of 'operator' and certainly, someone involved in the organisation, management or provision of gaming or a lottery, carrying on the business or negotiating or receiving bets, maintains on the Island a computer or other device by which means a game or lottery takes place, being a betting intermediary. The term includes someone who is a group operator or a representative operator within the meaning of clause 13. However, a person who merely provides communication services and software is not an operator. Furthermore, a person involved in handling payments such as PayPal or Neteller, and with no involvement in the gambling transactions themselves, would not be considered to be an intermediary and would have no liability to duty.

I beg to move.

665

The Speaker: Mr Teare.

Mr Teare: I beg to second and reserve my remarks.

670 **The Speaker:** I put the motion that clause 6 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

675 This provides that the Treasury can add to, delete or amend any of the definitions contained in part 1.

I beg to move, sir.

The Speaker: Mr Teare.

680

Mr Teare: Thank you, Mr Speaker.

I beg to second and to reserve my remarks, sir.

685 **The Speaker:** I put the motion that clause 7 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

690 This clause defines the duty as duty of excise and who has to pay it and when, through subsections (1) to (3).

Subsection (4) provides examples of when this would apply.

The duty rates are prescribed in subsection (5).

The clause allows a specific exemption from duty where a bet is made for community benefit. In calculating liability to gambling duty, the essential starting point for the Treasury would be, as
695 it is now, that duty should be accounted for on the true profit made by an operator and their gambling activities.

I beg to move, sir.

The Speaker: Mr Teare.

Mr Teare: Thank you, Mr Speaker.

I beg to second and to reserve my remarks, sir.

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

Clause 9.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

This defines the profit or 'gambling yield' which forms the basis of an operator's liability to
710 duty. The two basic methods of establishing liability are 'net stake receipts' and 'retained profit'.

The 'net stake receipts' is the traditional method of calculating the duty due from bookmakers, i.e. stakes, less winnings; whereas the 'retained profits' basis has been developed chiefly to deal with other types of online gambling, such as person-to-person poker and pari-mutuel betting.

The Treasury may, by Order, amend or add to the methods above should this be necessary. Where an operator is involved in a type of gambling where the liability may vary, the Treasury will be able to determine the predominant type of gambling involved and specify the basis method that has to be used to calculate duty liability.

I beg to move, sir.

The Speaker: Mr Teare.

Mr Teare: Thank you, Mr Speaker.

I beg to second and reserve my remarks, sir.

The Speaker: Hon. Member, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

Can I ask the Member regarding, sometimes it is called the pot, or the fund, or the stake, is the part of the regulations which the companies are registered in the Isle of Man that the financial amounts which are to be yielded to the winners are retained here and do the officers then have the power to inspect to make sure that those funds are retained on the Island?

The Speaker: Mr Henderson to reply.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

The Hon. Member asks a very technical question, which is ostensibly outwith what this clause is dealing with. We are dealing with the methods of liability. Having said that, I can certainly put an enquiry to my officers who have constructed the Bill and certainly we could supply the Hon. Member and other Hon. Members with additional information that the Hon. Member is seeking.

Mr Quirk: Thank you.

The Speaker: I put the motion that clause 9 stand part of the Bill. Those in favour, say aye; against, no, The ayes have it. The ayes have it.

Clause 10, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

This clause is used to determine how to arrive at the amounts used in the 'net stake receipts' method of calculating duty liability. This is the default method for determining duty liability. Typically it is used by bookmakers where straightforward calculation offsets the payment to
750

punters against the stakes placed by them. Any VAT or free bets are disregarded when calculating duty liability.

Subsection (1) sets out what are to be regarded as gambling receipts.

755 Subsection (2) provides that any VAT included in payment to the operator should be ignored for duty calculation purposes.

Subsection (3) deals with situations where an operator offers punters the opportunity to place free bets or discounted bets.

I beg to move, sir.

760 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and reserve my remarks, sir.

765 **The Speaker:** I put the motion that clause 10 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

770 This clause is used to determine the value of winnings used in calculating an operator's liability to duty using the 'net stakes receipt' method. It includes provision where more than one operator are involved in linked games offering a single prize or prizes, and provides for the value of winnings in other than sterling money – i.e. in the form of prizes or in a foreign currency – to be determined in accordance with regulations.

Subsection (1) sets out the basic position.

775 Subsection (2) provides that winnings are regarded as having been paid out when placed into a customer's account.

Subsection (3) deals with situations where a prize given to a customer by one operator is provided by another operator through him.

780 Subsection (4) where a network of operators exists and they contribute to a fund wholly used to provide prizes to players of net worth gains.

Subsection (5) provides that crediting a player's account shall be regarded as providing a prize and so will be included in an operator's duty calculation.

Subsection (6) allows that the value of any winnings awarded in other than sterling should be calculated in accordance with regulations made by Treasury.

785 Subsection (7) defines the term 'facilities' as used in the clause.

I beg to move, sir.

The Speaker: Mr Teare.

790 **Mr Teare:** Thank you, Mr Speaker.

I beg to second and reserve my remarks, sir.

The Speaker: The motion is that clause 11 stand part of the Bill: those in favour, say aye; against, no. The ayes have it. The ayes have it.

795 Clause 12.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

800 This is concerned with the payment of the duty. The default position is that duty is to be paid by the operator. However, the Treasury can recover the duty from a person responsible for management of the gambling business – a director, where the operator is a company, for instance – or such other person as may be specified in an Order made by the Treasury. This allows flexibility in cases involving evasion or avoidance, or other cases involving serious irregularities.

Clause 13 below also, which we will come to, allows for grouping of operators for reasons of common ownership or use of networks.

805 Subsection (1) states that gambling duty has to be paid by the operator.

Subsection (2) deals with situations where gambling is not capable of being recovered by the operator concerned.

I beg to move, sir.

810 **The Speaker:** Mr Teare.

Mr Teare: Thank you, Mr Speaker.
I beg to second and to reserve my remarks, sir.

815 **The Speaker:** I put the motion that clause 12 stand part of the Bill. Those in favour, say aye;
against, no. The ayes have it. The ayes have it.
Clause 13, please.

820 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
Clause 13 allows for two or more operators to be treated as a single operator for the purposes
of accounting for gambling duty. The circumstances where such grouping may be permitted are
where one operator controls the other or others; or one person controls both or all of them; or
where two or more operators are linked in a network under arrangements permitted by the
Gambling Supervision Commission.

825 Regulations would deal with how applications for grouping are to be made, how any approval
may be granted or withdrawn, and by conditions that may be applied to such approval.

Subsections (5) and (6) deal with from whom duty would be recovered. The default position
would be that duty would be accounted for by the designated representative of the group.
However, as we saw in clause 12, fallback positions are provided to cater for situations involving
830 evasion, avoidance or other serious difficulties.

I beg to move, sir.

The Speaker: Mr Teare.

835 **Mr Teare:** Thank you, Mr Speaker.
I beg to second and to reserve my remarks, sir.

The Speaker: I put the motion that clause 13 stand part of the Bill. Those in favour, say aye;
840 against, no. The ayes have it. The ayes have it.
Clause 14, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
This clause provides that the default accounting period shall be a calendar month, but that the
Collector of Customs and Excise may authorise different periods.

845 The clause also provides for regulations to allow adjustments at the end of any 12-month
period where the duty liability is based on turnover, and this may be necessary because the level of
profits accrued may affect the duty-rate or threshold that should be applied.

If any operator ceases business for more that 28 days, they must pay any duty due within the
850 following 28 days.

I beg to move, sir.

The Speaker: Mr Teare.

855 **Mr Teare:** I beg to second and reserve my remarks, sir.

The Speaker: I put the motion that clause 14 stand part of the Bill. Those in favour, say aye;
against, no. The ayes have it. The ayes have it.
Clause 15.

860 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
This clause deals with the submission of duty returns and, *inter alia*, allows for the making of
regulations detailing the form and content of the return. It also permits the Treasury to designate
which member of a grouping is responsible for submission of the composite return.

865 I beg to move, sir.

The Speaker: Mr Teare.

Mr Teare: I beg to second and reserve my remarks, sir.

870 **The Speaker:** I put the motion that clause 15 stand part of the Bill. Those in favour, say aye;
against, no. The ayes have it. The ayes have it.
Clause 16.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

875 This permits operators whose gambling yield in any accounting period is a negative figure to carry forward that amount to offset it against a liability in the following period. If the offset produces a negative figure for that following period, then that figure may be itself carried forward. However, there is no entitlement to refunds of any negative amount.

I beg to move.

880 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and reserve my remarks, sir.

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

Clause 17.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

890 Clause 17 allows the Treasury to make provision by Order to allow offset of liability to gambling duties where an operator has paid an equivalent tax or duty on the same transactions in another jurisdiction. If the operator subsequently received a refund of the foreign tax or duty, subsection (3) allows for the Treasury to recover any unpaid gambling duty.

895 The arrangements would only apply to countries and territories specified by Order, and other conditions and requirements may be prescribed by Order. These can include the charging of an application fee and setting a minimum or maximum amount of relief available. Any Order would not have retrospective effect and would only apply to duty payments due to the Treasury on or after a date specified in the Order. This is a new provision and is considered necessary to allow for flexibility in response to developments that may take place in markets targeted by Island-based operators.

900 I beg to move.

The Speaker: Mr Teare.

905 **Mr Teare:** I beg to second and reserve my remarks, sir.

The Speaker: I put the motion that clause 17 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 18.

910 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

This clause is concerned with the making of regulations by the Treasury to prescribe how operators should submit returns and how they should make payment of any duty due. This includes the conditions that may be applied when returns are submitted or payments made by electronic means.

915 I beg to move.

The Speaker: Mr Teare.

920 **Mr Teare:** I beg to second and reserve my remarks, sir.

The Speaker: I put the motion that clause 18 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 19.

925 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

This clause allows for application of the 'revenue trade provisions' of the Customs and Excise Management Act 1986 (i.e. sections 121, 123 and 124A to 124G) to operators with such modification as may be employed and included in an Order made by the Treasury.

930 I beg to move.

The Speaker: Mr Teare.

Mr Teare: I beg to second and reserve my remarks, sir.

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

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
940 This clause provides for the making of an Order detailing how overpaid duty may be recovered
from an operator. It includes provision for evidence in support of the claim to be provided, and
sets a four-year time limit for seeking such repayments.

The clause also provides that Treasury need not repay any overpaid amount if this would
unjustly enrich the claimant, i.e. where the repayment would benefit someone who had not, in fact,
borne the original charge – perhaps where an operator had passed on the charge to a customer, but
945 was then unwilling or unable to compensate them.
I beg to move, sir.

The Speaker: Mr Teare.

950 **Mr Teare:** I beg to second and reserve my remarks, sir.

The Speaker: I put the motion that clause 20 stand part of the Bill. Those in favour, say aye;
against, no. The ayes have it. The ayes have it.
955 Clause 21.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
Clause 21 covers the general administration and enforcement and this clause provides for the
making of regulations that would govern the general administration of gambling duty, and for the
enforcement of the rules and legislation necessary to ensure proper administration and to protect
960 the revenue.

Regulations may be made without prejudice to those made under clauses.
The matters that may be the subject of regulations under this clause include: the keeping and
preservation of records and their inspection by, or production to, Treasury; permitting officers to
enter premises used, or suspected of being used, for the purposes of gambling – to inspect those
965 premises and to inspect, remove and copy any records found there which relate to, or appear to
relate to gambling operations on the premises; and requiring persons carrying on, or suspected of
carrying on, a gambling operation to produce specified records or other information.
I beg to move, sir.

970 **The Speaker:** Mr Teare.

Mr Teare: Thank you, Mr Speaker.
I beg to second and reserve my remarks, sir.

975 **The Speaker:** Mr Quirk, Hon. Member.

Mr Quirk: Thank you, Mr Henderson.
Can I just ask, when you mention... does that also include data, electronic data, I presume?

980 **The Speaker:** Reply, sir.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
Yes, it is a fair point that the Hon. Member raises and I suspect it does include electronic data,
but I need to... because the catch-all phrases used within the Act I suspect would deal with that.
985 But again, I will seek clarification for the Hon. Member and circulate the answer to his question.

The Speaker: Yes, if you could advise the House at the next sitting before the Third Reading,
that would be very helpful.

990 **Mr Henderson:** Yes. Okay, sir.

The Speaker: I put the motion that clause 21 stand part of the Bill. Those in favour, please say
aye; against, no. The ayes have it. The ayes have it.
Clause 22.

995 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Clause 22 allows the Treasury to impose conditions on the remission or repayment of duty, or to ensure the payment of duty. Such conditions include the production of evidence, and the giving of security or further security. Regulations made under clause 18 would deal with actual procedural arrangements.

1000 This clause is based on paragraph 4 of schedule 12 to the Value Added Tax Act 1996. The conditions are all concerned with the protection of the revenue and subsections (2) and (3) make protection of the revenue a specific prerequisite for use of the powers therein.

I beg to move, sir.

1005 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and reserve my remarks, sir.

1010 **The Speaker:** I put the motion that clause 22 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 23.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1015 Where gambling duty is due, this clause provides that it is recoverable as a civil debt by means of distress or through the courts. This puts a debt of gambling duty on the same basis as the other indirect taxes and duties administered by Customs and Excise. The normal route for pursuit of debts of VAT is by way of Treasury warrants, which will also be available for debts of gambling duty. It may, as an alternative, consider distraint and/or take other such legal proceedings as it thinks fit to pursue the debt, liquidate the company and so on. Regulations would provide details and allow for transitional, incidental or consequential arrangements and can replace any existing regulations and repeal the provisions in another Act that allowed them to be made.

1020 I beg to move.

The Speaker: Mr Teare.

1025 **Mr Teare:** I beg to second and reserve my remarks, sir.

The Speaker: I put the motion that clause 23 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1030 Clause 24.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1035 This clause, which is based upon provisions found in paragraph 6 of schedule 12 to the Value Added Tax Act 1996, allows for the enforcement of a debt of gambling duty by means of a Treasury warrant, which has the same status as a debt judgment of the High Court.

Treasury warrants have been used for many years as a cost-effective debt recovery mechanism, being available for VAT and income tax debts. Enforcement is by means of the Coroners, and the system is overseen by the Chief Registrar.

1040 I beg to move, sir.

The Speaker: Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

1045 **The Speaker:** I put the motion that clause 24 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 25.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1050 Clause 25 is based upon provisions found in schedule 12 to the Value Added Tax Act 1996 and is concerned with how Treasury warrants for debts of gambling duty may be set aside if the debt has already been paid, or there has been some error on the face of the warrant or in the manner in which it was served. Applications to set aside a warrant would be made to the Chief Registrar.

1055 I beg to move, sir.

The Speaker: Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

1060 **The Speaker:** I put the motion that clause 25 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 26.

1065 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
This clause ensures that where officers are acting to enforce the Act they will, in doing so, not be guilty of an offence relating to gambling. This would protect officers, particularly if undertaking covert investigations – for example, placing bets with an unlicensed operator, or holding themselves out as an operator in a ‘sting’ operation against suspected illegal operators.
I beg to move, sir.

1070

The Speaker: Mr Teare.

Mr Teare: I beg to second and reserve my remarks, sir.

1075 **The Speaker:** I put the motion that clause 26 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 27.

1080 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
Clause 27 is intended to permit Customs and Excise to co-operate and exchange information with other relevant regulatory and enforcement agencies in the Island, and the Police. The Treasury may by Order add to this list included in the clause, which consists of the Gambling Supervision Commission; the Financial Supervision Commission; the Department of Economic Development; the Isle of Man Office of Fair Trading; and the Isle of Man Constabulary.

1085 Subsection (2) permits any of the above or anybody added to the list by Order to disclose information received by it to the Treasury for the purposes of assisting the performance of duties under the provisions contained in this Bill.

1090 However, any information provided to Treasury must not be passed on to a third party, unless it would otherwise have been permitted by the clause, or is for the purposes of any proceedings connected to any gambling enactment.

This clause is recognition that effective, proper administration and control of gambling, and the prevention, detection and investigation of irregularities connected to it, as well as adequate protection of the revenue, relies on the co-operation between all the agencies that may be involved.

I beg to move.

1095

The Speaker: Mr Teare.

Mr Teare: I beg to second and reserve my comments, sir.

1100 **The Speaker:** I put the motion that clause 27 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 28.

1105 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
This clause allows Treasury to make an Order allowing the exchange of information with a specified body or person outside the Island. The information involved would have to have been obtained under this Bill, or be capable of being used in its enforcement, and would have to relate to the prevention or investigation of crime.

1110 Subsection (2) requires the Treasury to produce a code of practice governing such exchanges.
I beg to move, sir.

The Speaker: Mr Teare.

1115 **Mr Teare:** I beg to second and reserve my remarks, sir.

The Speaker: I put the motion that clause 28 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 29.

1120 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

This clause would allow the Treasury to make an Order giving effect to an international tax agreement, insofar as that agreement related to gambling duty and its foreign equivalents.

Arrangements that could be involved include the exchange of information, recovery of revenue debts, and the service of documents.

1125 Subsection (4) requires that the standards of confidentiality applying in respect of any information in the other territory must be at least as strict as those in force in the Island before any disclosure to that territory may take place.

Facilitating such co-operation can only assist the Island in meeting the international standards set by bodies such as the Financial Action Task Force. The FATF issued its revised recommendations on 16th February and these highlighted the need for more effective exchanges of information for investigative, supervisory and prosecutorial purposes.

1130 I beg to move, sir.

1135 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

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

1140 Clause 30, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1145 This clause is concerned with creating offences under the Bill and specifying the penalties for such offences. The offences themselves are similar in nature to those found in other revenue law concerned with gambling, including: making false statements or providing false information; obstruction of an officer in the exercise of their functions; carrying on unlicensed gambling and not accounting for any duty due; and advertising or promoting the taking of bets etc. for operators located outside the Island and hence on which no duty would be due, unless the operator concerned was licensed or exempt from such licensing in the UK or other EEA states.

1150 However, as with gathering revenue, with existing gambling revenue law, it will not be an offence for an individual to place a bet, etc with an off-Island operator.

I beg to move, sir.

1155 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and reserve my remarks, sir.

The Speaker: Hon. Member, Mr Anderson.

1160 **Mr Anderson:** Thank you, Mr Speaker.

1165 The hon. mover has indicated he is going to come back at Third Reading with further information. I wonder if he could give some indication – as a Government, we are now going down encouraging this industry quite heavily for support for those who are caught up with addiction in gambling, as I know what a devastating effect it can have on individuals and families – where that support is from Government and whether these companies actually contribute towards that support.

1170 I do not expect the hon. mover to have that information now, but if he could come back when we are having the Third Reading with some information and how much of that information is in the public domain, please.

The Speaker: Reply, sir.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1175 The Hon. Member asks questions which are outwith the remit of what the Bill is attempting to achieve. We are looking here at specifically offences and penalties. However, as the Hon. Member knows from being in the Council of Ministers, there are agencies and support mechanisms in the

community and operated by the Government itself and third sector organisations which do assist individuals who may suffer from gambling debts, addiction, and certainly the likes of the Office of Fair Trading does assist individuals with debt counselling and so on.

1180 However, to be helpful, I will certainly find out the full facts of what help is available and will circulate it to all Members with the other information prior to the next stage of the Bill.

I would, however, like to say that the Bill does put in place strict regulations and scrutiny to the industry, which does add an element of safety to individuals wishing to partake in this kind of activity.

1185 I beg to move.

The Speaker: Again, the specific request was for the House to be advised at Third Reading stage, so it can be in the public record.

1190 **Mr Henderson:** Yes, sir.

The Speaker: Thank you.

In that case, I put clause 30. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1195 Clause 31.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1200 Clause 31 is concerned with situations where an offence is involved and provides that someone cannot face criminal proceedings if they have had imposed upon them a civil penalty for the breach giving rise to the alleged offence and criminal proceedings cannot be commenced except by the Treasury, by the Attorney General or with the consent of the Attorney General.

I beg to move, sir.

1205 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

The Speaker: I put the motion that clause 31 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1210 Clause 32, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1215 This clause applies if an offence has been committed and it can be shown that an officer of the body corporate concerned was involved in some way in committing the offence. If this is the case then that officer, as well as the body corporate, is liable for any penalty.

This is essentially the same as existing provisions in section 14 of the Pool Betting (Isle of Man) Act 1961 and paragraph 6 of the third schedule to the Betting Act 1970.

I beg to move, sir.

1220 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

1225 **The Speaker:** I put the motion that clause 32 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 33, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1230 This clause allows for the imposition of civil penalties under section 9 of the Finance Act 1994, an Act of the UK Parliament, as applied in the Island, for certain contraventions of the Bill: failure to provide Treasury with the requisite seven days' notice of an intention to commence operations that give rise to a duty liability; failure to declare liability to duty; providing false information to reduce duty liability; or contravention of any provision contained in regulations made under this Bill.

1235 As outlined in relation to clause 32, a person cannot be liable to both a civil penalty and criminal penalty for the same breach.

I beg to move, sir.

The Speaker: Mr Teare.

1240 **Mr Teare:** I beg to second and to reserve my remarks, sir.

The Speaker: I put the motion that clause 33 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1245 Clause 34.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

This deals with the procedure for making of Orders and Regulations.

1250 Regulations, except for those made under clause 8(8), and hence being concerned with changes to duty rates and duty-rate thresholds, must be laid before Tynwald as soon as practicable after they are made.

Regulations made under clause 8(8) would require formal approval by Tynwald before they can come into operation. With the exception of commencement Orders bringing into operation various provisions of the Bill, Orders must be approved by Tynwald before they can come into operation.

1255 I beg to move, sir.

The Speaker: Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

1260

The Speaker: I put the motion that clause 34 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 35.

1265 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Clause 35 covers the financial provision and allows that any increase in expenses resulting from this Bill is to be paid by the Treasury.

I beg to move, sir.

1270 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

1275 **The Speaker:** I put the motion that clause 35 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 36 and schedule 1.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 36 and schedule 1 cover the amendment of enactments.

1280 Schedule 1 to the Bill lists consequential amendments required to: the Pool Betting (Isle of Man) Act 1961; the Gaming, Betting and Lotteries Act 1988; and the Online Gambling Regulation Act 2001.

I beg to move, sir.

1285 **The Speaker:** Mr Teare.

Mr Teare: I beg to second and to reserve my remarks, sir.

1290 **The Speaker:** I put the motion that clause 36 and schedule 1 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Finally, clause 37 and schedule 2, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 37 and schedule 2 cover enactments to be repealed.

1295 Schedule 2 to the Bill lists all the repeals arising as a consequence of this Bill.

I beg to move, sir.

The Speaker: Mr Teare.

1300 **Mr Teare:** I beg to second, sir.

The Speaker: I put the motion that clause 37 and schedule 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1305 With that, Hon. Members, we conclude the business of the House today. The House will now stand adjourned until the next sitting which will take place at 10.00 a.m. on 6th March in this Chamber.

The House adjourned at 11.06 a.m.