



HOUSE OF KEYS OFFICIAL REPORT

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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 26th June 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 and Mrs B J Cannell (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.

Business Transacted

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The House adjourned at 11.08 a.m.

House of Keys

The House met at 10.00 a.m.

[THE SPEAKER *in the Chair*]

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

Members: Good morning, Mr Speaker.

5 **The Speaker:** The Chaplain will lead us in prayer.

PRAYERS

10 *The Chaplain of the House of Keys*

Welcome to Mr Andrew Mylne, Clerk of the Scottish Parliament

15

The Speaker: Hon. Members, we welcome today the visitor, Mr Andrew Mylne, Clerk of the Scottish Parliament, who is here as an observer and on a short course with us in Tynwald.

20

Congratulations to Parish Walk participants

25 **The Speaker:** Can I take this opportunity to congratulate all those who took part in the Parish Walk: Mr Crookall and Mr Butt from Council; also the Secretary of the House, Mr Phillips; and from *Hansard*, Mr Alford. Congratulations, however far round the course they got – after all, they took part! (*Laughter and interjections*)

30

Congratulations to Chaplain of the House on 25th anniversary of entry in Holy Orders

35 **The Speaker:** This week marks the 25th anniversary of the entry into Holy Orders of the Chaplain of the House. We congratulate him.

Members: Hear, hear.

40

Questions for Oral Answer

ENVIRONMENT, FOOD AND AGRICULTURE

45

Forestry Division plantations Sudden Oak Death disease; Donaldson Edwards review

50 1.1. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Environment, Food and Agriculture:

55 *If he will make a statement on the closure of plantations because of Sudden Oak Death disease; whether he is working towards implementing the recommendations in the Donaldson Edwards review of the Forestry Division and those recommendations are still valid and recognised by the Department; whether it is still his Department's policy not to undertake any coniferous tree planting in areas of unplanted Department hill land, open moorland, heather moorland or blanket bog; and in view of the Donaldson Edwards recommendations, if he will remove some of the densely planted young coniferous trees on the West side of Snaefell and at the north side of Beary towards Brandywell Cottage?*

60 **The Speaker:** Hon. Members, we turn to Item 1 on the Order Paper, Questions for Oral Answer, and I call the Hon. Member for Douglas North, Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
65 Ta mee shirrey kied yn eysht y chur ta fo my ennym. I beg to ask the Question in my name.

The Speaker: I call on the Minister for Environment, Food and Agriculture, the Hon. Member for Rushen, Mr Gawne, to reply.

70 **The Minister for Environment, Food and Agriculture (Mr Gawne):** Gura mie eu, Loayreyder.

Large parts of both Ballaugh and Colden plantations remain closed to the public due to Phytophthora ramorum or Sudden Oak Death. Further incidence of the disease has unfortunately been discovered recently at both Ballaugh and Colden and as the disease can threaten a range of species, including moorland vegetation, my Department's efforts and resources are seriously
75 focused on combating this disease. This involves additional sanitation felling of trees in these areas, so the closure to public access will therefore have to remain in place for the time being to help to avoid potential spread of the disease.

Moving onto the other parts of the Hon. Member's Question, many aspects of the 2005 Donaldson Edwards Report have been progressed by my Department and its predecessor, DAFF. It is, perhaps apt timing, given last week's debate on the Scope of Government Report, considered the 2005 recommendations, regarding both commercial forestry and the sawmill. The Donaldson
80 Edwards Review concluded that the plantations are now a significant aspect of our landscape, which require forestry operations and the sawmill to facilitate their management. Donaldson Edwards did not believe these operations could be operated at a profit, but recommended that, through improved management and efficiency, they could break even.

This improved management approach is the one the Department has adopted. Whilst we intend to look at the matter again, the Donaldson Edwards Review considered outsourcing and privatisation, but concluded that these options were not realistic for the mills.

Moving to the Report's other land management recommendations, it remains Department
90 policy to avoid commercial forestry development in the uplands. Some smaller areas of native broadleaf areas may be planted, for example in gulleys, but only where they will enhance the ecology and the environment. The hon. questioner refers to removal of conifer plantations and, where appropriate, this is a long-term goal within our work programmes and progress has been made in achieving this.

95 In 2011, a block of conifer was removed adjacent to the road between Injebreck House and Brandywell. This area will not be replanted with conifer. In addition, a larger block of poor-quality plantation at the Glion Gill on the Beary Mountain has been removed. This has been particularly useful in re-establishing a very valuable wildlife corridor linking areas of heath. A small plantation at Brandywell remains on the list to be removed. Unfortunately, though, due to our focusing
100 resources on dealing with Phytophthora ramorum, it will be some time before we are able to undertake this work. There are currently no plans, however to remove the trees at Tholt y Will farm on the west side of Snaefell.

Gura mie eu, Loayreyder.

105 **The Speaker:** Mr Henderson, a supplementary.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I thank the Shirveishagh for his positive Answer to this important Question and would ask if he
110 could reiterate his Department's commitment to the ecological recommendations of the Donaldson Edwards Report, where it was clearly identified that areas of our uplands were of European and international significance and that his Department will continue to recognise those factors?

115 Would he consider, in areas where coniferous planting has taken place, at least thinning some of the areas, in recognition of one of the Report's recommendations, whereby it is clearly highlighting mixed-age structure tree planting as far preferable in ecological terms?

115 Finally, Vainstyr Loayreyder, is there any estimate as to how long certain areas of the plantations will remain shut to the general public, or a guesstimate at any rate?

The Speaker: Minister to reply.

120 **The Minister:** Gura mie eu, Loayreyder.

120 Starting with the last part of the question, clearly, we had hoped to be able to open these areas this year. However, having found *Phytophthora ramorum* again in these areas spreading, clearly we want to make sure that we get on top of this, because it does have a devastating effect on a lot of the upland vegetation, so it is absolutely essential that we get on top of this and stop the spread as best we can. So in that regard, I can guarantee that we will open these areas as soon as we get on top of this particular problem.

125 In relation to the commitments on ecological recommendations in relation to the significance of the upland areas, yes indeed, the Department is very much aware of that and very committed to working with our partners, both the landowners and indeed our tenants in the uplands, to try and deliver a lot more perhaps than we have been delivering, even in recent years. So we are certainly looking into that very closely at the moment and the Department is working on plans, which hopefully we will be able to announce in the not-too-distant future. Certainly again, we will look at all the recommendations – and indeed having gone through all the recommendations – and I do thank the Hon. Member for asking the Question, because it has given me the opportunity to go back to that 2005 Report – the overwhelming majority of the recommendations, we are acting on; some of them we have not been able to deliver, but primarily the main focus of the Report has been delivered by the Department.

140 **INFRASTRUCTURE**

145 **Proposed Planning Policy Statement
Request for withdrawal**

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

150 *In view of the extensive public interest and response to the public consultation on the proposed Planning Policy Statement (PPS) 'Planning & the Economy' as outlined in his Written Answer in the House of Keys on 12th June 2012, if he will withdraw the PPS and issue instructions that it should not be implemented until such time as:-*

155 *(a) robust and verifiable evidence is published for its need; and*

(b) robust definitions, interpretations and explanations are incorporated into the draft PPS to remove all ambiguities?

The Speaker: Question 2, Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: I ask the Question standing in my name.

160 **The Speaker:** I call on the Minister for Infrastructure, the Hon. Member for Douglas South, Mr Cretney.

165 **The Minister for Infrastructure (Mr Cretney):** Mr Speaker, at the outset it is important to once again restate the purpose of the draft Planning Policy Statement titled, 'Planning and the Economy'. As Hon. Members will recall, I emphasised in my Budget Day speech to Tynwald in February 2012 that:

170 'The Government is committed to promoting a strong, stable and productive economy, that aims to bring jobs and prosperity for all. In doing so, the Government will seek to deliver further economic growth and diversification alongside regeneration, social and environmental sustainability. Achieving sustainable economic growth requires a fast, efficient and responsive planning system that ensures well designed development is located where it is most capable of meeting the wider requirements of the priorities of Government, whilst protecting the countryside and enhancing the quality of the natural and built environment.'

175 It is against this backdrop that the draft PPS was introduced with the aim of clarifying the interpretation of the Island Strategic Plan.

In regard to progress towards adoption of the PPS, I do not propose to add further in regard to what I stated to Tynwald on 12th June 2012, save to confirm that the public consultation period has now closed and that the analysis of all the responses received is currently being undertaken.

180 Dealing with part (a) of the Hon. Member's Question, the Government's Code of Practice on Consultation recognises that any consultation responses will form part of the evidence-gathering exercise upon which any final PPS is eventually presented by the Department to Tynwald for approval. As the Hon. Member recognises in her Question, the fact that there has been extensive public interest and response to public consultation will assist in ensuring that any final PPS has a robust footing.

185 In terms of issue (b), in preparing the final version of the PPS, officers will be considering the feedback received to ensure that the PPS is consistent with the Development Plan as required by section 3(4) of the Town and Country Planning Act 1999, but also to ensure firstly, that the terms used are clear, and secondly, serve to properly inform the application of any final PPS which might in due course be approved by Tynwald.

190 Hon. Members have already been made aware of the due weight that will be attached to the draft PPS, as outlined by the Answer by the Attorney General to the Hon. Member's Written Question tabled at the Tynwald sitting on 19th June 2012.

Therefore, in conclusion, I can confirm that the draft PPS will not be withdrawn by the Department.

195

The Speaker: Mrs Beecroft, supplementary question.

Mrs Beecroft: Thank you, Mr Speaker.

200 Would the Minister not agree that in any normal employer-employee situation, if the employer says he *expects* the employee to do something, he has actually given instruction – such as, 'I expect you to be here by nine o'clock'?

205 Would the Minister not further agree that the proposed planning statement, taken together with his statement in the Budget debate is open to interpretation and that, as far as planning is concerned, there needs to be unambiguous planning policy that works to the same principle and is not open to interpretation? Would he not agree that his statement has left officers in a difficult position, where they are trying to comply with the law and trying to comply with what is 'expected' of them?

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

The Minister: No, I do not agree with that.

The Attorney General in his reply, only last week, made that abundantly clear. Yes, I do agree that the planning policy needs to be unambiguous and that would be my intention by bringing it back to Tynwald.

215

**People not in education, employment or training (NEETs)
Discussions re utilising their services**

220

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

225 *Whether his Department is in discussion with other Government Departments in relation to utilising the services of those members of the public termed 'NEETs'?*

The Speaker: We turn to Question 3. Hon. Member for Douglas West, Mr Corkish.

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

230

The Speaker: Minister for Infrastructure to reply, please.

The Minister for Infrastructure (Mr Cretney): Thank you, Mr Speaker.

When the NEETs Implementation Group, an interdepartmental working party, was established, it was considered that DED, DSC, DHA and DEC were the key Departments. The DoI therefore

235 has not been part of that process. However, following recent discussions at officer level, the Department has now been extended an invitation to provide a representative on the Group and we will be taking up this offer.

The Department has also now been made aware of the Work Placement Scheme and will be looking at suitable areas where work could be offered to those taking part in the Scheme.

240 I can also advise the Hon. Member that the Department currently employs 10 apprentices and will be looking to employ up to 12 more apprentices and trainees in the coming months. This will hopefully get some of those who are currently classed as NEETs an opportunity of a first-class career, or indeed prevent some young people from falling into this classification.

245 The Department is also examining opportunities to consider the use of the work placement scheme in areas of the Department's activity, where it is safe to do so and in a properly structured way that would benefit both the individual and the community.

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

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

Could I ask the Minister then, he is indicating to the House that it is looking favourable that his Department would use these NEETs?

255 Could I also draw to his attention, or is he aware that, even through DED, there is a small scheme for payment – although the one that is out at the minute is for graduates; that with a small scheme, if his Department had a discussion with the Department of Economic Development, we could bring these NEETs online to do various tasks around the Island? Would he not agree with that?

The Speaker: Reply, sir.

260

The Minister: It is my understanding that there already has been some progress in relation to assisting NEETs with placements in various workplaces. Anything my Department can do to further facilitate that, we would wish to do.

265 **The Speaker:** Mr Quirk.

Mr Quirk: A final one, Mr Speaker.

270 Could I ask the Minister too, because he is responsible for local authorities, would he circulate maybe a letter to the local authorities and ask them could they pick up some of the slackness in there and ask them if they would have any placements for NEETs as well, within their organisations?

The Speaker: Minister.

275 **The Minister:** I am sure that the group which my Department has now become part of will pass on the message which the Hon. Member has made, if it has not been picked up already via this medium.

280

Marine Drive and other areas Maintenance

285 1.4. The Hon. Member for Douglas West (Mr Corkish) to ask the Minister for Infrastructure:

Who has responsibility for the maintenance and care of the Marine Drive in particular and other locations around the Island; and how such areas are monitored, reported on and action is taken?

290 **The Speaker:** Question 4. Again, I call Mr Corkish.

Mr Corkish: I beg to ask the Question standing in my name, Mr Speaker.

295 **The Speaker:** Minister for Infrastructure.

The Minister for Infrastructure (Mr Cretney): Thank you.

Mr Speaker, the Marine Drive and its surroundings belong to various Government Departments, as well as private landowners. The carriageway and footway are inspected routinely on a once-yearly basis by the Highways Division of the DoI and any necessary works are organised as a consequence of this inspection. Inspections are also carried out if complaints are received from members of the public.

The DoI are responsible for removing any debris from rock falls or the like, and following this Question, I have asked my officers to undertake a general clean-up along Marine Drive and check that the fences are in order.

The Pigeon Stream car park is the responsibility of the Properties Division of the DoI, as well as the entrance building with the arches at the Douglas end of the drive. The area at Little Ness, which is open to the public, is the responsibility of Manx National Heritage, although the benches in this area are the responsibility of the Highways Division of the DoI.

I am aware that there are litter-dumping and dog-fouling problems in certain areas along the Marine Drive and in other beauty spots around the Island. This is completely unacceptable. In the case of the Marine Drive, I led a campaign several years ago to have a crashed car moved that had laid rusting for an extended period and other items that had been thrown over the clifftop. Recently, Braddan Commissioners have installed new dog bins and I urge all dog owners to use them.

With regard to other items being dumped, I really cannot understand the mentality of some people. We are very fortunate to live in a lovely Island, and I call on them to respect it or face the consequences of their actions. (**A Member:** Hear, hear.) We have really good recycling centres Islandwide. Use them. (**A Member:** Absolutely.)

The provision of litter bins is down to local authorities. However, at the moment it is unclear in legislation who is responsible for picking up litter in public places if it is not *in* the litter bins. The local authorities may pick up litter, but have no specific duty to do so. I will investigate this, with a view to seeking to ensure that the legislation is changed to make it a specific duty on the local authorities to clear litter from public areas. However, it would require a change in legislation and we would have to consult with local authorities first.

In other locations around the Island there are other authorities involved, such as the Department of Environment, Forestry and Agriculture... Environment, *Food* and Agriculture – I do apologise! – who have extensive landholdings, but also organisations, such as the Manx Wildlife Trust and local authorities.

We live on a lovely Island, as I say. Let us all play our part in ensuring that those who do not appreciate this are brought to book.

Members: Hear, hear.

The Speaker: Mr Corkish, a supplementary.

Mr Corkish: Thank you, Mr Speaker.

I am greatly encouraged by the Minister's reply to the Question and, indeed, to my earlier Question. I am sure he would agree that such slack appearance of areas such as the Marine Drive does not encourage residents, young or old, to themselves take pride in their towns, if Government and the local authorities appear not to do so.

I hear what he says – joined-up Government working together – as it was a source of embarrassment to me when welcoming BBC 'Countryfile' at Marine Drive to see what laid before me. I am glad that the Minister has got this in part, so will he drive that forward?

The Speaker: Minister.

The Minister: I would be happy to drive that forward! (**A Member:** Good man!) I am glad the Hon. Member did get to the question eventually, (*Laughter*) but I agree with every word he said.

Mr Corkish: So would you agree?

The Minister: I do agree. I do agree. This is an important area (**Several Members:** Agreed.) and there are other such important areas around the Island which, from time to time, we should be ashamed of (**Several Members:** Hear, hear.) and which we need to get on top of.

355 **A Member:** We are ashamed.

The Speaker: Mr Houghton.

360 **Mr Houghton:** Thank you, Mr Speaker.

Just as a reminder, would the Minister be aware that, of course, there are the services of the Community Services operated by Probation? Perhaps the Department might like to tie up with those people for those services to be operated in the litter picking in the area of the Marine Drive, which is an obvious point, and many people quite forget that there are wonderful services given by Probation in order to achieve such ends. (**A Member:** Hear, hear.)

365 And also, if I may ask, has the Minister developed anything further in his Department in relation to Marine Drive, in relation to the gridlock at the TT as an escape route south on a one-way system?

370 **The Speaker:** Minister.

The Minister: In relation to the final point, no.

In relation to the previous point about Community Service people and also... Hon. Members will be aware that, shortly after taking office, I did take the opportunity to liaise with my colleague, the Minister for Home Affairs, in relation to those persons presently in prison, some of whom will be considered safe and who could undertake work around the Island, which is much needed. That consultation and discussion is ongoing and I do believe both via Community Service and via some support from prisoners, who I think, rather than being stuck inside for 24-hours a day, would welcome the opportunity, under proper supervision, to go out and do some work which is important to our Island.

380

A Member: Hear, hear.

The Speaker: Mr Quirk.

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

Can I ask the Minister then, would he not have some discussions with his Member for Castletown, Mr Ronan, regarding it, because he is visiting a number of local authorities? Maybe he could send a message to Mr Ronan to indicate that these activities could be done.

390 And also, could I ask the Minister, what was the outcome of the discussions then with his Department and Home Affairs?

The Speaker: Minister.

395 **Mr Anderson:** It is ongoing.

The Minister: I think I did indicate that discussions were ongoing. (**Mr Crookall:** Yes.) There are some concerns that have been expressed by Unite union. It was never the case, as far as I am concerned, to cause any difficulty to those persons who are directly employed, and so those discussions are ongoing and I hope we reach a conclusion sooner rather than later.

400 In relation to the local authority visits that Mr Ronan has undertaken, clearly those visits are primarily to introduce himself and to talk about the structure of local authorities; but yes, if a message in relation to a wider range of subjects can be undertaken, I am sure the Hon. Member would take that on board.

405 **The Speaker:** Mr Singer, Hon. Member for Ramsey.

Mr Singer: Thank you, Mr Speaker.

410 In relation to other locations, could I bring to the Minister's attention the Mooragh Promenade in Ramsey, which, as he knows, is a well used recreation area? Certain areas where the surfaces are broken and are dangerous – could he ask, please, that the area is inspected on a regular basis and, where necessary, minor works are taken to make the place safe?

The Speaker: Minister.

415 **The Minister:** Yes, I am happy to pass on to the officers of the Department to undertake such
work. I could give any number of examples. I like walking round the Island. I like going round the
Island with my dogs and you can see in a number of places... recently we have seen the results of
420 the long-standing inquiry about Langness. However, if you walk around there, you will see that a
number of people do not take a responsible attitude and there are a number of others and we need
to do our best to try and ensure that is not the case on our lovely Island.

The Speaker: Mr Quirk.

425 **Mr Quirk:** Thank you, Mr Speaker.
Could I ask the Minister, does he think his current weed policy, as supplemented by his
Department, actually is working? Could I also ask, could the Member indicate to the House, or
maybe circulate to those Members who require it, the contractual arrangements they have got with
other local authorities?

430 **The Speaker:** I think we are broadening this out far too much. (**A Member:** Absolutely.) It
was Marine Drive and there is reference to other locations round the Island, which has already
been picked up, but –

435 **Mr Quirk:** Point of order, Mr Speaker.

The Speaker: Point of order being?

Mr Quirk: It just says, ‘and other locations’.

440 **The Speaker:** Yes, I am just explaining that. Notwithstanding that, I do not want a trip around
the whole Island. (*Laughter and interjections*)

The Minister: A trip round the Island would do me good! (*Interjections and laughter*)
445 Mr Speaker, I hear what the Hon. Member says about weeds; I hear what the Hon. Member
says about local authorities and the points are taken on board.

The Speaker: Finally, Mr Houghton.

450 **Mr Houghton:** Thank you, Mr Speaker.
Mr Speaker, may I humbly ask and plead with the Minister –

A Member: Oh, he wants something.

455 **Mr Houghton:** – that in view of the insatiable appetite that Mr Quirk has (**A Member:** Oh,
yes.) for local authorities, can he have Mr Ronan removed from that position at once (*Laughter*)
and replaced by Mr Quirk? At least it would cut down on all this nonsense we have got in this
House and another place. (*Laughter*)

460 **The Speaker:** Minister. (*Laughter*)

The Minister: As much as I am fond of Mr Quirk and his various interventions in this place
(**A Member:** Hear, hear.) and elsewhere, Mr Ronan is doing a good job – (*Laughter and*
Interjections)

465 **The Speaker:** On a final note, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that he is going to have
difficult times as far as prioritising and that Marine Drive has to be considered, but in light of the
state of main roads like the Peel Road, the likes of the Prom, these have to take priority as far as
470 that issue is concerned?

Would he not make sure that he informs this House that these sorts of hard decisions are going
to have to be taken with the limited resources that his Department has and, whilst sympathising
about Marine Drive and other areas as far as that is concerned, the priority has to be that we try
and catch up on the amount of maintenance issues on our public roads that we actually use to get
475 from A to B?

The Speaker: Minister.

480 **The Minister:** As all Hon. Members will be aware, both Peel Road and the Promenade are my priorities in terms of major road infrastructure. I have been to the Treasury Department in relation to the Promenade recently and we have had discussions also in relation to Peel Road. Those are my top priorities.

485 However, in terms of the economy of the Isle of Man, I would say the places of natural beauty, *in particular*, are ones which we have to make sure are properly maintained, (**Several Members:** Hear, hear.) for those people who come to spend time on our Island.

The Speaker: Final supplementary, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

490 Returning to the original questioner, who stated that he was embarrassed at the state of Marine Drive, when the BBC television crew came over, can I ask the Minister, that a more proactive approach is taken in future, when we know that a TV company is going to come over and film in determining what the state of the area is and making sure that it is presentable before they start filming? Will he ensure that a proactive approach is pursued in future, please?

495 **The Speaker:** Mr Cretney.

The Minister: I am very happy to liaise with other Government Departments in relation to any concerns that Members with any individual responsibilities have, with regard to that. I would say it is not just – and I made the mistake when I was doing my final remarks there – about visitors to the Island either; it is about people on the Island. (**A Member:** Hear, hear!) We live in a lovely Island, we all have an obligation to do better, but let us see what we can do.

Several Members: Hear, hear!

505

HEALTH

510 **Ban on age discrimination Statement on new law in England**

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

515 *If he will make a statement on the new law that is to come into force in England in October that will ensure that health and care workers have the right attitude to help Britain's ageing society by introducing a legal ban on age discrimination in public services?*

The Speaker: Question 5, Hon. Member, Mrs Beecroft.

520 **Mrs Beecroft:** Thank you, Mr Speaker.
I ask the Question standing in my name.

The Speaker: I call on the Minister for Health, Mr Anderson.

525 **The Minister for Health (Mr Anderson):** Thank you, Mr Speaker.

I am happy to make a statement on the legislation coming into force in England. However, I do not believe legislation is a magic solution to changing attitudes on age discrimination in the public service.

530 I can advise that this change in English law will not apply to the Isle of Man. In England, however, from 1st October this year, the provisions of the Equality Act 2010 will be extended to require those providing public services to consider their practices and policies in relation to older people. The intention, according to the UK Home Office, is to ensure that the new law prohibits only harmful or unjustifiable treatment that results in genuinely unfair discrimination because of age. The extension of the Act should not outlaw the many instances of different treatment that are
535 fully justifiable or are beneficial to older people.

There are a number of exceptions to the original Act, notably in relation to such matters as age-based concessions – for example, travel concessions or free travel – and in relation to risk-related matters, such as insurance. There will be, however, no specific exemptions to the ban on age discrimination for Health or Social Care Services. This means that any age-based differences in treatment or care provided by the English NHS and Social Care organisations, and which may be regarded as harmful, will need to be objectively justified if they are challenged.

The 2010 Act already contains provisions to allow certain forms of age-based differential treatment to continue and these will apply in the public service provision, as they already do in the workplace.

The Act also contains a statutory authority exemption which allows differential treatment that would otherwise be considered age discrimination where it is required by law, for example, exemption for prescription charges and eyesight tests. In general, age-based practices will continue to be justifiable in such circumstances as, for example, age-based charging and entitlements, public health programmes, advice and guidance on policy and practice in Health and Social Care Services, age-appropriate services and facilities and the individual assessment of need. What all this will mean in practice is uncertain as the law is not yet in force and the implications are unclear, but depending on how they are interpreted and implemented, it could have profound implications for Health Services in England.

For that reason, Mr Speaker, I am of the firm view that this is a classic example of when we should not rush headlong into mimicking what the UK does, but we should watch carefully before doing what is right for the Isle of Man. (A Member: Hear, hear.) It is not least because I am not convinced that the reason for extending the 2010 Act in England – the much-publicised failures of care in English hospitals and elsewhere – apply on the Isle of Man.

Finally, Mr Speaker, I note the Hon. Member believes that the new law, and I quote from her Question:

‘...will ensure that health and care workers have the right attitude to help Britain’s ageing society’

Mr Speaker, in common with some other observers in the UK, I suggest that this law will do no such thing. You can legislate to change people. You *cannot* legislate to change people’s attitudes. By itself, this law will not be sufficient to change negative attitudes towards ageing. Ultimately, as a society we need to learn how to value older people by better appreciating their talents and not just seeing a date on a passport or a driving licence. Whilst a ban on age discrimination is welcome, it is no more help than a single step to fully recognising the value of older people, but that has to involve a radical change in attitudes by the whole of society.

Mr Speaker, my Department will be keeping an eye on how things develop in England after 1st October this year and, if necessary, will bring the matter before this House for consideration.

The Speaker: Mrs Beecroft, a supplementary.

Mrs Beecroft: Thank you, Mr Speaker.

Is the Minister aware that Paul Burstow, the Care Minister, said that the new law would ensure that health and care workers had the right attitude to Britain’s ageing society, and he went on to say that we know older people are not always treated with the dignity and respect they deserve because of ageist attitudes? Given that we do not have a Health Service ombudsman or an independent review of our services, what comfort can we take that the Isle of Man is doing okay in these areas and is happy to sit back and wait to see what happens?

The Speaker: Minister.

The Minister: Obviously, Mr Speaker, I would expect him to say that, but he is putting this legislation forward. I still do not believe that legislation on its own is going to change attitudes. I think it has to be more of a broad brush and education plays an important part in this, going forward. We have to make sure people are aware of the value of all the people and what they bring to society, and we treat them accordingly.

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

Could the Minister clarify what safeguards we have then on the Isle of Man? We do not have the health service ombudsman, or an independent review and given that the watchdog in the UK

found that many older patients were being denied adequate food or drink in hospital, while others were left unwashed, I have certainly heard anecdotal evidence of this on the Isle of Man. What steps is he taking to ensure that his staff have the correct attitude, whilst he is monitoring this new and what I would have thought very welcome legislation?

600

The Speaker: Minister.

The Minister: I would encourage the Hon. Member, Mr Speaker, where she has any examples of where discrimination of this type is taking place in the workforce in Government, to come forward with those examples and I am more than happy to look into them. I would like to say to the Hon. Member that most of the professional organisations that work in health and care have standards that those organisations already expect their staff to come up to and I am confident that the staff that are employed by Health and Social Care do, on the Island, meet a lot of these aspirations.

605

610

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

How can the Minister say that you cannot legislate to change attitudes when, in fact, we have legislated to change all sorts of attitudes in terms of development of social policy and the enforcement of underpinning that by legislation?

615

Does he not agree with me that in fact what we need to do, and what he ought to be saying to the House today is that he will wait to see what the legislation is going to say? After all, it will no doubt have penalties or recriminations in there for members of staff who are, from time to time, found wanting. Just the very nature of that in itself would put a member of staff off from continuing to bully or to disregard a person because of the age, surely.

620

So should he not be saying to the House this morning that he will wait and he will have a look at the legislation and decide whether or not he considers it is desirable for the Isle of Man or not?

625

The Speaker: Mr Anderson.

The Minister: Can I refer the Hon. Member to my original Answer where I said that we will be looking and seeing how effective this legislation is in the UK before making any changes on the Isle of Man. I believe that is the best way to go, but as I have already said to the original questioner, there are organisations that work in our Health and Care Services that have professional guidelines, that if they went astray from those they would be up on capability anyway, if they did not treat people appropriately.

630

If Hon. Members have examples of where this is not taking place, I am more than happy to look into that.

635

The Speaker: Mr Cregeen, Hon. Member for Malew and Santon.

Mr Cregeen: Thank you, Mr Speaker.

Would the Minister not agree that there are many publicised cases throughout the UK where private providers are probably the worst people to look after some of these, where the complaints come in, and any service should be looked at generally, not just within the Health Service?

640

The Speaker: Minister.

645

The Minister: Yes, Mr Speaker, and I believe that is what the UK legislation is primarily driving at.

The Speaker: Mrs Beecroft.

650

Mrs Beecroft: Thank you, Mr Speaker.

Would the Minister not agree, when I refer to anecdotal evidence, that a lot of the people who supply me with this anecdotal evidence do not want to step forward, because they are actually complaining to the very people that they are complaining about? They are taking their complaint to the Hospital.

655

We have no independent organisation that people can take their complaints to and particularly in regard to the elderly, some of the family members are actually scared to take a complaint further

660 for fear of recrimination. Whilst I accept that the absolute majority of staff treat and care for our people in the correct way, there are some that do not. It is this very concern for our elderly on the Isle of Man that really warrants more effort at looking at this legislation. Guidelines are not legally enforceable, they are guidelines. We need legislation of this sort on the Island.

The Speaker: Minister.

665 **The Minister:** All I can say to the Hon. Member is that I beg to differ on that.

The Speaker: Mr Karran.

670 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh son Slaynt, the Minister for Health, not agree that too often we have seen we have had a record, when it comes to social legislation, of looking for any excuse not to bring it in? Does the Shirveishagh not agree that, with our record in the past of dehumanising different sections of the community, it is more important for us to actually see this as a priority of legislation, in order to make sure that we actually do something about the deficit in audit that we have with the lack of independence within both the hospitals and health services and in the residential and nursing care home service, and that this should be seen as a priority?

675 What assurance should we take from his statement that this is, yet again, no policy, when it comes to actually affecting people in social care – ?

680 **The Speaker:** Hon. Member, we are not going to have a debate. You have put your question. Minister to reply.

Mr Karran: Can I just say, Vainstyr –

685 **The Speaker:** You have put your question, sir. Minister to reply.

The Minister: In answer to his question and the question was, there is any excuse not to bring in legislation, I disagree with that and I said within the statement I made originally, I am happy to see what impact the legislation has in the UK and to see if that is appropriate for the Isle of Man.

690 **The Speaker:** A further supplementary.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that many outside this House would be concerned that if it was a piece to do with financial or business or anything else, it would get bigger priority as far as that is concerned?

695 What sort of timescale can the Shirveishagh give this House as far as after its assessment of the legislation in the United Kingdom (*Interjection*) that we will see this brought in, and not like so much in the past, where we have waited 20 or 30 years for other pieces of social legislation?

700 **The Speaker:** I think you have answered the Question, Minister, but if you have anything further to add you may do so.

705 **The Minister:** Unlike the Hon. Member, I do not think we have the major problems they have in the UK in this area. However, what I have said is we will look to see what impact that legislation has when it comes in and I cannot give a time period. Let us learn from the lessons in the UK, as we should do with any legislation.

710 **The Speaker:** That brings us to the end of Questions for Oral Answer. The reply to the Written Question will be distributed.

Question for Written Answer

715

HEALTH**Off-Island medical treatment****Costs since October 2011**

720

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

725

What the total cost is since October 2011 of off-Island medical treatment for each category of treatment required broken down by month and further broken down by

(a) cost of treatment,

(b) cost of transport for patient and

(c) cost of transport for anyone accompanying the patient?

730

Answer: Thank you for your Question. As the request for information since October 2011 does not state until when, I am responding with information for a complete financial year 2011-12. The figures from month to month are arbitrary as some invoices are not received in the month of treatment and expenses are not necessarily claimed and refunded in the month they are incurred. Monthly information would, therefore, be of little practical value as it does not represent comparative activity. I trust that providing full end-of-year information will be of greater value and provide a more comprehensive picture.

735

Noble's Hospital has negotiated contracts with the hospitals listed below, predominantly in the north-west of England. Some patients are referred to non-contracted hospitals for various highly specialised services – for example, those provided in only one centre in England. This activity and cost is shown at the end of the table below.

740

There is a vast amount of detailed information available relating to the number of out-patient versus in-patient episodes, expressed by trust, by specialty and by cost but the volume is too great to provide in response to the above Question. If, however, you would like to meet Sue Rafferty, Tertiary Care Manager, she would be more than willing to go through this information with you in much greater depth.

745

2011-12 ISLE OF MAN OFF-ISLAND REFERRALS

	Actual Expenditure	Speciality
	£	
Contracted Trusts		
Aintree	857,000	Breast, Trauma and Orthopaedics (T & O), Ophthalmic, Dental
Alder Hey	1,222,822	Paediatrics
Central Manchester	120,000	Medical and Clinical Oncology
Christies	149,000	Various
Clatterbridge	1,211,000	Oncology and Radiotherapy
Leads Teaching	85,000	Fertility Services
Liverpool Heart and Chest	2,340,000	Cardio, Respiratory or Cystic Fibrosis
Liverpool Women's	311,000	Obstetrics and Gynaecology
Royal Liverpool and Broadgreen	1,656,000	Orthopaedic, Ophthalmic Surgery, Clinical Haematology Transplants, Gastro, Medicine, Transplants,
Southport and Ormskirk	43,000	Spinal
St Helen's and Knowsley	210,000	Plastics, Burns
Walton Centre	984,000	Neurology and Neurosurgery inc pain
Wirral	125,000	Orthopaedics
Wrightington, Wigan and Leigh	328,000	Orthopaedics
	9,641,822	
Non-Contracted Activity		
All Trusts 2011-12 expenditure	677,884	A wide variety of highly specialised services

- 750 The number of patient journeys (to all destinations) during 2011-12 was 7,732.
The number of funded escorts (to all destinations) during 2011-12 was 4,737.
The cost of patient and escort travel for 2011-12 (which includes scheduled air, sea, rail, taxi and contributions towards accommodation and mileage) was £1,887,012.00.
- 755 The number of patients who were transferred during 2011-12 to the UK via Air Ambulance was 395.
The total number of nurse and doctor escorts accompanying these Air Ambulance patients was 351. Most patients had one nurse escort, some two and others three each, depending on clinical need.
The cost of Air Ambulance (return) transfers during 2011-12 was £529,729.05, including nurse and doctor escorts.
- 760 The total number of patients (both emergency and non-emergency) transferred to the UK in 2011-12 = 8,127.
The total number of escorts (relatives, nurses and doctors) in 2011-12 = 5,888.
The total cost for travel 2011-12 = £2,416,741.05.
The total cost for treatment 2011-12 = £10,319,706.

765

Orders of the Day

770

BILLS FOR FIRST READING

Financial Services (Miscellaneous Amendments) Bill 2012 Licensing (Amendment) Bill 2012

775 **The Speaker:** We turn to Item 3, Bills for First Reading. I call upon the Secretary of the House, please.

780 **The Secretary:** Mr Speaker, Financial Services (Miscellaneous Amendments) Bill 2012, Member in charge, Mr Teare; Licensing (Amendment) Bill 2012, Member in charge, Mr Singer.

The Speaker: Thank you.

785

BILLS FOR SECOND READING

Cash in Postal Packets Bill 2012 Second Reading approved

790 4.1. Mr Teare to move:

That the Cash in Postal Packets Bill 2012 be read the second time.

795 **The Speaker:** Item 4, Bills for Second Reading: the first of those is the Cash in Postal Packets Bill. I call upon the Treasury Minister, Mr Teare, to move the Second Reading.

Mr Teare: Thank you, Mr Speaker.

800 This Bill has been introduced by the Treasury and its principal purpose is to amend three existing Acts of Tynwald – the Customs and Excise Management Act 1986, the Post Office Act 1993 and the Proceeds of Crime Act 2008 – to make provision for the treatment of cash contained in postal packets.

805 Firstly, the Bill would amend the law contained in the Customs and Excise Management Act 1986 regarding declarations of cash brought into or taken out of the Island. The Government considers it to be necessary to extend the existing requirement to declare to Customs and Excise, when large sums of cash are entering or leaving the Island, to where such cash is being sent by post.

810 Cash declaration change follows the inspection of the Island's regulatory and anti-money
laundering controls by an IMF inspection team, after which a recommendation was included in the
subsequent report in 2009. This recommendation was for the Island to consider extending its cash
declaration regime to postal movements. This change would not only allow Island law and
procedures to meet the requirements of the Financial Action Task Force, but would also close a
loophole and potential weakness in the Island's anti-money laundering regime.

815 Anti-money laundering controls for our banks and other institutions are designed in part to
make it more difficult for criminals to make off-record transfers of funds across borders. Similarly,
existing requirements require the disclosures if there are large sums of cash carried by persons to
or from the Island, or sent in baggage, vehicles or freight. Hence, the one remaining safe option
available to a criminal would seem to be to use the postal system. Declarations will only be
required for sums in excess of €10,000.

820 It is vital for the interests of the Island that in any subsequent inspection by the IMF or other
agency, the systems and controls in the Island meet the highest international standards and it is
obviously in everybody's interest that it is made more difficult for criminals to operate and move
their ill-gotten gains freely.

825 A second function of the Bill is to extend the power of the Police or Customs officers to seize
cash linked to unlawful conduct, or intended for use in unlawful conduct, should this be found in
the post. As I have already mentioned, the postal system currently offers a safe option for
criminals to send money out of the Island and it is believed that this option has been used for some
supplies of illegal drugs to the Island.

830 The threshold for action to seize illicit cash is £1,000. It should be emphasised that neither sets
of new powers provide Police or Customs with any additional powers in respect of correspondence
or other items sent in the Royal Mail. The powers are solely for dealing with any suspect cash. In
addition, Police and Customs will have to have reasonable grounds to suspect that a postal
package contains cash, which is either liable to declaration or liable to forfeiture before they can
ask the Post Office to detain the package for information. Even if a package is detained and
opened by the Post Office for examination, the package and its contents will remain in the custody
835 of the Post Office, which acts as agent for the addressee, and only if any cash is actually seized
will that then be taken into the custody of Police or Customs.

840 The existing safeguards, such as any seized cash only being detained for a short initial period
before law enforcement has to seek permission from the High Bailiff, apply equally to any cash
seized from the post. In addition, if undeclared cash is found, the sender or addressee will be given
time to make a declaration. The new procedures will be governed by both the code of practice
under the Proceeds of Crime Act 2008 in respect of searches for cash liable to seizure and a
tripartite memorandum of understanding between the Post Office, the Police and Customs and
Excise.

845 The Treasury feels that the provisions relating to cash declarations and seizures contained in
this Bill are a reasonable and proportionate response to a set of perceived risks.

850 Finally, the Bill also makes amendments to section 15 of the Post Office Act 1993 for another
purpose. It has been found that the ability to make the necessary subordinate legislation needed to
ensure that the Island's postal law meets fully both the requirements and changes in procedures by
the Royal Mail in the United Kingdom and compliance with the requirements of the Customs and
Excise Agreement, is limited by the wording of that section. Consequently, a minor amendment is
proposed to section 15 to make it better suited for its purpose. The changes to the way cash in the
post may be dealt with have been the subject of both a public consultation exercise and with
detailed discussion with the Isle of Man Post Office. The Treasury considers this Bill to be a
sensible and proportionate one, and I commend the Bill to the House.

855 Mr Speaker, I beg to move the Second Reading of this Bill.

The Speaker: Mr Henderson.

860 **Mr Henderson:** Vainstyr Loayreyder, I beg to second, sir and reserve my remarks.

The Speaker: Hon. Member, Mr Singer.

865 **Mr Singer:** Can I ask the Hon. Minister, this is cash in postal packets. Does this relate to
money that people might carry on their own person, if they are flying in or coming in on the boat
or going out? Is that not also a source, maybe, of ill-gotten gains being moved in and out of the
Island? Does it in fact... what legislation actually can help detect this sort of money?

The Speaker: Mr Teare to reply to the debate.

870 **Mr Teare:** I would like to thank the Hon. Member for Ramsey for raising this issue. Existing
legislation covers cash which is actually being physically carried by a person or an individual, or
indeed a courier service. What we found is that this is a loophole, as it were, which relates to items
which are in postal packets, envelopes, or parcels and if there was cash sent without a declaration
875 in a postal package, you have no means at the moment, until/ if this Bill receives its passage, that
that cash could be intercepted. So this really is to close a potential loophole.

With that, Mr Speaker, I beg to move.

880 **The Speaker:** Hon. Members, I put the motion that the Cash in Postal Packets Bill 2012 be
read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes
have it.

885 **Income Tax Bill 2012**
Second Reading approved

4.2. Mr Henderson to move:

890 *That the Income Tax Bill 2012 be read the second time.*

The Speaker: We turn now to the Income Tax Bill. I call on the mover, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

895 This Bill confirms six Temporary Taxation Orders repeals certain spent Income Tax
legislation, makes various amendments to the Income Tax Act 1970 and an amendment to the
Income Tax Act 1989. The Bill is divided into six parts and has 17 clauses. I will now give Hon.
Members an overview of the Bill.

900 The first part of the Bill contains clause 1 which provides the short title of the Act. The second
part of the Bill contains clause 2 which confirms six Temporary Taxation Orders. Before I provide
you with an outline of the Orders, I would like to explain the Temporary Taxation Order process.

905 A Temporary Taxation Order is used by the Treasury to amend and introduce primary Income
Tax legislation. It is mainly used to react quickly to international changes, or for the Budget. The
Order has the same power of primary statute and has immediate effect, but it will cease to have
effect within 12 months of the day on which it was approved by Tynwald, unless this House reads
a Bill confirming the Order for a second time.

910 The Temporary Taxation Orders to be approved by this Bill are as follows. The first is the
Temporary Taxation Order that repealed the legislation providing for the Attribution Regime for
Individuals (ARI). This Order was approved by Tynwald in October 2011. The ARI regime was an
anti-avoidance measure which taxed profits of a company on the shareholding under certain
circumstances. The European Code of Conduct Group considered that the ARI, when taken
together with the corporate Zero-10 tax regime, treated companies owned by non-residents
beneficially and therefore could be considered to be harmful. Following the repeal of ARI, the EU
Code Group have confirmed that the Zero-10 regime is no longer harmful.

915 The second Order was approved by Tynwald in this year's Budget and provides that certain
deductions will reduce an individual's liability to Income Tax, but will only be allowed at the
lower rate of tax. The deductions to which this Order applies are payments of private medical
insurance, donations by individuals to charities and nursing expenses. From 6th April this year,
relief will only be allowed at 10%, regardless of whether the person pays tax at 10% or 20%.

920 The third Order was also approved by Tynwald in February's Budget and makes maintenance
payments non-taxable.

The fourth Order, also approved as part of this year's Budget, reduces the amount of personal
allowance credit payable from £700 to £500 for a single individual, and from £1,400 to £1,000 for
a jointly assessed couple.

925 The fifth Order, another approved in February's Budget, obliges employers to undertake their
Income Tax transactions using the online service provided by Government. This will provide for a
fast and more efficient customer service.

The sixth and final Order to be confirmed was approved by Tynwald in March this year and amends the Assessor's information-gathering powers. It allows the Assessor to ask taxpayers to provide additional information on their annual Income Tax return.

930 Part 3 of the Bill contains clause 3 which repeals spent Income Tax legislation.

Part 4 of the Bill contains two clauses which make miscellaneous amendments to the provision regarding Temporary Taxation Orders. It also moves the power to make a Temporary Taxation Order from the 1995 Income Tax Act to the 1970 Income Tax Act, where it is better suited. The amendments being made will simplify the drafting of future orders and their confirmatory Acts or provisions.

935 Part 5 of the Bill contains 10 clauses, all of which concern the Income Tax Act 1970. These make consequential amendments and repeals and also amend the Assessor's powers to call for documents relating to the taxpayer under investigation.

940 Two new sections are inserted into the Act which amend the Assessor's powers to obtain information in certain circumstances. The amendments allow the Assessor to ask for information to be provided in the form of a sworn deposition when it is required under the terms of an international tax agreement. This is an internationally acceptable alternative to giving evidence in person in the requested country.

945 Two further amendments concern two existing statutory information gateways established between the Assessor and other Government Departments. Each amendment allows information obtained via the respective gateway to be forwarded, provided that the consent of the disposal body is given.

A further amendment introduces a cross heading which provides for the insertion of the Temporary Taxation Order legislation from the 1995 Act – in other words, a housekeeping procedure.

950 The final amendment to the 1970 Act inserts a new schedule, which introduces savings and transitional provisions. The savings provisions will safeguard the ongoing effect of the legislation which is repealed by clause 3 of this Bill. The second paragraph of the schedule introduces transitional provisions which allow for the movement of the Temporary Taxation Order legislation from the Income Tax Act 1995 to the Income Tax Act 1970.

955 Finally, part 6 of the Bill replaces an out-of-date reference to the Department of Health and Social Security in the Income Tax Act 1989. It also provides the resulting Act will expire on the day after its promulgation. This will remove it from the Island's statute book in an exercise to ensure remove dead wood.

960 Vainstyr Loayreyder, I beg to move the Second Reading.

The Speaker: Mr Teare.

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

The Speaker: Does any Member wish to speak?
In that case I put the motion... Mr Henderson, if you wish...?

970 **Mr Henderson:** No, it is alright.

The Speaker: No? No debate to reply to.

I put the motion that the Income Tax Bill 2012 be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

975

**Sunbeds Bill 2012
For Second Reading
Motion not moved**

980

4.3. Mrs Cannell to move:

That the Sunbeds Bill 2012 be read the second time.

985 **The Speaker:** The Sunbeds Bill will not be proceeded with this morning, I am advised by the mover.

BILL FOR CONSIDERATION OF CLAUSES

990

Moneylenders (Amendment) Bill 2012
Clauses considered

5.1. Mr Henderson to move.

995

The Speaker: We turn to Item 5: the clauses stage of the Moneylenders (Amendment) Bill and to move clause 1, I call Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1000

Vainstyr Loayreyder, this is the Moneylenders (Amendment) Bill. The Bill seeks to address the scope of the Moneylenders Act, which has been, since the Act was brought into operation in 1991, far wider than was originally intended. This is being brought forward on behalf of the Office of Fair Trading with their full Board agreement.

1005

The Act was intended to ensure that those who engage in the business of lending money to consumers were required to register with the Office of Fair Trading as moneylenders. The Act currently presumes that any person who lends money in the Island is carrying on the business of lending money.

1010

The drafting of the relevant provisions in the Act is all inclusive. This means that lending that occurs in the course of normal business activities is currently within the scope of the legislation. Those transactions that, for example, occur during the normal course of corporate financing and lending between companies within the same group are also caught within the scope of the Act. This was never the intention of the Act.

1015

The Act currently does allow some persons to apply for exemption from the requirement to register under the Act. This must currently be done on a case-by-case basis. This is achieved under the power in the Act and the regulations. These regulations require the approval of Tynwald. This is resource intensive and has been identified as a factor that may act as a disincentive to doing business in and on the Isle of Man. It is seen as unnecessary red tape.

1020

The Moneylenders (Amendment) Bill widens the scope of the definition of persons who can apply for exemption. This would enable whole classes of persons who were never intended to be caught under the Act to be exempted under a single set of regulations.

The Bill contains three clauses. Should the branches of Tynwald support this Bill, the Bill will come into operation by order made by the Treasury.

Vainstyr Loayreyder, turning to the Bill, clause 1 provides the short title of the Bill.

I beg to move that clause 1 stand part of the Bill.

1025

The Speaker: Mr Teare.

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

1030

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

Clause 2, Mr Henderson, please.

1035

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 2 provides for the Bill to come into operation on one or more days appointed by the Treasury. Provision is made to allow the Treasury to make saving and transitional provisions by order.

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

1040

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 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1050 Vainstyr Loayreyder, clause 3(2)(a) replaces the existing subsection (4) of section 1 of the Act. New subsection (4) widens the scope of those persons eligible to apply for exemption from persons to include transactions.

New subsection (4A) replicates and renumbers the existing offences and penalties for failure to register as a moneylender when required to do so.

Clause 3(2)(b) inserts the definition of 'exempt transaction'.

1055 Clause 3(3) widens the power to make regulations under section 17 of the Act.

New subsections (1A) to (1F) are inserted in the Bill.

New subsections (1B) and (1C) clarify that exemptions from the requirement to register under the Act now include certain types and classes of persons, persons who conduct certain definable activities and certain definable transactions or whole classes of transactions of a particular type.

1060 New subsections (1D) and (1E) introduce a new power that will enable exemptions to be granted under subsections (1B) and (1C) including for a limited or unlimited period of time, unlimited or limited in the scope of application, application only to certain types of moneylending, and in respect of certain transactions for those carried out on certain types of person.

1065 New subsection (1F) updates the Act by inserting additional powers that provide for a degree of flexibility in respect of unforeseen circumstances. The legislation that has been enacted more recently contains equivalent provisions as standard.

Clause 3(4) replaces an outdated reference to legislation that has been superseded. While the Interpretation Act 1976 ensured that this outdated reference did not render the provision ineffective, it seemed logical to take advantage of the opportunity to do a little housekeeping.

1070 Vainstyr Loayreyder, I beg to move that clause 3 stand part of the Bill.

The Speaker: Mr Teare.

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

1075 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

1080 Can I just ask the mover of the Bill if he can give us an idea of the persons who will be regarded as being 'exempt persons', because the mover did say at the onset of his contribution that there were all sorts of people that had been brought into this legislation really, which was not appropriate? So if he can give us an idea of the sorts of persons who might be exempt from the legislation and also the type of lending which is regarded as an 'exempt transaction' in the legislation. So if he could just give us just a little bit of an overview of what sort of categories, people and transactions will be exempt under this type of legislation, please.

1085 **The Speaker:** Mr Henderson to reply to the debate.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1090 Vainstyr Loayreyder, as I have outlined in the previous Readings of the legislation proposed, the terminology used for the Act when you talk about persons exempt, as I have tried to explain the Act catches everything, which includes companies, corporate lending activities, a company who has groups within that company, groups lending between groups within that company. So we are looking at corporate financing, corporate lending and it has been flagged up to us.

1095 I can certainly give one example from working with OFT, whereby this kind of activity was seen by one particular group wishing to register over here as distinctly red tape getting in the way and it caused quite a lot of red tape to try and unravel it so that the group could operate here, but it is not, as we see, aimed at single person moneylenders who are actually lending money to individuals on the high street, as it were.

1100 The Moneylenders Act was introduced to regulate consumer borrowing in the Isle of Man. It aimed to protect consumers from unscrupulous lenders. There is a presumption, as I say, Vainstyr Loayreyder, that a person who lends in the Island is carrying on a moneylending business and that arises from the wording of the Act and it requires the Office of Fair Trading to register any persons. All lending of any type has the potential to fall in with that definition and it does not distinguish between the type of different lenders and borrowers, as I have said, Vainstyr Loayreyder. It encompasses lending to consumers and that which takes place in the normal course of business services. So it tries to put a little flexibility into the situation for corporate financing and lending, but keeps the consumer protection for the ordinary people within the scope of which

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1110 the Member's question on the type of lending and what this means, as already indicated in the clauses and the preceding Reading.

Thank you, Vainstyr Loayreyder.

1115 **The Speaker:** Hon. Members, I put the Question that clause 3 of the Moneylenders (Amendment) Bill stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes our consideration of the Bill's clauses stage. Hon. Members, that also concludes business of the House today. I look forward to you joining me for the annual Speaker's Lunch.

1120 The House will now stand adjourned until our next sitting, which will take place on 5th July in St John's on Tynwald Day.

The House adjourned at 11.08 a.m.