Present:

The Speaker (Hon. J P Watterson) (Rushen);
The Chief Minister (Hon. R H Quayle) (Middle);
Mr J R Moorhouse and Hon. G D Cregeen (Arbory, Castletown and Malew);
Hon. A L Cannan and Mr T S Baker (Ayre and Michael);
Hon. C C Thomas and Mrs C A Corlett (Douglas Central);
Mr C R Robertshaw (Douglas East);
Hon. D J Ashford and Mr G R Peake (Douglas North);
Mrs K J Beecroft and Hon. W M Malarkey (Douglas South);
Mr M J Perkins and Mrs D H P Caine (Garff);
Hon. R K Harmer and Hon. G G Boot (Glenfaba and Peel);
Mr W C Shimmins (Middle);
Mr R E Callister and Ms J M Edge (Onchan);
Dr A J Allinson and Mr L L Hooper (Ramsey);
Hon. L D Skelly (Rushen);
with Mr R I S Phillips, Secretary of the House.
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House of Keys

The House met at 10 a.m.

[MR SPEAKER in the Chair]

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

Members: Good morning, Mr Speaker.

The Speaker: I call on the Chaplain to lead us in prayer.

PRAYERS
The Chaplain of the House

Leave of absence granted

The Speaker: Hon. Members, this morning I have only one leave of absence and that is for Mrs Beecroft.

1. Questions for Oral Answer

INFRASTRUCTURE

1.1. Promenade redevelopment – Passing places for horse trams

The Hon. Member for Douglas East (Miss Bettison) to ask the Minister for Infrastructure:

Why a further passing place is required for horse trams between the point of cessation of the double tracks and the next passing point approximately 300 metres away?

The Speaker: We turn to Item 1, Questions for Oral Answer and I call on the Hon. Member for Douglas East, Miss Bettison.

Miss Bettison: Thank you.
I would like to ask the Minister for Infrastructure why a further passing place is required for horse trams between the point of cessation of the double tracks and the next passing point approximately 300 metres away?
The Speaker: I call on the Minister for Infrastructure to reply.

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

Ultimately this will provide flexibility and allow the current horse tram operation service timetable to be maintained. From the south end of the double track in the centre of the road the track is interlaced to the seaward side opening out into a double track and finally exiting as a single track. The short section of double track is provided to allow trams in both directions to wait for the traffic lights to cross the highway at the traffic signals. It can also act as an emergency terminus when the waves overtop the sea wall at the War Memorial, and can be used as a terminus during the construction phase of the scheme.

The two double track sections could not be combined as there is insufficient passenger circulating area for this to be a major stop. We expect the War Memorial stop will be heavily used.

To summarise, the double track loop at the War Memorial is part of the main intermediate stop on the route and is set at a critical distance from the Sea Terminal to allow the necessary frequency of service. The double track loop at the end of the double track length is part of the interlaced track system that moves the tramway from being a double track in the centre of the promenade to a single track at the seaward side of the Promenade – both sections.

The Speaker: Supplementary question, Miss Bettison.

Miss Bettison: Thank you.

I wonder if the Minister could outline what frequency of tram could be achieved with the layout as at present in the plans, and what frequency of tram could be achieved if that additional passing place was indeed removed?

The Speaker: Minister to reply.

The Minister: Thank you.

We are trying to maintain a 15-minute frequency and maintain the current up to 15-minute frequency and what we have. It is also about capacity and in effect if you have a single track from the Empress all the way down to the Sea Terminal we would effectively be creating a bottleneck.

At this stage, as I say, the Promenade has gone through a massive 10-year process of deliberation, of design and we are very clear on the principles in Tynwald and in another place, and we are finally getting on the way and actually completing the project.

The Speaker: Supplementary question, Miss Bettison.

Miss Bettison: Thank you.

I just wonder what assessment has been done in terms of the required frequency and capacity for the trams on the Promenade?

The Speaker: Minister to reply.

The Minister: As I say, I can discuss with the Member further. We have had a number of conversations and I will continually have that conversation with her.
TREASURY

1.2. Women’s pension rights – Those born between April 1950 and December 1953

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for the Treasury:

_How many women have pension rights who were born between 6th April 1950 and 5th December 1953?_

The Speaker: Question 2. I call on the Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.

I would like to ask the Treasury Minister: how many women have pension rights who were born between 6th April 1950 and 5th December 1953?

The Speaker: Treasury Minister to reply.

The Minister for the Treasury (Mr Cannan): Mr Speaker, clearly in answering I have assumed the Hon. Member is referring to state pension rights in the Isle of Man.

It should be noted that all of the women born within the date range stated in the Hon. Member’s Question will now be of state pension age. I can confirm that 2,002 women born within that date range have claimed and are currently being paid state pensions by the Treasury. There may be a very small number of women born within that date range who have built up state pension rights in the Isle of Man but have not, for whatever reason, claimed their state pension.

Thank you.

The Speaker: Supplementary question, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker, and thank you, Minister.

Is the Minister aware of the total number of 1950s women on the Island entitled to Manx pensions who grew up expecting a pension at 60?

The Speaker: Treasury Minister to reply.

The Minister: In answer to the question, all I can say to the Hon. Member is that the Pensions Act in 1995 increased state pension age for women from 60 to 65 in stages between May 2010 and March 2020 to bring it into line with that for men. The decision to equalise upwards to 65 was attributed to demographic changes, fiscal pressures and comparisons with other countries and occupational schemes at the time.

The Pensions Act in 2007 – and it is the UK legislation I am referring to, Mr Speaker – increased state pension age from 65 to 68 in stages between 2024 and 2046. The UK Government argued this was necessary owing to a growing pensioner population resulting from increasing longevity and falling birth rates. The Pensions Act 2011 accelerated the timetable set in both the 1995 and 2007 Act.

All I can say is that these changes have been extremely well trailed in legislation, and in fact of course started first in 1995 with that piece of legislation and the Pensions Act.
1.3. Women’s pension rights – Planning adjustments for those born in the 1950s

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for the Treasury:

To what extent is his Department adjusting its planning to deal with possible amendments to the original first date of pensions for women born in the 1950s?

The Speaker: Question 3. I call on the Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.
I would like to ask the Treasury Minister to what extent his Department is adjusting its planning to deal with possible amendments to the original first date of pensions for women born in the 1950s?

The Speaker: Minister to reply.

The Minister for the Treasury (Mr Cannan): Mr Speaker, I am aware of the impending judicial review into changes to women’s state pension age in the UK and I will continue to monitor that review. Any changes that the UK government may ultimately decide to make to the state pension ages of women born in the 1950s will, subject to the approval of Tynwald, be applied in the Island.
Thank you.

The Speaker: Mr Moorhouse.

Mr Moorhouse: Thank you, Minister, and thank you, Mr Speaker.
Has the Minister a figure for the total amount not paid to these women as a consequence of shifting the age at which their pensions are paid?

The Speaker: Minister to reply.

The Minister: I do not have that figure.

The Speaker: Supplementary question, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.
One recurring problem that appears to be the case with these ladies is they do not appear to be getting access to their pension forecast to the level they would expect. Could the Minister please look into this?

The Speaker: Treasury Minister to reply.

The Minister: If the Hon. Member could clarify what exactly he means by ‘to the level they expect’ then I would happily investigate. I am very conscious that his supplementary extends into Question 4 by the Hon. Member for Ramsey. So perhaps I might wait until that Question is asked.
The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for the Treasury:

What support is available for people trying to find information about their own state pension entitlements?

The Speaker: In which case, let’s go to Question 4. I call on the Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I would like to ask the Minister for the Treasury what support is available for people trying to find information about their own state pension entitlements?

The Speaker: Treasury Minister to reply.

The Minister for the Treasury (Mr Cannan): Mr Speaker, if an individual wishes to obtain a statement of their current state pension position they should contact the Income Tax Division once they receive their statement and if they have further questions they can speak to officers, who will happily go through their personal circumstances in more detail.

During the period January 2018 to January 2019, the Income Tax Division issued a total of 2,077 such statements. Where an individual has a UK National Insurance record they will need to contact the Future Pension Centre by calling – and if I may give the number out, Mr Speaker – 0800 731 0175.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I am aware that people can contact the Income Tax Division and ask for information about their state pension entitlements. Is the Minister aware that in a number of responses being issued to people who have not yet reached state retirement age, they are being told that right now, because of the way the Manx state pension is calculated, they are actually not able to be told what their forecast entitlements might be? They are also not being provided with a breakdown of their year-by-year National Insurance record, that they would be able to obtain a snapshot of in the UK. So I suppose my supplementary question to the Minister is, is he aware of this; and also is it possible for people to obtain a breakdown or a snapshot of their own National Insurance record showing which years are qualifying years, which years they are missing out on so they can start building a picture of firstly, what their state entitlement might be, and also how they might go about topping that up?

The Speaker: Treasury Minister to reply.

The Minister: Thank you, Mr Speaker.

I am aware that there has been an increase in inquiries and, of course, I am aware of some limitations as we are transferring to a new Manx state pension and that rate has yet to be announced. In fact, we expect to announce that in next week’s Budget and it will come in force, subject to Tynwald approval. So that has not helped in terms of giving complete and accurate pictures to some people who have been inquiring, particularly whether in receipt of that picture.

I am also conscious that the National Insurance records or system database is not perhaps, shall we say, at the same level as that being used in the UK and we are applying every effort to assess how we can modernise and bring our are digitalised system up to scratch so that people
can have better access and more informed access to their levels of contribution vis-a-vis what sort of forecast in terms of pension that they may receive.

What I would say to the Hon. Member is that certainly my own personal experience, experience from other people I have spoken to, is that generally speaking if they write in and ask for the information they will get a response. At the moment that response is between three and five weeks, although, as I have said, there are a significant number of inquiries. And, as I say, following that statement where there are questions or queries then Treasury officers will be available to speak to an individual on an individual basis and go through the exact calculation as to the whys and wherefores of the amount that they are being forecast.

EDUCATION, SPORT AND CULTURE

1.5. Mobile phones in schools – Impact of restricting use

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Education, Sport and Culture:

What the impact of restricting the use of mobile phones in some Island schools has been?

The Speaker: Question 5. I call on the Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.

I would like to ask the Minister for Education, Sport and Culture what the impact of restricting the use of mobile phones in some Island schools has been?

The Speaker: I call on the Minister for Education, Sport and Culture to reply.

The Minister for Education, Sport and Culture (Mr Cregeen): Thank you, Mr Speaker.

As the Hon. Member may recall, the Department delegates individual policy on this to schools, and after consultation a number of schools have implemented new policies with regard to the use of mobile phones with the permission of staff. A graduated response across different Year groups is also sometimes included.

In implementing these policies, the potential benefits – reducing disruption and reducing access to social media etc. – have had to be balanced with the potential negative impact – reduction of opportunities to teach with and about technology, inability for students to use the preferred modes of learning, restricting access to learning materials, narrowing opportunities for communications.

Anecdotally, some teachers have reported greater engagement between students and between students and staff in informal environments as a result of such policies, but also, with regret, a lack of access to such powerful learning tools.

The Speaker: Supplementary question, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker, and thank you, Minister.

Given the amount invested in technology in the last five years and the amount of computers in school, I am rather surprised at this restriction you are talking about. But given the growing body of evidence from local schools and schools across, would the Minister consider offering advice to Island schools on the positives of restricting mobile phone usage?
The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

As I previously said, this policy is delegated to the schools. The schools know their students and it is entirely up to them to come forward with these policies. As the Hon. Member was a past teacher, I am sure he will be aware that the teachers are there with the students and hopefully they know their students.

The Speaker: Supplementary question, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

Does the Minister share my view, in that there is a possibility that the questioner here might be confusing himself between an actual device and a function, in the sense that devices now are becoming more or more complex and incredibly important in the education process, but that the separate issue about how social media is being used by younger generations is a challenge for us all? And does he not agree that it is important to separate those two issues and address them separately?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

Yes, I am happy to agree with that. I think what I have said before is that the schools are using these technology devices in different ways and it is entirely up to them to assess their restrictions.

The Speaker: Supplementary question, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker, and thank you, Minister.

In terms of extending into this area of safeguarding, if children coming into schools with mobile phones are not using the school networks, so they are not controllable, does he have concerns about that in terms of being guardians of the children during school hours?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

I do not know whether the Hon. Member knows, but most of these phones have got 4G in their own data usage.

The Speaker: Supplementary question, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.

That is the exact issue I am trying to raise, Minister, that we are not able to actually monitor what they are doing with their telephones because they have got their 4G usage and that is not something that the schools are aware of what they are doing minute by minute or day by day.

So in terms of the Department, should mobile phones be looked at as a potential threat?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

I think we are straining into the parental responsibility around here as well. With the 4G network, the parents will no doubt be paying for these devices and for their usage and there is parental responsibility with that as well.
1.6. Department of Education, Sport and Culture – External validation

The Hon. Member for Onchan (Ms Edge) to ask the Minister for Education, Sport and Culture:

Who carries out the external validation of his Department?

The Speaker: We turn to Question 6 and I call on the Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I would like to ask the Minister for Education, Sport and Culture: who carries out the external validation of his Department?

The Speaker: I call on the Minister for Education, Sport and Culture to reply.

The Minister for Education, Sport and Culture (Mr Cregeen): Thank you, Mr Speaker.

All schools on the Isle of Man conduct self-review and evaluation. This enables them to evaluate themselves against a quality assurance framework, which sees each school grade many aspects of its work on a scale from ‘not yet effective, urgent action required’ through to ‘inspirational’.

External validation of schools’ self-review and evaluations are carried out by a small team. In the case of both primary and secondary validations the team is led by an external consultant from an organisation selected, through national tender by the Department of Education, Sport and Culture, to lead this process. At the moment, this company is Graham Reeves Ltd. The role of the team leader is to direct the external validation process by identifying the areas to be reviewed in advance of the validation days and producing a pre-validation commentary, briefing team members, allocating tasks, having the final responsibility for the judgements reached and producing a written report and conclusions of the validation.

The external nature of the team leaders ensures objectivity and rigour during the external validation process. In addition to this, the team leaders have a member for primary and members for secondary of the Education Improvement Service, who are not the school link advisers.

In addition to undertaking the review and evaluation activities as directed by the team leader, the role of these colleagues is to properly ensure that the context of this system and the Isle of Man’s education system are reflected within the process.

The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I thank the Minister for his response with regard to schools, but my Question was actually with regard to the external validation of his Department. The last inspection was carried out in June 2002 and I am just wondering if ... I suppose the two questions I would like to ask the Minister are: has the Department done its own self-assessment or inspection of validation, and if it has, can we Hon. Members have a copy of that; and what criteria do they use to judge their own success?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

I think the hon. Member ... the political Members’ overview of the Department ... We are also subject to scrutiny from the Social Policy and Children’s Committee. I am not aware of Government Departments having external scrutiny about the functions they are carrying out.
The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

The Minister is quite clear that he does external validation of his schools. I am sure he is very aware that the departments in the UK actually get validated as well. I am just wondering whether the Minister has any intention of having another external validation – seeing as the last one was 2002 – into his Department, or the reasons why he would not welcome that into the Department.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

I do not know whether the Hon. Member is actually aware of the difference between the Isle of Man and the adjacent isle. This Department is not a local authority, which I think the Member is actually confusing the UK model with. Education is carried out by local authority areas in the United Kingdom. This is a Government.

I would ask the Hon. Member, who is a Member of a Department: does she consider that her division should have an external review of what she is actually doing?

The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I am not sure which responsibility the Minister is talking about, but I am aware of external reviews having taken place in some of the areas I am responsible for.

The Minister again says that they are not an LEA; however, they have an LEA number and the last time this question was asked in the House he said it was purely for administration.

The question I am asking the Minister is: how do we know that the Department is operating and providing a good service to our schools, without having some form of external validation?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

Through the external validation of our schools, it is showing that the schools are performing, and the Department has officers who are reviewing the schools.

We have external people who come in and review the NSC. That is reviewed through Quest.

I said previously that we have this LEA number for administrative purposes only. We are not an LEA. This was made clear under the last lot of questioning from the Hon. Member.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I am simply losing the will to live with this particular line of questioning. Does the Minister agree that the Department has a very wide range of functions – including sports, administering the Villa Gaiety, student awards, other types of funding – and the proper place for independent external scrutiny of Government Departments is the Policy Review Committees of Tynwald Court?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.
That is what I said earlier. Tynwald reviews the Department. We appear in front of the Social Policy and Children’s Committee and if they have any questions regarding that, that is the area that reviews us.

**The Speaker:** Supplementary question, Mr Moorhouse.

**Mr Moorhouse:** Thank you, Mr Speaker.

The last Ofsted and HM Inspectorate investigation of the Department took place at the start of this century and last century. Is it time that an external review actually was carried out in terms of the Department’s operations regarding schools?

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

Not at this time.

**The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

I am just really unsure as to why the Minister would not welcome an external validation to ensure that his Department is operating ...? I appreciate what the Hon. Member for Ramsey has stated with regard to you operating the Villa Marina. You have external validation of the NSC, which is one of your Departments, you have it for the schools, you have it for special needs, I believe; but you do not seem to wish to have it for the headquarters. If we are operating appropriately, there is nothing to fear. I just feel that there is a lot of pressure put on the schools for external validation but there does not appear to be ... I appreciate that the Tynwald Committee can scrutinise, but that is not an external validation done by a professional body experienced to do that.

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

If the Hon. Member had a bit more experience in this place she would understand that any of these Tynwald Committees can bring in external advisers if they wish.

**The Speaker:** Supplementary question, Mr Baker.

**Mr Baker:** Thank you very much, Mr Speaker.

Would the Minister agree with me that the best test of the performance of the Island’s education system, both the schools and the Department, is the quality of the young people that we produce as an Island? I, for one, think the young people that we produce are of exemplary quality, that we should be very proud of them and that we are missing the point with some of this nit-picking questioning. We have got some fantastic young people in this Island. We should be really proud of them and we should be really investing in them, building them up and making this a place that they want to come back to and build their futures with.

**Several Members:** Hear, hear.

**The Speaker:** There was a question in there. I am sure the answer is yes. *(Laughter)*

**Mr Baker:** I did, Mr Speaker, say ‘Would the Minister agree with me?’ I started off with that. *(Laughter)*
The Minister: Thank you, Mr Speaker.
Yes, I would agree. I think our young people going out into the workplace are a fantastic example of our education system.
The attack from the Hon. Member about how the Department is actually performing ...
Because it is at that level and we are ensuring that the schools are performing well, surely that is enough to say that our schools are performing. The children are getting a good education and there is an environment out there for our children’s schools.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.
Just turning to the comments in respect of Ofsted, I wonder if the Minister is aware of a very recent Channel 4 Dispatches documentary called Skipping School, in which a UK headteacher commented in respect of Ofsted:

I should never be put in a place where I am doing what is right for the child or what is right for Ofsted. They should be the same thing and too many times they are not.

I hope the Minister would agree that this is not the system we want to emulate.

A Member: Hear, hear.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.
No, I have not seen the programme, but I think we have said this often enough about our education system and the concerns that a couple of Hon. Members have said about bringing Ofsted over – that what we are trying to do is to ensure that our children have got the correct education; that we are not putting additional pressures on them just for the sake of testing them to get an Ofsted reading ...

The Speaker: Supplementary question, Mr Quayle.

The Chief Minister (Mr Quayle): Thank you, Mr Speaker.
Would the Hon. Minister not agree with me that some of the comments here today are calling for a review of the reviewers? Where do we go down the road ... ? The Hon. Member for Onchan one minute is standing up in other debates saying that we need to cut the number of civil servants, we need to cut our costs, Government is top heavy, we are spending too much money – and the next minute is wanting a review of the reviewers.

We have the Social Affairs Policy Review Committee who, if something has gone wrong, can call for a review in any Department under their remit, and we have other scrutinising committees that have the same powers.

We are doing well, our children are doing well. I applaud the Hon. Member for Ayre and Michael, Mr Baker, for his comments. I can back that up. I spoke to the Army Reserve leaders, who said that the quality of young people coming into the Reserves ... they are well mannered and the high educational standard is exceptional. We are doing well on this Island. Let’s not bash it.

I can think of far more serious things to be dealing with than asking for a review; but if we were to review this, where do we stop? Every Department in Government and every Statutory Board – the Hon. Member is chair of one – would be getting annual reviews by external reviewers at a great cost. Bizarre!
The Speaker: Minister, do you agree? (Laughter)

The Minister: Thank you, Mr Speaker.

Yes, I do agree and I think one of the issues I would say to the Hon. Member is the Department is running within its budget, so I wonder where her concern is. Maybe it is something that in her previous existence she had a concern with and maybe she should tell us what she thought was going wrong there.

The Speaker: Final supplementary on this particular Question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I am really quite concerned. Obviously the Hon. Member for Arbory, Castletown and Malew has got more experience than me in here, but he clearly has not listened to what I am saying. I am not asking for an Ofsted inspection of our schools. Our schools are currently externally validated and that is why we do have successful young children. Our headteachers work and they produce reports for external validators, and they have to do it.

If the Minister had listened to the Question, it is about making sure that his Department is operating adequately in an education setting. They are instilling for the schools that they have to have external validation, but for some reason the Department – which is what I am talking about, what the original Question was about – does not. So, I think if the Minister had listened to what the Question was and perhaps just answered that, we would have been in a better place today.

The Speaker: Question?

Ms Edge: So can I ask the Minister really just to answer the question on external validation of the Department?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

It is quite interesting. The Hon. Member said that I should listen, and I think you may recall that I did say ‘Not at this time.’

The Speaker: I just remind Hon. Members that this is not a time for political statements. It is a time to elicit information from Ministers, so speeches are not welcome in Question Time.

1.7. Children excluded from schools – Tuition and learning resources provided

The Hon. Member for Garff (Mrs Caine) to ask the Minister for Education, Sport and Culture:

What level of tuition and learning resources are provided to children who have been excluded from schools?

The Speaker: Question 7 and I call on the Hon. Member for Garff, Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

I would like to ask the Minister for Education, Sport and Culture what level of tuition and learning resources are provided to children who have been excluded from schools?
The Speaker: I call on the Minister for Education, Sport and Culture to reply.

The Minister for Education, Sport and Culture (Mr Cregeen): Thank you, Mr Speaker.

The Hon. Member may not be aware that the Department does not exclude children from education. Rather, the terminology is ‘suspension’, which I presume is what the Hon. Member means. Permanent exclusion or expulsion, as it is termed in the existing Education Act 2001, is not executed in practice in our system.

Some form of appropriate education provision is provided where a pupil has been excluded following a suspension process.

In terms of learning provided for pupils who are suspended, the current DESC suspension policy states that for the head teacher to suspend any pupil from attendance for a period or periods not exceeding 10 days in any term, in the normal course of events there is an obligation on the school to provide means and resources for the continuation of the learning process, in whatever form that may take for suspended pupils during that time. For suspensions exceeding 10 days in length, the policy requires a head teacher and the governors to maintain appropriate educational provision for pupils suspended for more than 10 school days in any term – the head teacher and the governors to arrange such provision with the aim of preparing the student for eventual re-inclusion into learning at the school; the school is to meet the cost of providing educational provision for pupils suspended; and the Department of Education, Sport and Culture to ensure that adequate arrangements exist to safeguard the provision of education to pupils semi-permanently suspended from the school.

The Speaker: Supplementary question, Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

I thank the Minister for his explanation of the terminology. Can I query: he mentioned that it is the school’s responsibility to meet the cost of providing the education for the suspensions. Now, according to information previously provided by the Department there were 527 school suspensions and exclusions in the past year, and the year before 1,100 suspension days. So I would be very interested to know, does he think the Department and the schools are doing enough to support children who have been, for whatever reason, suspended? And also what the cost of that is, that he mentioned falls on the schools?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

As part of the narrative to the answer on the suspensions, the Department has been working with the schools for the last 18 months or so and we are now in the final throes of finalising a new suspensions policy.

And I am sorry, Mr Speaker, I cannot advise what the cost is to the schools because it may be just a provision of some homework revision books. But I have not got that figure.

The Speaker: Supplementary, Mrs Caine.

Mrs Caine: Thank you.

Perhaps the Minister would be kind enough to look into it and provide the figure of what the additional costs of the tuition would be. But also does he think the Department is doing enough to reduce the amount of suspensions?

Would he acknowledge that there is a connection between the amount of lost school time and academic attainment? Is he concerned about the number and the level of suspensions across our schools?
**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

Yes, we are concerned about the level, that is why we were having that review on the suspensions. That is why in the answer it has shown a significant reduction since there has been that review going on.

There will always be room for improvement on it.

**The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

I just wonder where the Minister talks about a new policy, whether we would circulate that when it is appropriate to the Members?

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

Yes, we will.

### ENVIRONMENT, FOOD AND AGRICULTURE

#### 1.8. Allergen labelling law – DEFAP plans

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Environment, Food and Agriculture:

*Whether his Department intends to change allergen labelling law?*

**The Speaker:** We turn to Question 8. I call on the Hon. Member for Ramsey, Mr Hooper.

**Mr Hooper:** Thank you, Mr Speaker.

I would like to ask the Minister for Environment, Food and Agriculture whether his Department intends to change allergen labelling law?

**The Speaker:** I call on the Minister for Environment Food and Agriculture to reply.

**The Minister for Environment, Food and Agriculture (Mr Boot):** Thank you, Mr Speaker.

The Isle of Man Food Information Regulations 2014 require all food businesses to inform consumers if any of 14 specified allergens are present in the food they sell or provide. These Regulations mirror those in place throughout the UK and are intended to enable consumers to make informed choices about food when shopping and eating out.

All of the Island’s registered food business operators have been provided with advice and guidance regarding their legal obligations since the Regulations were introduced and this is routinely reinforced when officers carry out inspections of food premises.

Since the recent tragic cases in the UK, the Department has been closely monitoring developments in other jurisdictions to address the issues that these cases have highlighted. The UK Department for Food, Environment and Rural Affairs and the Food Standards Agency in England, Northern Ireland and Wales are currently consulting on proposals to improve the
provision of allergen information. The consultation closes on 29th March 2019 and the Department will be submitting a response.

As our Regulations mirror the UK’s, it is our intention to bring in any proposed legislative changes which may come about as a result of this consultation. However, the proposals also include non-regulatory options such as the promotion of best practice and training for staff, which are also vitally important. Our environmental team already worked closely with our food businesses and operators providing guidance and advice to help them implement allergen controls and remind them of their legal obligations. We have also offered training on allergens through assistance provided to business through our Food Matters Strategy. We will continue to support industry and, alongside any legislative changes, we will also consider non-regulatory initiatives which come about from the UK consultation.

The Speaker: Supplementary question? Okay.

POLICY AND REFORM

1.9. Public Service Pension Schemes – Number of active members

The Hon. Member for Onchan (Ms Edge) to ask the Minister for Policy and Reform:

How many active members there are of the Public Service Pension Schemes?

The Speaker: We turn to Question 9 and I call on the Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr Speaker.
Could I ask the Minister for Policy and Reform how many active members there are of the Public Service Pension Scheme?

The Speaker: I call on the Minister for Policy and Reform to reply.

The Minister for Policy and Reform (Mr Thomas): Thank you, Mr Speaker.
I can advise that as at 6th February 2019, the number of active members in each Public Service Pension Scheme, for which the Public Sector Pensions Authority has responsibility, was as follows: Isle of Man Government Unified Scheme, 6,842; Judicial Scheme, 7; Police Pension Scheme, 206; Teachers’ Scheme, 1,293. That makes a total of 8,348.

The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.
I just wonder if the Minister could clarify then, at a recent public meeting the head of the PSPA said that there were over 11,000 active members. I just wonder if he could clarify what the difference is.

The Speaker: Minister to reply.

The Minister: The director of operations, head of operations, was talking about memberships rather than members. One person can have more than one membership, it is perfectly normal. In fact the law and the regulations require that, for instance, in the Government Unified Scheme
you have to have more than one membership and pensions accrue separately according to the different memberships, so there are 11,000 memberships, 8,348 members.

1.10. Election Day – Plans to make a national holiday

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Policy and Reform:

Whether he has considered making Election Day a national holiday?

The Speaker: Question 10, I call on the Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I would like to ask the Minister for Policy and Reform whether he has considered making Election Day a national holiday?

The Speaker: I call on the Minister for Policy and Reform to reply.

A Member: Nice try!

The Minister for Policy and Reform (Mr Thomas): Thank you, Mr Speaker.

The timing of the House of Keys general elections and the possibility of making election day a national holiday have been discussed in the past, particularly in respect of the impact on voter turnout at the polls. For instance, I recall a former Member for Onchan, Zac Hall, raising this subject in 2011 during the debate on constituency boundaries.

Establishing another national holiday on the Isle of Man calendar, in addition to Tynwald Day and Senior Race Day, would no doubt be welcomed by some and may even boost the popularity of some politicians with some members of the public. However, a number of important factors would need to be taken into consideration, not least the impact on the Manx economy.

As Members will be aware, general elections to the House of Keys are currently held every five years on the fourth Thursday in September. The 2011 House of Keys general election was the first to be held in September. Prior to that they took place in November.

One of the reasons behind the move was that the potentially better weather and longer hours of daylight in September would encourage more electors to vote. As part of a review of electoral matters, a public consultation entitled ‘Elections that Work for Everyone’ was published by the Cabinet Office in April 2018. This invited feedback on a wide range of issues, including the most appropriate day for a general election. Seventy nine per cent of respondents to the public consultation thought the House of Keys general elections should continue to be held in September and 64% said that Thursday should be retained as election day. Of those who suggested an alternative to Thursday as election day, the most popular choice was a Saturday with 12% of respondents selecting this option.

Of course it is open to discussion as to whether making election day a national holiday would encourage a greater turnout of voters, but whilst people do have busy lives, surely 10 minutes every five years is not exactly a great burden. Of course, more efforts can be made to make sure that the voting mechanism suits everybody. For instance, polling stations are open for 12 hours on election day and advance voting on demand is now more widely available. These are some of the issues that we have considered and there is no intention to have general election day 2021 as a national holiday.

The Speaker: Supplementary question, Mr Hooper.
Mr Hooper: Thank you very much, Mr Speaker.
I am glad that the Minister picked up that this was all about voter turnout and voter engagement with public elections. I am glad to see that this has been considered in the wider context by the Cabinet Office and I am sure that all of those quite varied factors that he mentioned, that would have to be considered before making a decision of this nature, have been considered.
I wonder if he would be willing to share the results of those considerations: the potential impact on the Manx economy, the amount the Cabinet Office feel this might impact on voter turnout etc. – all the things that he has mentioned, whether he would be able to share the details of that consideration with this House?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.
Let’s go back to the point that the Chief Minister made about we can have an infinite number of civil servants doing an infinite number of things, but impact assessment is quite difficult and the multiplier factors of impact is quite difficult. It all takes time. It all takes resource. Collecting the data that is statistically valid is quite tricky. We have not done a specific impact analysis on one extra public holiday.
But it seems to me that if that was the proposal that is being made so seriously, the people proposing it should be engaged in thinking those through. I mean a ballpark figure, it has been suggested to me that it might cost a million pounds to business for having an extra day’s holiday. We already have 10 public holidays; across they only have eight. That seems to me a non-starter to have an 11th – a third extra day’s holiday compared to across and the impact on business would be quite substantial.
It was not an issue that was raised in the consultation. It might well be Liberal Vannin policy, given that Zac Hall raised it in 2011 and the Hon. Member for Ramsey has raised it now, but let’s leave it at that. I think voter turnout, even at the beginnings of voting in the Isle of Man in 1896, the Douglas Commissioners’ Election, was only 66% turnout; it is now 53%. I would like it if it was more like two-thirds, 66%, but I am not in the business of forcing people to vote. It is for politicians to engage. This might be one way but I am absolutely sure it is not necessary.

The Speaker: Supplementary question, Mr Perkins.

Mr Perkins: Thank you, Mr Speaker.
Would the Minister agree with me it might be better to give the general public a week off after the election so they can get used to the idea of who they have actually elected? (Laughter)

The Minister: It has got similar merits to the – (Laughter)

The Speaker: Supplementary question, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
Would the Minister consider, rather than a national holiday, bringing forward the election date to earlier in September?
It is unfortunate that many Manx students leave to go to their college or university across ahead of the election day. I know the Minister is very keen to encourage young people to engage more with our democracy and I wonder if he would consider bringing forward the election day perhaps a couple of weeks?

The Speaker: Minister to reply.
The Minister: Thank you, Mr Speaker. The Hon. Member will know, I am sure, that the election day is set in primary statute, but I am sure the Hon. Member is also aware, as with other Members of this House, that drafting instructions have been prepared following on from the public consultation and that soon – the end of this year probably – a public consultation will take place on a draft piece of legislation in which that amendment could be made, if it would be helpful. I would love to hear further evidence about the difference that would make.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker. So the Minister started off by saying this issue has been considered. Well, I asked him then if he could share the thought process – the results of that consideration. He turned round and said, ‘Well, no, because that would require me tasking a civil servant to go and consider this.’ So clearly it has not been properly considered by his department. So I would like a straight answer to that question. If it has been considered, surely he can share that consideration and if it has not then he should be honest with us.

This question is all about voter turnout, so if this issue has not been considered – and it would appear that it has not been properly considered – what other methods of trying to improve and increase voter turnout have been considered by the Cabinet Office; and would he be willing to share that thought process with Hon. Members?

The Speaker: Minister to reply.

The Minister: Mr Speaker, it is a slightly disingenuous transformation of what was said. So a public consultation was done about the principles of registration of voters and elections. That consultation’s responses were published. Obviously, the civil servant who is working on this has considered all sorts of issues. In Jersey, I know that recently they have gone one stage further and they have had a specific public consultation on things that might make people more likely to vote. We could do that. But there are so many other things in social policy, in the environment, in the financial world, in the economy that we are struggling to make the transformation in line with what this House, the Court upstairs and this Government has in mind for the Government. And really this national holiday idea does not seem to be the one that has any popular consent. It was ridiculed this morning on the radio when it was proposed. Pretty much everybody who sent in said it would just be far too expensive. There was the idea: would small businessmen have a tax credit for the day that they had to take off, because it was a national thing? I do not think this has got legs.

If the Hon. Member and Liberal Vannin Party, more generally, believes this is a major policy idea, propose it at the general election – have a public mandate for it.

1.11. £5 coin for Year of Our Island 2018 – Reasons not issued

The Hon. Member for Douglas East (Miss Bettison) to ask the Minister for Policy and Reform:

*Why the £5 coin designed to celebrate Year of Our Island 2018 has not been issued?*

The Speaker: We turn to Question 11, I call on the Hon. Member for Douglas East, Miss Bettison.
Miss Bettison: Thank you.
I would like to ask the Minister for Policy and Reform why the £5 coin designed to celebrate Year of Our Island 2018 has not been issued?

The Speaker: I call on the Minister for Policy and Reform to reply.

The Minister for Policy and Reform (Mr Thomas): Thank you, Mr Speaker.
At the outset of the Year of Our Island programme there were a number of initiatives and projects presented as opportunities to celebrate our Island and a commemorative and/or a circulation coin was one of those initiatives. As with all the ideas and opportunities presented for the Year of Our Island team, some proved possible and others did not. After exploration with Treasury and the Isle of Man Post Office, it was agreed by the Year of Our Island political board that the benefits of issuing the coin were outweighed by the costs. A set of commemorative stamps was issued by the Isle of Man Post Office but a coin was not pursued.
We thank, of course, our colleagues in Treasury for the opportunity and support that they provided in exploring this option.

The Speaker: Supplementary question, Miss Bettison.

Miss Bettison: Thank you.
I wonder if the Minister could outline what the cost was of drawing the design and raising the order to get to this sixth, out of eight stages, that we did achieve?

The Speaker: Minister to reply.

The Minister: Sixth out of eight stages, what were the steps undertaken? In autumn 2017, Treasury and the Year of Our Island team discussion began regarding the minting of a 2018 commemorative coin for the Year of Our Island. During the winter of 2017-18, the design for the coin was developed with officers in Treasury, in spring 2018 the design received royal approval and final costs were able to be confirmed from Treasury. Those costs were £13.94 plus VAT for a crown, that was based on 500 crowns as an order, £8.16 plus VAT for 1,000 crowns. So we explored the sales outlets and calculated the predicted return on the investment in the spring of 2018 and we decided not to proceed.
I can confirm that no expenditure was allocated to the Year of Our Island budget in connection with these coins.

The Speaker: Supplementary question, Miss Bettison.

Miss Bettison: Thank you.
I wonder why the legwork in terms of gauging interest was not done prior to designing and bringing the Order to Tynwald?

The Speaker: Minister to reply.

The Minister: I thank our colleagues in Treasury for all of their support. As I said, so many Departments around Government have been so helpful working together to do such wonderful things like active travel, glens, uplands, parks, gardens, community events.
Treasury was very supportive and put on the table the idea of a coin, but at £17.50 the advice that was received was that it would be quite hard to sell coins, commemorative coins worth £5, at £17.50, so the political board decided not to go ahead and risk *bona vacantia* money in that way.
A Member: The question was?

The Speaker: Supplementary question, Ms Edge.

No? Supplementary question, Mr Hooper.

Mr Hooper: Thank you, Mr Speaker.

I am not sure the Minister actually answered the question from the Hon. Member from Douglas East, but there you go.

So this was an initiative that started, I am assuming, within Treasury from those comments. Treasury offered to participate in this and thought this would be a great idea, and actually I think it might have been. So Treasury went through all the effort of putting together the legwork, designing the coin, putting the Order together for Tynwald. I wonder if the Minister could perhaps share with us what the cost was of running that entire process of bringing the whole thing all the way through to a Tynwald Order and that now has been completely wasted because they did not do the proper research up front at the proper time.

The Speaker: Minister to reply.

The Minister: I cannot imagine the costs are a great deal in the process that I have just described, which is just putting together the order, the design and discussing the costs of manufacturing it with Treasury, but if you have specific questions please take them up with Treasury.

The Speaker: Supplementary question, Miss Bettison.

Miss Bettison: Thank you.

I wonder if, rather than trying to imagine the costs, you could perhaps go away and then come back with the actual costs to share with us (A Member: Hear, hear.) about what it takes to design a coin, to work out the relative weightage of the different metals and composition of said coin, to place that into an Order, to get it onto the Tynwald Order Paper in terms of officers’ time, in terms of artist’s time, so on and so forth, and then if you could perhaps let us all know that, rather than just imagining it.

The Speaker: Minister to reply.

The Minister: As I said in my first supplementary answer, the cost to the Year of Our Island project was zero.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I was about to ask exactly the same question, rather than the Minister imagining and thinking and feeling, to actually go away and do some legwork for a change.

We did not ask what the cost was to the Year of Our Island project. Government is a big beast and Treasury will have no doubt incurred costs because his Year of Our Island project did not properly engage with Treasury throughout the process, I would imagine, otherwise they would have realised at a much earlier stage that this was never going to get political approval from the Year of Our Island board. So what was the cost to Isle of Man Government, to the Isle of Man taxpayer, of this failed initiative?

The Speaker: Minister to reply.
The Minister: I look forward to the supplementary question carrying on, if necessary, but I hope we can move on from this. If the Hon. House is interested to know the costs that Treasury might have incurred I would welcome, as I am sure the Treasury Minister would, a Question in a subsequent House of Keys. (*Laughter*)

Several Members: Oooh!

The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.
I would just ask the Minister, I know it is obviously working with the Treasury board, but why has there been a focus on going to £5 coins, which perhaps do not sell as well as the previous 50 pence? If the Minister could advise as to why they looked at that and if they are going forward with anything else, can they consider looking at a different nomination for the coin?

The Speaker: Minister to reply.

The Minister: Treasury is responsible for the policy regarding coins issuance, Mr Speaker.

The Speaker: Supplementary question, Miss Bettison.

Miss Bettison: Thank you.
Perhaps the Minister could confirm that this Question was initially directed at Treasury, it was changed, and perhaps if we worked a little bit better together as a Government, rather than this silo mentality of needing to put multiple questions in about something that is relatively simple, we could just get the answer.

So would the Minister undertake to get that detail from Treasury, who he clearly interacted with to get this designed and then share that with this Hon. House? Yes or no is absolutely fine.

The Speaker: Minister to reply.
After some immediate team working, the answer is ...? (*Laughter*)

The Minister: I really do think that this is a mountain in a ... whatever the phrase is. *(Interjections)* A mountain out of a molehill, I really do think this. A couple of invoices for a tiny amount of money were exchanged between Treasury and Cabinet Office, but I do not know how you calculate such an invoice for requesting Royal Assent and for making the designs of a standard £5 coin.

I can circulate to all Members the information that we have about the costs that Treasury might or might not have incurred.

Alternatively, if you want to discuss that further and link it into coins issuance policy, please could this Hon. House engage with the Treasury Department directly.

The Isle of Man Year of Our Island political board had some decisions to make in April, with full information about the coins issuance procedure and the right decision was taken not to use *bona vacantia* funds to sell a hundred coins at £17.50, which would have cost us more to produce.

The Speaker: Supplementary question, Miss Bettison.

Miss Bettison: Thank you.
If the Minister has not already considered it, I would suggest he goes in the competition on Manx Radio where you do not say yes or no, because I think he would probably do quite well. (*Laughter*)
But I do reiterate it would be really helpful to understand, having now said that there were a few small invoices that traded hands between Treasury and Cabinet Office, if they were not allocated to Year of Our Island, why not, if that is what they were related to? But could we please understand the costings of this to provide reassurance to ourselves, to our constituents and those people who have contacted certainly myself about this very subject, as to why this never progressed past the design stage and what costs were incurred up to that point?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

A very clear answer: the Year of our Island Political Board decided not to progress because of the balance between benefiting us, the Year of Our Island objectives are very clear, the *vires* for the *bona vacantia* fund is very clear.

It was wonderful that Treasury and so many other Departments suggested initiatives to the Year of Our Island Political Board and apparently it is disappointing to this House, particularly to the hon. questioners, that this was not progressed. To be frank, the policy on coins issuance and so on needs to be reviewed on a different occasion.

The Speaker: Supplementary question, Mr Baker.

Mr Baker: Thank you very much, Mr Speaker.

Would the Hon. Minister for Policy and Reform agree with me that whilst we have launched this deep dive into the Government’s financial accounting system to discover the cost of a project as part of the Year of Our Island which did not quite get across the line – unlike many of the other excellent projects which were done under the Year of Our Island – at the same time we should launch a review into the cost of answering some of the questions that have been asked (Several Members: Hear, hear.) in this Hon. House and elsewhere in recent times because the cost is substantial in officer time, in Government resources and we just need to get a sense of perspective at times?

The Speaker: We are straying way beyond the Question at this point. Minister, do you wish to reply to that briefly?

The Minister: Thank you, Mr Speaker, I agree.

The Speaker: Supplementary question, Mrs Caine, and then final supplementary will be in the hands of Miss Bettison.

Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

I would just like to ask the Minister, would he agree with me that the political board of the Year of Our Island, of which I am one, were given only the costings for the production of the coin after the design had been finalised and actually the cost of it going into production could not be known until that point and that point was the right moment to make the decision whether or not to proceed?

And would he also agree that so many successes, as the Hon. Member, Mr Baker said, from the Year of Our Island and the amount of community projects that have brought huge amounts of enjoyment and engagement across the Island that it seems a shame to get bogged down in the detail of one small initiative that did not progress?

Two Members: Hear, hear.
The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker, I agree.

The Speaker: Final supplementary question, Miss Bettison.

Miss Bettison: Thank you.

Just to clarify, sorry. I am not saying I do not support not proceeding with this, what I am questioning is why we did the design prior to gauging the interest that would have indicated not doing the design.

And just to pick up on Mr Baker’s point, he is suggesting not asking questions but in fact the Minister is suggesting asking another one to a different Department, when we could have just had this resolved if we had just got an answer to the original Question!

The Speaker: I am not sure I found a question there, but Minister to respond.

The Minister: Thank you, Mr Speaker.

There is also the issue about the combination of stamps and coins. I think this is an issue that the Hon. Member for Douglas East has been pursuing for 12 months and I think there is more to this Question than the Question about the Year of Our Island £5 coin.

There was an option to link stamps and coins better but that also fell down at about the same time as the financial reality was unveiled, as the Hon. Member for Garff revealed. So there might be a wider question of how coins are issued and that would be for another occasion.

Question 1.12 to be answered in writing

The Speaker: Question 12 and I call on the Hon. Member for Garff, Mrs Caine.

Mrs Caine: Sorry, Mr Speaker.

The Speaker: Oh, sorry, this will be taken in writing, of course.

Item 2 on the Order Paper, Questions for Written Answer, and they will also be circulated.
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2. Questions for Written Answer

EDUCATION, SPORT AND CULTURE

1.12. Children with educational needs – Compensation claims in cases of departmental failure

The Hon. Member for Garff (Mrs Caine) to ask the Minister for Education, Sport and Culture:

*How much compensation has been paid, and in how many cases, in respect of children whose educational needs were not met in Island schools in order to contribute to private education expenses in the last five years; how many claims are outstanding against the Department for failure to meet educational needs; and how much is expected to be paid out for such claims?*

**The Minister for Education, Sport and Culture (Mr Cregeen):** The Department has been challenged by a small number of parents for failing to educate their child/children. In the last five years there have been two cases where the claimants received compensation, but due to a confidentiality clause being in place, we are unable to disclose the amount of compensation paid. These cases were underway prior to the five years but were settled in the last five years. Since this time, the way schools are monitored has changed.

There are no outstanding claims at present.

POLICY AND REFORM

2.1. Collection of electoral data – Charges as part of contractual agreement

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Policy and Reform:

*Pursuant to his previous Answer on the collection of electoral data, whether extra charges can be made by (a) ERS and (b) Idox as part of this contractual agreement?*

**The Minister for Policy and Reform (Mr Thomas):** As set out in the additional information circulated to Members on 5th February, there is potential for the cost of the paper-based elements of the 2019 canvass for electoral registration to fluctuate slightly from The ERS Group’s quote of £32,000.

The cost is affected by the number of reminders that need to be issued and on the method of response used by households. It costs more to deal with postal returns than it does for online, telephone or text responses.

The quote submitted by The ERS Group is based on data taken from the 2018 canvass and comprises an initial run of 43,000 household forms, envelopes and pre-paid response envelopes and a reminder run of 20,200.

If more than 20,200 reminders need to be issued to non-responding households, the cost of the 2019 canvass will increase proportionately. Similarly, if more households respond by post than in 2018, the overall cost may be slightly higher than The ERS Group’s quote.

These variables mean that costs cannot be fixed, although estimates can be made based on analysis of data from previous canvasses.
The potential for a variation in costs also applied in previous years when a different provider managed the paper-based elements of the canvass.

IDOX provides the software to facilitate the online, text and phone responses to the annual canvass.

These options have been introduced in recent years to make the process quicker and easier for residents and more cost-effective for the Cabinet Office.

The take-up of the additional options has been extremely positive. In 2018 a total of 11,173 responses were received via online, text and phone.

There is a fixed initial set-up cost each year for the IDOX services, plus a small handling/processing fee per response.

If more households respond to the canvass by the using online, text and phone options the overall amount paid to IDOX may increase slightly in comparison to 2018.

However, this will be more than offset by the savings achieved through a reduction in the number of postal responses dealt with by The ERS Group.

### 2.2. Electoral Register update process – Bids to carry out

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Policy and Reform:

*Whether the second best bid to carry out the process of updating the Electoral Register in 2019 was the same as the price paid in 2018?*

**The Minister for Policy and Reform (Mr Thomas):** An open and transparent procurement process was conducted by the Cabinet Office to put in place the contract for supplying and managing the paper-based elements of the 2019 annual canvass.

Three quotes were submitted via the Government portal – two from UK-based companies and one from a local provider.

The bids were assessed by the Cabinet Office against the requirements specified in the procurement exercise.

The ERS Group’s successful quote of £32,000 was the lowest of the three received and represents a saving of more than 50% on the cost of providing the equivalent services in 2018.

The second lowest bid, submitted by an off-Island organisation, was also substantially lower than the cost of the 2018 canvass.

### ENTERPRISE

#### 2.3. MNH retail establishments – Summer 2019 opening; investment over last five years

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Enterprise:

*Which retail establishments operated by Manx National Heritage will be open during the summer of 2019 (a) on and (b) off Manx National Heritage sites; and for each of the last five years, how much was invested in improving and up-dating each of these facilities?*
The Minister for Enterprise (Mr Skelly): Manx National Heritage is supported by the Manx taxpayer for most of its core activities but it raises valuable additional income from a variety of sources including retail. This activity also allows MNH to showcase the work of Manx designers and artisans amongst its suppliers.

MNH does not operate ‘retail establishments’ as such. Main visitor sites open to the public include a retail element as part of a wider visitor experience. Retail activity is integrated with other site functions such as welcoming visitors, the issuing of admission tickets, site safety and security. MNH has an ongoing investment programme (details of which are published in the Isle of Man Budget (‘the Pink Book’) and has improved the visitor welcome at key sites such as the Manx Museum, House of Manannan and Castle Rushen. Much of this work was to improve accessibility. Where appropriate, improvements have also been made to the retail offer alongside other works but MNH is not in a position to separate out costs in the manner requested.

A retail offer will be available at the following MNH sites in the 2019 season:

- Castle Rushen;
- Cregneash;
- Grove Museum
- House of Manannan (year round);
- Laxey Wheel;
- Manx Museum (year round);
- Nautical Museum;
- Old House of Keys;
- Peel Castle; and
- Rushen Abbey.

The kiosk at the Sea Terminal provides a mixture of retail, admissions and information. This pilot has been the subject of previous questions. In addition MNH provides online retail through www.manxnationalheritage.im.

EDUCATION, SPORTS AND CULTURE

2.4. Education Bill – Compliance with data protection, human rights and equality legislation

The Hon. Member for Garff (Mrs Caine) to ask the Minister for Education, Sports and Culture:

What assessment has been made of compliance with data protection, human rights and equality legislation in the planned Education Bill?

The Minister for Education, Sport and Culture (Mr Cregeen): An assessment has been done on the draft Bill to ensure it is in compliance with all the legislation mentioned in the Question above. However, as the Bill is in draft form this compliance will need to carried out again if any changes are made following the consultation process.

A number of provisions of the Bill engage human rights. The Department is satisfied that the appropriate balance between the public interest and individual human rights has been reflected in the provisions of the draft Bill. As part of the consultation process the Department welcomes, in particular, comments on how that balance has been effected. As part of the consultation analysis, the Department will pay close attention to any representations made about human rights engagement by the Bill and a full analysis of compliance with human rights law will be provided in connection with the Bill brought forward for passage in due course.
Order of the Day

3. BILL FOR FIRST READING

3.1. Charities Registration and Regulation Bill 2018

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

The Secretary: Bill for First Reading, Charities Registration and Regulation Bill 2018; Member in charge, Mr Thomas.

3.2. Charities Registration and Regulation Bill 2018 – Suspension of Standing Orders to take Second Reading – Motion lost

The Hon. Member for Douglas Central (Mr Thomas) to move:

That Standing Orders be suspended to permit the Second Reading of the Charities Registration and Regulation Bill 2018 to be taken at this sitting.

The Speaker: Item 3.2 and I call on the Hon. Member for Douglas Central, Mr Thomas to move.

Mr Thomas: Thank you, Mr Speaker.

Hon. Members, I rise to seek suspension of Standing Orders using Standing Order 11.4 to allow the Second Reading of the Charities Registration and Regulation Bill 2018 to take place today. This will require the affirmative votes of no fewer than 16 Members.

This important technical, modernising Bill is promoted by Her Majesty’s Attorney General in his capacity as de facto guardian of Manx charities. It was introduced into the Legislative Council on 4th December having been published in draft, and the consultation last summer following a principles engagement the previous summer. Unfortunately the Bill did not appear on our Order Paper last week on 5th February 2019, despite having been approved at Third Reading in Legislative Council on 29th January 2019. But to make up for this, Hon. Members will be aware that I circulated the version of the Bill which came out of the Legislative Council last Tuesday and has since been uploaded to the website.

How the Bill is progressed between the Branches and how this is dealt with in Standing Orders and in practice might need some consideration, but that is for another day. Today the only issue is that if Standing Orders are suspended, this important Bill will be back on track, and clauses stage could then take place on 5th March – with three weeks for any new policy initiatives to be explored and any proposed amendments to be prepared, rather than the fortnight which will be available if the Bill is moved to the first Tuesday after February Tynwald.

Hon. Members, the proposed legislation aims to update and improve the effectiveness of the registration and regulation of charities in the Island. This is important. I hope the Hon. House will agree to suspend Standing Orders so that the Second Reading can be taken today.

I so move.

The Speaker: Hon. Member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.
I rise to second Mr Thomas’s move to suspend Standing Orders. Hon. Members, this legislation is overdue. It has been clear to me for a number of years that the modernisation of charities registration and regulation was necessary and I have been pressing for this Bill to be prepared and introduced. Therefore, I was disappointed not to see it on the Keys Order Paper last week.

The registration and regulation of charities is currently provided for by the Charities Registration Act 1989. Over time the provisions of that Act have become outdated and additional requirements are necessary, so that there is a modern system in place which will enable the public to retain confidence in the Manx charitable sector. It is also necessary to take into account recent changes to the meaning of ‘charity’ in England and Wales so that *bona fide* charities which are established in that jurisdiction are not prevented from carrying on activities here. Importantly, the Bill does not seek to make any changes to the nature of an organisation that can register as a charity in the Island, such as imposing an income threshold; nor does it alter the requirement that it have a ‘substantial and genuine connection with the Island’.

Further, whilst the Bill extends the authority of the Attorney General as regards giving consent to certain steps to be taken by charities, it does not seek to exclude the jurisdiction of the High Court which is provided by the Charities Act 1962.

Now, I am aware that some Members will not support the suspension because we have not fully followed the letter of the law, but I am asking Members to reject ‘the computer says no’ routine and use a bit of common sense. My colleague, Minister Thomas, has explained why we are in this situation and I would point out that, with current worldwide events, my team are stretched in dealing with numerous projects, and getting this Bill back on track will help us keep things as up to date as possible.

I beg to second.

The Speaker: Hon. Member for Middle, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

This approach feels unnecessary and misguided. I have supported various previous requests to combine Readings because there was a deadline and there was a high degree of urgency. We have talked about Moneyval plenary meetings, we have looked at GDPR and Brexit, and that has been a sensible approach. The computer did not say no. The computer said yes, because it was sensible.

There does not appear to be an external deadline for this Bill and in fact the timing is questionable as Hon. Members grapple with a heavy Tynwald Order Paper and the Budget next week. (A Member: Hear, hear.)

I would put to the Ministers asking us to suspend Standing Orders that this is misguided because some people will interpret this as an attempt to rush a Bill through with reduced scrutiny. And this Bill has already been subject to a reduced timetable, as the Legislative Council agreed to suspend their Standing Orders to combine clauses and Third Reading at the Attorney General’s request. *Hansard* shows that the learned Attorney stated, just on 29th January that, and I quote:

... there is no great rush with this Bill ...

Those were the Attorney General’s words.

So this attempt now to rush things is unhelpful, as there are already concerns at large on this Bill. A good number of points were raised in the Legislative Council and it was suggested in some cases that these were policy matters and they should be *fully* considered by the House of Keys. The esteemed Mrs Poole-Wilson suggested, and again I quote:

... it might be helpful to allow Members in another place to have a full policy debate on this matter and determine, from an elected representative perspective, what the appropriate way forward is.
I would encourage all Hon. Members to read the Hansard from the Legislative Council sittings on this Bill and hopefully we will not take the Second Reading of the Bill today, which will provide the necessary additional time for all Hon. Members to review the Legislative Council transcripts.

The perception is that the Minister is forcing through a non-urgent piece of legislation to stifle a debate on a Bill which has issues. I would suggest, respectfully, that this perception does not help anyone, and I would call on the Minister to withdraw this misguided motion.

The Speaker: Hon. Member for Douglas East, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

I will only be on my feet for a few moments because quite honestly the Hon. Member for Middle has captured the case perfectly. There is very good reason – long-standing, well-respected reason – why we have a gap between First and Second Reading, and I do not think I need to repeat that now.

Like the Hon. Member for Middle I would be the first, and have been in the past, perfectly willing, to concentrate down the First and Second Reading when there is really good cause. There is no good cause and effectively, by sleight of hand here, the Minister of Policy and Reform is trying to change the whole process of how this Hon. House works.

He was right. This matter, if we are going to change it, needs to be deliberated on very carefully elsewhere at another time. This is not an appropriate use of the concentration of First and Second Reading.

So I am totally with the Hon. Member for Middle.

The Speaker: Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I also rise to speak against the idea of suspending Standing Orders for the purposes of progressing the Second Reading of this Bill. I asked the Minister what his reasoning was for pushing this Bill through so quickly and his response was simply that he failed to get the Bill entered into the House immediately after it finished through Legislative Council, and he does not want to lose the extra week. That is exactly what he has reconfirmed today and that is his sole reason for pushing it through this process.

Hon. Members have already touched on the procedural issues, and is that a good enough reason really to take this extra time off, Hon. Members? I will not be talking about that.

For me, it is the timing of this particular Bill which makes this process quite difficult. If the Second Reading goes ahead today, the Second Reading period then between Reading and clauses covers a very, very busy and complex Tynwald agenda which includes hundreds of pages of retained EU legislation as well as, of course, the 2019 Budget. The Minister stated there would be three weeks to work through this Bill, and that is not actually correct – there will be nine working days between today’s Second Reading and the clauses deadline for submission of amendments for the 5th March sitting. I would suggest it is very likely Members will find the next six days completely overshadowed by Tynwald and the Budget, which would leave three working days to consider and finalise any amendments.

So if there was a particular reason this Bill needed to be sped through the House I could accept these tightened timescales. But the Minister was very helpful when he clarified that is not the case at all here. I myself have asked for a number of amendments to be drafted, to be tabled on this and other Bills coming through over the next few weeks, including the Communications Bill, and so I fully appreciate the very heavy workload of our legislative drafters. And I am not sure that tightening their timescales is particularly helpful.

Not only this, I am very concerned that because this is such a busy period right now, the Minister himself will not be able to direct as much time and attention as may be necessary
towards this Bill. The Safeguarding Bill is about to come into operation on 1st March without any of the necessary underlying Regulations. The Minister himself has previously stated this would not make any sense – and it would not make any sense at all to commence the Safeguarding Act provisions without the supporting network of subordinate legislation. So I can only conclude the reason he is doing something that does not make any sense is because he is so busy he has not had time to adequately address it and so he is also saying, ‘Let’s cram more into this very tight timescale’.

I would also like to highlight the point that I am not sure has been completely made here, that we are the second Chamber in this instance: this Bill has already gone through the Legislative Council once, which means there is no one there to pick up on any mistakes that we make or anything that we might miss. So this to my mind would call for a little bit of extra care in the passing of this particular, and very important, Bill – especially, as has already been highlighted, there are policy issues that need to be addressed by this House, including the issue of how foreign charities are treated under this Bill, especially those with complex structures. This has not been addressed in the drafting of the Bill; it has not been addressed properly in the consultation.

Turning to the consultation itself, the response that was published amounts to a single page of very high-level analysis which, to my mind, is definitely not reflective of the detailed comments that were received throughout the consultation process. There are over 20 pages of detailed comments on this Bill and I would have thought that a proper consultation response should have been circulated to Hon. Members in advance of the First Reading, let alone in advance of the Second Reading. A number of these submissions have resulted in some of those amendments that I have already mentioned and I am sure if Hon. Members had seen the full responses this would also have impacted on their own thinking in respect of this Bill.

So in short, Hon. Members, given the important and technical nature of this Bill, the fact that the policy debate is still outstanding, the time constraints imposed by an exceptionally busy Tynwald sitting and that the consultation itself has not been properly circulated, I would urge you all to vote against the suspension of Standing Orders today. That is unless, of course, you feel that you have already had adequate time to properly and fully consider this Bill in detail in all of its technical glory – in which case I suggest that I look forward to a lively and informed Second Reading debate in a few minutes!

The Speaker: I call on the Hon. Member for Onchan, Mr Callister.

Mr Callister: Thank you, Mr Speaker.
I pretty much echo everything that has already been said so I am not going to repeat that. I also cannot support the suspension of Standing Orders. I think extra care is needed. I certainly need additional time myself in respect of the powers that have potentially been given to the AG with regard to this particular Bill.

I also am rather concerned that this is the second or third time that the Minister has tried to suspend Standing Orders in order to bring Bills through this House rather quickly. So I am concerned on that and I think at the time when the Minister does need the support of the House, then it should be given. But I think, as my colleague from Ramsey has already said, extra care is needed on this particular Bill and therefore I will not be supporting the suspension of Standing Orders.

Thank you.

The Speaker: Hon. Member for Douglas East, Miss Bettison.

Miss Bettison: Thank you.
I concur with a number of the thoughts already made, but one thing I would like to add, just to echo some of the points from my hon. colleague from Ramsey, Mr Hooper, is around the
consultation responses. When we had the responses to the Safeguarding consultation, the responses actually issued by people where consent was granted have been published in full, along with that higher-level thing – on some occasions you get just the responses people send and no high-level overview of it. On this occasion we have got the high-level overview but not the responses. I wonder if we could have maybe a bit more consistency across all of our consultation responses as to what is published, to enable Hon. Members to always be able to utilise that effectively and truly contribute to the debates around these Bills.

The Speaker: I call on the Hon. Member for Douglas Central, Mr Thomas to reply.

Mr Thomas: Thank you very much, Mr Speaker; and I appreciate all the interventions from Hon. Members of this House.

I just want to settle a few issues first. The first one is I am not even going to rise to the challenge of talking about the Safeguarding Bill, except using the Manx word boghtnid because basically that is for another place. The Appointed Day Order for the Safeguarding Act has been amended on Tynwald’s Order Paper so it can be seen in public. The Regulations may be made, and so the Regulations will be on March’s Order Paper – they are already drafted and they are prepared for it and they will apply from 1st March if Tynwald approves them.

Secondly, we can have a wider discussion about consultations and that was a helpful suggestion from the Hon. Member for Douglas East. But what I would accept is we do not want a one-size-fits-all approach to consultations; we want actually to have a suitable response. Any Member who asked for details of all of the 20 consultation responses received the consultation responses – that is why people know what was in them. They are in the process of being uploaded to the consultation website because of the request that was made in the last few days by a few other Members who had not previously asked to see them. They were available, it is just that the summary is actually beautifully written, like only lawyers can write it to get to all the key points that were made in the consultation.

Now, to move on to a few substantive points that were made. One thing that I have heard today is quite incredible to me, because there seems to be a case made for changing Standing Orders and legislative procedure – much greater change than the small suspension of Standing Orders. So there seems to have been a suggestion made from at least two places, formally, that we do not consider legislation in the week before Tynwald because we are all too busy preparing the Budget – and that is a shocking claim. I mean, the House of Keys Standing Orders allow there to be a sitting of Keys the week before Tynwald and we are allowed to have legislation there today. But two Members, who I am shocked to have suggested this, have proposed that we do not have legislation in the House of Keys before that. So that is a much more substantial change to Standing Orders.

Mr Shimmins: We do have!

Mr Thomas: The other point that needs dismissing is the citation of a quote from the Attorney General, because obviously the Attorney General cannot give advice to the Legislative Council about how it deals with legislation. So that point was made very clearly the week before in the Legislative Council. What the Attorney General said the week before is, when he was asked to suspend Standing Orders so the clauses stage was not taken, he said:

I am happy to leave that in the hands of Council; I do not think it would be appropriate for me to argue against that, but I would just like to make some general points ... [We can] fully debate the provisions of the Bill ... today ...

And that is the point he made the previous week.

So the last few weeks of this Bill have been very frustrating. Suspension of Standing Orders is not the massive sin that it is being made out to be. There are three Readings of Bills in the
Legislative Council and during the course of those three Readings there were two suspensions of Standing Orders: one to delay the Bill for a week so that the clauses could be read the week later, so some amendments could be drafted in a few days; and then there was a suspension of Standing Orders to catch up with the fact that the week before it had been delayed. Suspending Standing Orders is not a major sin and there are some people around here who pretend to be – or at least see themselves as being – reformers. I am beginning to think they pretend to be reformers but actually they are sort of stuck-in-the-mud traditionalists.

The legislative procedure, as the Chief Minister so eloquently said, is there for common sense. If you want to change a technical Bill into a policy-changing Bill that is fine, but do not use or abuse Standing Orders to actually achieve that purpose. (Interjections) So that is the point I would make.

There is no need to rush this Bill in terms of the outcome, but in terms of the procedure this is a technical Bill that makes a major change. It has been out in existence as a draft Bill for eight months. It has been consulted on for two years and this is the second time that we have been asked for more time to actually change it. There is no rush, we can completely review charities legislation and we can completely review the relationship between the church and the state in the Isle of Man. But they are fundamental policy decisions about which there should be consultation, about which policy should always precede legislation – and we are getting into dangerous grounds if we start making up our minds on policy decisions like that at the clauses stage of a Bill.

And just to clarify the point on the Standing Orders, I definitely think it would be worth the Tynwald Standing Orders Committee reconsidering the Standing Orders because a plain reading of Legislative Council Standing Order 4.5, which was amended on 26th June 2018, which is about the procedure for Bills first introduced into the Council, talks of:

A Bill to which this Standing Order applies shall be transmitted to the House of Keys immediately ...

So we need to interpret that to see what that means, because that Standing Order change was made because of an incident to do with the Equality Bill. A good legislative process is constantly evolving and we have obviously got an issue here that we need to address. But it is not necessarily the case that Government needs to follow what is going on inside the Branches as Bills go through our one Tynwald.

So, with that, I would like to sit down. I am surprised today with the Hon. Member for Ramsey’s move to not suspend the Standing Orders and encouragement of colleagues around this House in that respect. I think Mr Hooper shows signs of being an old fogey pretending to be a young fella when it comes to Standing Orders and some Tynwald procedures. I am disappointed that we cannot begin the policy debate which we could have today about this Charities Registration and Regulation Bill, which is a very important Bill and it has been in process for two years. The Chief Minister made a personal commitment, given some issues that we definitely have in terms of the procedures around administration for charities that needed to be cleaned up. And so be it, we can do all sorts of things as a House with this Bill now, but avoiding a policy debate today because the Budget is coming up next week is absolutely quite disappointing.

**The Speaker:** I will just draw the Hon. Member’s attention to Standing Order 3.24: in relation to the Safeguarding Bill you used a term in Gaelic. I would just ask you to provide a translation of that at this point.

**Mr Thomas:** Boghtnid – nonsense.

**The Speaker:** Thank you.
We will turn, then, to the vote. I presume the Hon. Member is still intending to move the motion, therefore we will go to the vote to suspend Standing Orders to permit the Second Reading to be taken at this sitting – 16 votes will be required.

Electronic voting resulted as follows:

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<th>AGAINST</th>
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The Speaker: With 10 for and and 13 against. The noes have it. The noes have it.

Procedural –
Bills on the Order Paper

The Speaker: We move on then to Bills for Third Reading, the Dormant Assets Bill 2018, but before doing so a point was made in debate there – and I did not want to make this point before the vote lest I be accused of influencing the House. I will remind Members that Bills go on the Order Paper when the Member in charge of it instructs the Secretary of the House to put it on the Order Paper. There is no automatic process. That is the current state of affairs.

I just thought I would make that point, lest any other Member be in any doubt.

Mr Thomas: Can I just clarify, Mr Speaker, is that for both Branches or is that just for the House of Keys?

The Speaker: That is the procedure in the House of Keys –

Mr Thomas: Thank you, Mr Speaker.

The Speaker: – which is the remit which I have in here today, Mr Thomas.
4. BILL FOR THIRD READING

4.1. Dormant Assets Bill 2018 –
Third Reading approved

Mr Shimmins to move:

*That the Dormant Assets Bill 2018 be read a third time.*

**The Speaker:** Bill for Third Reading: Dormant Assets Bill 2018.

I call on Mr Shimmins to move.

**Mr Shimmins:** Thank you, Mr Speaker.

I am happy that we are going to continue considering this legislation, even though it is a week before Tynwald. *(A Member: Hear, hear.)*

As previously outlined, the purpose of this Bill is to enable the proceeds of dormant accounts held by local banks to be transferred to a central fund and to then allow a proportion of the amounts transferred to be distributed for the public benefit.

The Bill is structured to allow for further asset classes to be added in the future, should the opportunity arise. This would only take place following full public consultation and be subject to further Tynwald scrutiny and approval.

I believe all matters previously raised have been fully resolved and I would like to thank all Hon. Members for their careful consideration of this Bill. There has been a high level of engagement and interest in this legislation. In particular, I would like to thank those Hon. Members who have moved amendments during the clauses reading. I thank them for their contributions to refine this Bill.

I am also grateful to my seconder, Mr Peake, and the Treasury Minister for their support.

I would like to thank the Isle of Man Bankers’ Association for their continuing support for the introduction of this important legislation in the Island and their consideration and prompt response to matters that have arisen during the development of the Bill.

Finally, I would also like to thank Nicola Harding and all the other officers for their hard work on this Bill.

I hope that we can now progress this legislation which will benefit good causes on the Island.

Mr Speaker, I beg to move the Third Reading of the Dormant Assets Bill 2018.

**The Speaker:** I call on the Hon. Member for Douglas North, Mr Peake.

**Mr Peake:** Thank you very much, Mr Speaker, and I beg to second.

**The Speaker:** I put the question that the Dormant Assets Bill 2018 be read for a third time.

**Mr Thomas:** a question?

**Mr Thomas:** I just wanted to clarify from the mover of this Bill how the sports purpose for charities will be dealt with for this Bill. Obviously there might be some time before a clear definition is provided in the new Charities Registration and Regulation Act, so I just wanted to see how we deal with the sports charities in the meantime.

**The Speaker:** Mr Shimmins to reply.

**Mr Shimmins:** Thank you, Mr Speaker, and I thank the Minister for Policy and Reform for his question on sports charities.
Hon. Members will recall that I gave a commitment that we would amend the legislation to ensure that sports were included in the list of good causes going forward. We have been guided in this matter by the drafters and we are seeking to bring forward an amendment in the Legislative Council which will effectively enable us to arrive at the desired confluence with consistency between the Dormant Assets Bill and our charities legislation as it stands now and as it stands in the future.

Thank you. On that basis, I beg to move.

The Speaker: I am definitely this time putting the question that the Dormant Assets Bill 2018 be read for a third time. Those in favour, please say aye; against, no. The ayes have it.

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

FOR
Dr Allinson
Mr Ashford
Mr Baker
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

AGAINST
None

The Speaker: With 23 votes for and none against, the ayes have it. The ayes have it.

5. CONSIDERATION OF CLAUSES

5.1. Income Tax Legislation (Amendment) Bill 2019 – Clauses considered

Mr Cannan to move.

The Speaker: Item 5. Consideration of clauses, Income Tax Legislation (Amendment) Bill 2019, and I call on Mr Cannan to move.

Mr Cannan: Mr Speaker, this Bill contains five clauses. It amends and confirms two Temporary Taxation Orders and confirms a third Temporary Taxation Order without amendment. It also makes three amendments to the Income Tax Act 1970.
Turning to the Bill – if I can get my fat fingers to open the piece of paper in front of me – clause 1 provides the short title of the Act.

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

The Speaker: Mr Shimmins.

Mr Shimmins: I beg second.

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

Clause 2, Mr Cannan.

Mr Cannan: Clause 2 confirms three Temporary Taxation Orders that were approved as part of the 2018 Budget.

The first of these is the Income Tax (Nursing Expenses) (Temporary Taxation Order) 2018. If a person is severely disabled physically or mentally, they or a relative can claim tax relief for certain nursing expenses in respect of that person. This Temporary Taxation Order (TTO) amends section 39AA of the Income Tax Act 1970 to extend the scope of this relief so that it can also apply to some or all of the costs of a qualified physiotherapist providing treatment to the same person.

The second Temporary Taxation Order to be confirmed by this Bill is the Income Tax (Pensions) Temporary Taxation Order 2018. This Order introduces a new part 5A into the Income Tax Act 1970 that allows for a new type of flexible pension scheme to be offered by pension providers. The new scheme must be approved by the Assessor of Income Tax and can take the form of either a personal or occupational pension. A person may only be a member of one such scheme at any one time and the member will be able to access their funds from the age of 55, although in special circumstances it will be possible to access them before this date. On reaching 55, a member can access their entire funds in one lump sum, 40% of which will be paid tax free. The alternative option is for the member to take an initial lump-sum payment of at least 40% of the funds, which will be paid tax free. The member can then take further payments of such amounts and at such times as they specify, and these payments will be taxed as income in the normal way. Tax relief is allowed on contributions made into the scheme up to an annual maximum of £50,000 and, on the death of the member, any of the member’s funds that remain are commuted and paid free of tax.

The new part contains a reporting requirement for single payments of more than £10,000 made by an employer to one of the new schemes and introduces a similar reporting requirement into the Income Tax (Retirement Benefits Schemes) Act 1978 and the Income Tax Act 1989 for schemes approved under those Acts. It also provides that if funds are withdrawn from a scheme approved under either of those Acts and paid into a new scheme, then tax relief will not be allowed on those contributions into the new scheme as they will have already received tax relief.

The new part allows a pension scheme currently approved by the Assessor under sections 50B or 50C of the 1970 Act or the Income Tax (Retirement Benefits Schemes) Act 1978, or the Income Tax Act 1989 to be transferred into a new scheme following the payment of a 10% transfer fee.

The confirmation of this Temporary Taxation Order is subject to the amendments set out in clause 3 of the Bill.
The third Temporary Taxation Order to be confirmed by this Bill is the Income Tax (Non-Corporate Taxpayers) Temporary Taxation Order 2018. Before I describe what this Order does, I would like to briefly remind Members why the amendments it makes are considered to be necessary.

In my Budget speech last year I advised that the Assessor had informed me that although our Income Tax system for companies is simple and very generous, some individuals are abusing it and adopting aggressive planning measures to reduce their personal tax liabilities. This commonly involves using Isle of Man companies to convert taxable income into capital, which is not taxable. The method most commonly seen by the Assessor involves individuals selling either goodwill or unquoted shares to their own companies in order to extract profits as non-taxable capital loan repayments. These repayments are made using money that is the taxable profit of the company and enables that money to be extracted in a non-taxable form rather than as a taxable dividend.

Turning now to the Order, this TTO amends section 2PA(1) of the Income Tax Act 1970 to clarify that any income distribution is taxable. It also amends section 2PA(5) to clarify that the meaning of the term ‘distribution’ in that section includes a payment made on the winding up, liquidation, cessation or dissolution of a corporate taxpayer.

The Order goes on to insert a new section 2PB into the Income Tax Act 1970 and this is the anti-avoidance measure. Under this provision, if an individual has sold unquoted shares or goodwill to their own company after 6th April 2011 but before the coming into effect of this Order and the sale creates a debt to the individual, then any repayment of that debt made after the Order has come into effect will be taxable dividend. The size of the dividend is limited to whichever is the smaller of the amount of the debt or the total debt at the date the Order came into effect and cannot exceed the amount of undistributed taxable profits of the company. If the sale of goodwill or shares occurs after the Order came into effect, the sale will be treated as a dividend taxable on the owner, the amount of the dividend being whichever is the smaller of the total sale price or the undistributed taxable profits of the company at the end of the accounting period in which the sale occurred.

The Order also addresses the situation in which debt repayments are made to a number of individuals during an accounting period and the repayments exceed the undistributed profits. In such a case it provides a calculation to be used for prorating the tax charge. In addition, the Order provides that if a repayment took place before the Order came into effect but the Assessor is not satisfied that it physically took place before that date, then the repayment can be charged to tax under the new section. In addition, if the Assessor believes someone has taken measures to avoid Income Tax under the new part, then an assessment or additional assessment can be raised on that person.

The final provision of the TTO amends section 105AA of the Income Tax Act 1970. This section concerns the appointment by the Assessor of suitably qualified officers to perform certain functions as authorised officers, including functions delegated by the Assessor. The TTO inserts a new subsection (2A) which clarifies that the Assessor can, in writing, delegate any of the Assessor’s functions to a suitably qualified authorised officer. It also substitutes subsection (3) to provide that the role of the authorised officer is subject to any conditions set down in regulations or in the officer’s notice of appointment or the Assessor’s written delegation. A new subsection (5) provides that any previous delegation of the Assessor’s powers is unaffected by the section. The TTO also takes the opportunity to change a reference to a civil servant to reference to an employee of the Public Services Commission.

The confirmation of this Temporary Taxation Order is subject to the amendments set out in clause 4 of the Bill.

I beg to move that clause 4 stand part of the Bill.

The Speaker: Mr Shimmins.
Mr Shimmins: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 2 stand part of the Bill. Those in favour, please say aye; against, no. We will call a division on clause 2, please, Mr Secretary.

Electronic voting resulted as follows:

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The Speaker: With 22 for and 1 against, the ayes have it. The ayes have it.

Clause 3, Mr Cannan.

Mr Cannan: Clause 3 sets out a number of amendments to the pensions TTO if that Order is to be confirmed.

Mr Speaker, before I go into these amendments in more detail, I would like to inform Members that this new flexible pension scheme has been very successful already. The new scheme has encouraged more of the large providers into the pension market and I hope it will help more of our population save towards their retirement. However, these amendments will ensure that this new scheme is easy to use and even more flexible.

All of the amendments address Article 3 of the TTO, which is the Article that inserts a new Part 5A into the Income Tax Act 1970, providing for a new, more flexible type of pension scheme to be offered in the Island. The amendments are directed at the legislation forming the new Part 5A, which consists of sections 61G to 61X.

The first amendments address section 61H which largely concerns the Assessor’s approval of a pension scheme to qualify for tax relief. The first amendment substitutes subsection (4)(b) with a broader condition that requires the scheme to provide benefits not only for the member but also for a surviving spouse or civil partner, or a child, dependant or personal representative.

The second amendment substitutes subsection (5)(b) to make a similar change to the conditions for approval of an occupational pension scheme.

The third and final amendment to this section removes subsection (8) which currently prevents a person from being a member of more than one scheme of this type at any one time, regardless of whether it is a personal or occupational scheme. This will make the new pension much easier to administer.
The next amendment affects section 61L. This provides the member with another option for accessing their funds. The first allows them to access their entire pension fund in one lump sum while the second allows them to take an initial lump sum of at least 40% of the funds and to take the remainder in such amounts and at such times as they specify. The amendment introduces a third option to improve the flexibility of the scheme, which allows the member to specify any size of payment at any time until the funds are exhausted. It also amends the wording of the two existing options to clarify that they refer to funds in the pension scheme to which the member is entitled.

The introduction of a third withdrawal option requires a number of consequential amendments to be made to other sections. The first of these is section 61N which concerns the tax treatment and calculation of the lump sum payments. Three amendments are made to this section, the first of which addresses subsection (1). This subsection currently provides that if the entire funds are withdrawn in a single lump sum then 40% of that amount will be tax-free. It also provides that if the member chooses instead to take an initial lump sum of at least 40% of the total funds, then that 40% will be paid tax-free, anything more being taxed in the normal way.

Following the addition of a third withdrawal option in section 61L that has just been described, subsection (1) is substituted in order to also include the tax treatment of the new option. This amendment will allow 40% of each payment to be made to the member under the new withdrawal option to be tax-free. The new subsection also amends the wording of the second of the two existing options to clarify that it refers to funds in the pension scheme to which the member is entitled.

The second amendment made to section 61N concerns subsection (3). This subsection ensures that any funds that are transferred into one of the new pension schemes from any other approved pension scheme after a tax-free lump sum has been paid out of that approved scheme are not taken into account when calculating the tax-free lump sum taken from the new scheme. The amendment to this subsection ensures that this treatment is extended to the new withdrawal option.

The final amendment made to section 61N substitutes subsection (4). This subsection requires the administrator of a scheme to notify the Assessor within 30 days of a lump sum being paid to a member. However, this now needs to be amended to reflect the introduction of the third withdrawal option. The amended subsection requires the Assessor to be notified within 30 days of a lump sum being paid or within 30 days of a first payment being made under the new option.

The next section to be amended is 61P which concerns the treatment of any of the member’s funds which remain after their death. This currently requires any remaining funds to be commuted within two years of the member’s death and provides that those funds will not be taxable. The Bill amends subsection (1) to extend it to cover the scenario where a pension comes into payment under the new withdrawal option and funds remain after the member’s death.

The Bill also substitutes subsection (2) to reflect the broadening of the condition in section 61H to require the pension to also provide benefits to surviving dependants. The new subsection (2) provides that where there is no surviving spouse or civil partner, or child, dependant or personal representative, any remaining pension funds should still be commuted in full within two years of the member’s death.

However, where there is no such surviving person, the commutation can still take place, in accordance with pension scheme rules, but a second option will also be available. The second option will allow an appropriate surviving individual to claim and receive payments from the remaining funds of the member. If this option is chosen, the payments made to the surviving individual will be treated, for tax purposes, in exactly the same manner as they were treated for the member.

The next amendment inserts a new section 61PA into Part 5A. This provides Treasury with the power to make regulations to restrict the level of exit and transfer fees that can be charged by pension providers for this particular type of pension scheme.
As well as making amendments to the pensions TTO, clause 3 also ensures that any pension schemes that have already been approved by the Assessor under Part 5A of the Income Tax Act 1970 when the amendments come into operation will not need to be re-approved by the Assessor in order to continue to qualify for tax relief after implementing the amendments. Normally, if an approved scheme is amended after approval has been given, it needs to receive further approval in order for relief to continue to apply.

Finally, clause 3 provides that the amendments will be considered to have come into operation at the same time as the pensions TTO itself came into operation in 2018 and to have been in operation since that time.

I beg to move that clause 3 stand part of the Bill.

The Speaker: Mr Shimmins.

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

The Speaker: Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

Firstly, I would like to say that I am very supportive of the changes that are being laid out here to the pensions TTO contained in clause 3, especially as they address some of the concerns that I raised when the pension TTO was originally brought last year. So I would like to thank the Minister and the Treasury for addressing some of those issues.

I would also like to thank the Minister for clarifying in his opening remarks the tax treatment of pension payments to surviving dependents. At Second Reading I asked whether or not the pension freedoms rules under this TTO would allow schemes that were approved in accordance with this TTO to be able to meet the qualifying criteria as registered overseas pension schemes with HMRC.

I appreciate the Minister’s comments that individual schemes will obviously have to be assessed on a case-by-case basis by HMRC and we cannot comment on those. But my question really was around whether or not the rules would enable a scheme to meet those criteria or whether there is anything in the rules that would explicitly bar a scheme, I suppose is the question. I would appreciate it if the Minister could clarify that for me.

I have an area of concern in respect of one of the sections in here and that is section (j). That is the insertion of a new part 61PA in respect of exit and transfer fees. This section is proposed to give Treasury the power to make regulations to set fees charged by pension trustees and administrators in respect of exit and transfer fees from these approved schemes.

To my mind, ordinarily it should be the regulator that deals with things like fee caps, not the Treasury. So my question to the Minister – the first question, I suppose is – is Treasury bringing this on behalf of the regulator? If so, why is the section not giving the regulator these powers instead of Treasury?

But I think before we even get there – to ask the question who should rightly have these powers – the question really is why does Treasury need these powers at all? Why is it necessary that Treasury have the powers to restrict these types of fees? Does Treasury have this power in respect of other types of pension schemes? Does Treasury have this power in respect of other products on offer by regulated entities? Can they, for example, restrict the fees charged by banks or life insurance companies? I suspect the answer to that question is, no, they cannot, but I would appreciate some clarity on why it is felt that pension schemes of this nature need to be treated differently to pretty much everything else that exists on the Isle of Man.

When we debated the Dormant Assets Bill, the issue of Treasury regulating or restricting the fees that banks could charge was brought up, was mentioned as a suggestion, and this was rejected outright by Treasury. The Hon. Member for Middle, Mr Shimmins, in rejecting the suggestion that Treasury should regulate the fees on that scheme, responded that:
... each bank will have its own range of tariffs and they will apply a reasonable charge ... it would be wrong, I would suggest, for this House or Treasury to determine what a particular bank should charge for a particular service.

That was Treasury’s view in respect of bank charges.

So in respect of banks it is wrong for Treasury to determine fees and charges, but in respect of this particular type of pension scheme it is not wrong. Are pensions administrators of these schemes somehow less trustworthy than banks? Are they less likely to apply only reasonable charges? Are they any less regulated than banks? Are their customers substantially different in make up to banks? I suggest this approach by Treasury is somewhat incoherent and this proposal to regulate exit and transfer fees, I think, has come a little bit out of the blue. I do not recall seeing it before this set of clauses was tabled.

So, Mr Speaker, Hon. Members, if it is wrong for Treasury to set fees and charges in one area of the marketplace without any evidence that such interference is warranted, then surely it is wrong for Treasury to set fees and charges in any area of the marketplace without evidence that such interference is warranted.

So I would urge Members to vote against this part of the clause – not the whole clause, just this particular part of the clause – on the grounds that it does not really make a lot of sense and as yet we have not had a proper justification of why Treasury feels it needs this particular power.

So, to that end, Mr Speaker, I would request that this particular part – that is clause 3, section (2)(j) – be voted on separately in accordance with Standing Order 3.1(2).

Thank you.

The Speaker: Is there a seconder for the proposal?

Mr Baker: I will second Mr Hooper’s proposal.

The Speaker: Now that proposal is debatable – I mean that in the technical sense! (Laughter) – in that Members can debate the motion put forward by Mr Hooper and that question will be put at the end before the clause is put.

We turn now to Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

Just one specific point, and I would understand if the Minister cannot answer it now and I would be content with a circulated note later. There has been much talk now about the pension fund enjoying an upfront tax free cash payment and the 40% has been regularly mentioned, but I would be grateful if the Minister or the officers could advise me what happens if the reverse situation occurs where if somebody chooses to take out, for example, an annuity for a given period of time, with say 60% of the fund, with a cash payment at the end of that period would that, say, for example, if a total fund 60% of it was taken as an annuity leaving a 40% amount in a fund to be considered later. Could that 40% be released as a cash free sum or does it only work when the lump sum is paid at the beginning? A technical point and I would be grateful for an answer by note form if it cannot be provided now.

Thank you, Mr Speaker.

The Speaker: Hon. Member for Middle, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

I rise to my feet just to respond to some of the comments made by the Hon. Member for Ramsey, Mr Hooper, and perhaps provide a bit of context to section (j) which relates to charges.

Hon. Members may not be aware but the question of pension drawdown fees and other charges has been quite a concern for many people in the United Kingdom, which is slightly
ahead of us in terms of these arrangements. So much so that the Daily Telegraph ran a campaign for a number of years and this was then followed up by Which?, the Consumers’ Association magazine, and as a result of that the UK Financial Conduct Authority conducted a two-year investigation, which concluded last summer. They found that some people were being charged as much as four times as much in fees than others for the same amount of pension drawdown or changes. In its findings the Financial Conduct Authority in the UK stated that charges were opaque and it introduced a number of requirements in terms of increasing the transparency of charges but also critically stated that if it did not see an improvement and charges becoming more appropriate then it would force pension providers to get their house in order by introducing a price cap. So it is in this context that clause (j) needs to be seen.

In terms of the comparison between a bank fee for closing an account and the drawdown of a pension, I would strongly suggest to Hon. Members that this is a lifetime event which can involve very substantial sums of money rather than a small fee being applied for a small transaction. When the Consumers’ Association investigated this matter last year they found a differential in terms of a pension pot which, even at levels of £250,000, the differential was often over £10,000 in fees.

So I would suggest, Hon. Members, that that is the reason why the clause has been inserted. It builds on best practice elsewhere and it would be sensible for us to retain that clause. I would also suggest that Tynwald approval is clearly required, and the mere fact that we have that clause there which would enable it to be implemented, subject to obviously a Tynwald vote, but also hopefully act as a kind of sensible indication to the industry that the fees should not be excessive.

Thank you, Mr Speaker.

The Speaker: I am conscious that some of the questions that we have had here today have been somewhat technical in nature and the provision is open Hon. Members to move into a Committee of the Whole House to take evidence from our expert witnesses, who I see are in the Gallery.

Mr Robertshaw: I propose such an act, Mr Speaker, to go into Committee of the Whole House.

The Speaker: Is there a seconder for that?

Mr Callister: I am happy to second that, Mr Speaker.

The Speaker: I will put the question to the House that the House resolves into a Committee of the Whole in order to take evidence from the witnesses. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

In Committee of the Whole House

The Speaker: Mr Martin, I noticed you there in the Gallery, are you content to provide the House with a few answers to some of the questions that have been raised thus far? But if I could just ask you to wait while our Messenger brings you the microphone to ensure that your responses are heard and able to be put on the record.

So, just for the benefit of Hansard, if you would state your name and position.

Mr Martin: Paul Martin, Deputy Assessor of Income Tax.

The Speaker: Mr Martin.
Mr Martin: The point relating to the annuity withdrawal: because the pension is so flexible the person can draw down whatever amount they want at draw down time, so it would be totally up to them how much they put into annuity and whether they leave their 40% tax free, they take 60% out, which includes 40% tax free of that 60%, put that into an annuity and they would leave 40% that still has 40% tax free, if that makes sense. So it is perfectly within their right to put whatever they want into annuity and how they claim it. And that 40% tax free will be there depending on how they want to use it.

Thank you.

Mr Hooper: So starting with the broader question of registered overseas pension schemes, is there anything in this TTO that would automatically bar a scheme from being eligible?

Mr Martin: There is one point that would, we think, bar it and that is the 40% tax free lump sum. In overseas the UK QROPS scheme needs to provide 70% for pension for life and therefore having 40% tax free would, we think, stop it from being approved.

Mr Hooper: My understanding was that requirement had been removed from April 2016 in the UK with newly registered pensions. I might be wrong there, but is it something that Treasury could check and confirm?

Mr Martin: It is something we would look at.

Mr Hooper: Thank you.

In respect of the fees then, Mr Shimmins has made a lot of very broad and I suspect unsubstantiated allegations around the Isle of Man pensions’ administrators. Does Treasury have any evidence of inappropriate, opaque or unreasonable charges being applied by administrators of Isle of Man pension freedom schemes?

Mr Martin: I think whether we have seen any up to date I cannot say. There does not seem to be any up to date.

Mr Hooper: Yes, that is fine.

Mr Martin: But I think the question on the policy of the fees is really for the Minister.

The Speaker: Mr Shimmins.

Mr Shimmins: Yes, let me just clarify, Mr Speaker.

My remarks were reporting the outcome of an investigation by the UK Financial Conduct Authority on UK pension providers. They were certainly not in any way aimed at Isle of Man pension providers. They were based on those remarks, investigation and best practice from a jurisdiction which has already implemented this type of regime.

Mr Hooper: I would like to thank Mr Shimmins for clarifying that his comments were specifically in respect of UK pension schemes and pension providers and have nothing to do with Isle of Man pension schemes or pension providers, and really do not provide any evidence for the need of this, especially as we have just heard that there is no evidence today of any of that practice being followed on the Isle of Man.

Can I ask then technically, does Treasury have this power to set or regulate fees in respect of any other pension schemes approved under the Act?

Mr Martin: No.
Mr Hooper: Does Treasury have this power in respect of any other types of products in the marketplace – life insurance, banking, anything else?

Mr Martin: Not as far as I am aware.

Mr Hooper: So Treasury does not have this power in respect of any other service or product on the Isle of Man, not even existing Isle of Man pension schemes?

Mr Martin: Certainly not existing Isle of Man pension schemes.

Mr Hooper: Okay.

The Speaker: I would just remind Hon. Members, we may be in a Committee of the Whole House but you do need to wait to be called before you ask questions of our witnesses.

Mr Cannan. Nothing to say?

Mr Baker.

Mr Baker: Thank you very much, Mr Speaker.

I rise to follow the debate between my hon. friends, Mr Hooper and Mr Shimmins. I think the key points that Mr Shimmins did make are that large sums of money are involved in these drawdowns and relatively modest fees in percentage terms could actually be significant amounts of money for individuals and most individuals are not financially experienced and sophisticated in dealing with their pension arrangements, because for most people it is maybe something you do once in your lifetime or certainly not very many times.

The other point, of course, is that we talk about funds that have had the benefit of favourable tax treatment, both on the way in and potentially on the way out. So I would support the importance of actually making sure that ordinary people are properly protected in this and I think I would expect Treasury to exercise judgement in this. The drafting says, ‘Treasury may make regulations’, it does not say they must. And of course, as Mr Shimmins has said, Tynwald’s approval is required. So I think that it is a sensible element to have within the scheme and I think what we need to remember is not interests of regulators or of providers but actually of the ordinary people of the Isle of Man in this, and this does protect them.

So, for me, whilst I support Mr Hooper bringing the motion for things to be voted on separately, I will actually be supporting the clause because I think it protects the ordinary man and woman in the street, for whom this is potentially life changing and if they are exposed to excessive fees it can obviously have a different effect on their financial outcomes.

Thank you, Mr Speaker.

The Speaker: Mr Callister.

Mr Callister: Thank you, Mr Speaker.

I just want to carry on with this section of the 61PA regulations with regard to exit and transfers. I was wondering if the witnesses could possibly just give a little bit more clarity on this, because obviously when I read this initially I had a feeling that Treasury could potentially be stepping on the toes of the regulator.

So I want to know if he could just expand on that: exactly how the Treasury may make these regulations restricting the amount of exit and transfer fees; how they would be imposed; how would they actually go through this process, because normally if the regulator is unhappy with a provider then they would have officers to go into the company and they would actually be checking the transactions and the payments, etc.?

So I would just like to really understand, in very simple terms, how that would work in practice, if possible.
Mr Martin: I think it is difficult to answer exactly how it would work in practice at the moment, given that we do not have the regulations yet. But the point was to put it on the amount of transfer fee from an old scheme into a pension freedom scheme. It is not for anything else. It is just where somebody is looking to take their money out of the scheme in full and they move their scheme from a current scheme which is there already but they want to move it into a new pension freedom scheme in order to take drawdown. It is so that basically the scheme provider could not put such a high fee on that it would stop him wanting to do it. That was the reason for it.

Mr Callister: Thank you, Mr Speaker, and I thank the witness for giving us clarity, because that is my understanding as well. I thank him for that.

If we take an example that most of the annual charges are around 1% for looking after a pension pot per annum, at what point would you actually say the percentage is too high? So if we take the average at the moment, it is around 1% of the pension pot value per annum in respect of administrative fees; if somebody tried to charge 2% for transferring it from the old scheme into the new scheme, would you step in at that point or would you think that is reasonable? At what point would you actually consider it to be considered high?

Mr Martin: Absolutely, and that is a political matter – what the rate is set at.

What I would say is that the UK have a rate of 1%, I think, from their cap, so that is what they have as a cap.

Mr Callister: Thank you.

Mr Robertshaw: Thank you, Mr Speaker.

I just want to support the mover here in terms of wanting to create protection for fee levels, insofar as, I think Hon. Member for Ayre and Michael, Mr Baker, made a very good point that we are trying to protect, effectively, in some respects all pensioners. Yesterday, we heard all about the single-tier pension and the potential impact of that long term, and therefore as a consequence of that, the need to have workplace pensions. Perhaps they have not developed as much on the Isle of Man as we would like to see happen because of the cost of these schemes being introduced by UK providers.

The fear I have is that there may be a desire, should the Bill be passed without these protections, that such schemes would come into play whilst providing a high level of cost, and therefore I am very supportive of this principle of trying to protect the fee levels, Mr Speaker.

Mr Hooper: Yes, just to pick up on that point about the protection, I get that completely but to date there is no evidence – we have heard that; no evidence this is needed! There is nothing stopping Treasury at some point, if evidence comes that this is needed, bringing a TTO like that.
That is the way Isle of Man tax law works. Treasury could wake up tomorrow and bring another TTO if they wanted. That is the way Isle of Man tax law works.

So when there becomes evidence this sort of thing is necessary, Treasury can bring it in overnight almost. There is no reason to have a provision in this clause allowing something where there is no evidence whatsoever that it is needed.

While we are in Committee, I will take advantage of this. This amendment only restricts exit fees and charges that may be imposed by trustees of administrators of pension schemes introduced under Part 5A – that is a pension freedom scheme. There is nothing stopping someone who has a pension already under Part 3 from saying, ‘I am going to put a 50% charge on anything coming out of that into a pension freedom scheme,’ because those pension schemes are not approved under Part 5. So a pension administrator, if they wanted to, could say, ‘Well, I am not going to charge anyone a transfer-in fee but I am going to charge you a transfer-out fee.’ So this amendment, if the aim is to protect people, actually does not do that anyway.

So can I just get confirmation on that: that this regulation would not prevent an administrator from charging exit or transfer fees out of existing schemes? It would only prevent them from charging an exit or a transfer fee in specific respect of a scheme that is approved under this TTO, under Part 5? The reference in there is specifically to schemes under Part 5A.

Mr Martin: Mr Speaker, I would like a bit more time to consider that, if that is possible.

The Speaker: I appreciate that an answer may not be available quite now, but we still have this clause before the House. It is up to the mover whether they wish to proceed at this point or not, but that is entirely up to the mover.

Is there anything else that Members wish to deal with whilst in Committee?

Mr Hooper:

Mr Hooper: One more question.

My understanding is it is the Assessor that approves these schemes under the Act, not Treasury. Why was it felt that it is not left up to the Assessor, as the regulator of these schemes, to determine what appropriate fees were? Why was that handed over to politicians and Treasury as opposed to the Assessor of Income Tax? Do you know what the thought process was behind that – why it was felt Treasury is a more appropriate body rather than ...?

Mr Martin: That is again a policy decision.

Mr Hooper: So there is no technical reason, as far as you are aware?

Mr Martin: No, the Assessor does approve scheme fees.

The Speaker: Mr Baker.

Mr Baker: Thank you, Mr Speaker.

Can I just ask a couple questions of Mr Martin?

Obviously, these amendments have come in as a result of the feedback and experience, presumably, from the industry in the market since the temporary taxation order was introduced. So it would be useful, I think, for Members just to understand a little bit about that feedback to the extent you are able to share relevant aspects of it.

The second point is I would be grateful for clarification: we talk about transfer fees in; many potential transfers may come from UK-based pension schemes and I would just be grateful if you could clarify whether there is a distinction between people transferring in from the UK as from other Isle of Man schemes.
Then, just in terms of Mr Hooper’s comments, for me, we do not need to wait for evidence of a problem before we act; we pre-empt that. We are giving Treasury powers. As I said earlier, we say ‘may’, not ‘must’. I think, for me, I am comfortable with the idea that we set the policy and the regulators regulate. So what the mover of the Bill is advocating here is that Treasury may make regulations and they must be Tynwald approved. So that is the policy setting; the FSA then would regulate against that policy, in my view. So I do not see the inconsistency. (A Member: Hear, hear.)

So if you could clarify those, please, Mr Martin?

Mr Martin: Yes, there were three main changes or additions that were requested after the TTO originally came in in the Budget. The first one was that to only have one scheme, certainly where it is an occupational scheme, would make it quite difficult to administer and therefore that is why the rule of only having one scheme has been taken away. There is no reason why people cannot have more than one of these schemes – particularly when the amount that they can put into them is restricted anyway to £50,000 overall.

The second was allowing it to move on to dependants and being able to leave it to a surviving spouse etc. That has been added in.

The third one was: would it be possible to make it more flexible when it was coming out? It is not, as Mr Hooper mentioned, in the Budget itself so that now has been changed to make it more flexible.

With regard to UK schemes, the way the legislation is currently worded, you have to move in from a current Isle of Man-approved scheme. So it is not possible to move directly in from a UK scheme; you have to move into an Isle of Man scheme before you move it in. So you cannot move directly in from a UK scheme, but of course UK schemes would have pension freedoms in any respect.

The Speaker: Now, Hon. Members, I get the feeling that we have completed as a Committee of the Whole House, in which case I will put the motion that normal business be resumed. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

The House moved out of Committee and business was resumed.

The Speaker: We now resume our debate, if anyone wishes to contribute to the debate; if not, then I will put it first to Mr Hooper to reply to his motion and then I will put it to the Treasury Minister to reply to the question on the clause – the procedural question being about the separate voting on clause 3(2)(j). Are we all clear about that?

Mr Cannan: Sorry, what motion?

The Speaker: The motion on the clause, that part (2)(j) be taken separately from the remainder of the clause. Content? You know where we are?

In which case, Mr Hooper first of all.

Mr Hooper: Okay, thank you, Mr Speaker.

It is simply to ask that that part be taken separately so that Members, if they are minded to, can vote for or against it separately.

My personal preference, as I have already explained, is that this is unnecessary. There is no evidence base for it; there is no perceived requirement for it. It certainly has not been demonstrated today that is needed. I think it is very badly worded in the respect that it does not seem to apply to fees for pension schemes where you are transferring out of a part 3 scheme into a part 5 scheme. You can only restrict fees, to be fair, and it is even more odd than that – it
restricts the amount of fees that may be imposed by the trustees of a pension scheme
introduced under that part, but not necessarily that particular scheme.

But I think the wider question is if the Treasury’s intention is to stop exorbitant charges, of
which there is absolutely no evidence on the Isle of Man, really this needs to apply to all pension
schemes equally, not simply the ones approved under this part. I think we need clarity on that
before we approve this particular suggestion. If it does become necessary at a later date,
Treasury can bring this in quite easily, as they often do with tax orders.

Simply, the motion is to take that part separately. Whether you choose to vote for or against
it is entirely at your own discretion, but the motion I am asking for is just to take that one part
separately.

The Speaker: Mr Cannan to sum up on clause 3.

Mr Cannan: Thank you, Mr Speaker.

Can I actually just start by thanking the Hon. Member for Ramsey for bringing to our
attention some of his technical queries on the Bill. It does make for a more informed debate and
allows us to respond in a proper manner and it is very helpful when that process is taking place,
and I think the other technical questions asked both today and previously have been answered
in the course of the session that we have just had.

I do think, having said all that, that we are making a bit of a mountain out of a molehill here.
There are clear examples in the UK where extortionate fees have been used under the pension
freedoms regulation and consumers have suffered as a result. What we are simply doing here is
getting ahead of the game, looking after our constituents, I would suggest, and ensuring that we
are ready to act should there be any evidence that companies on the Isle of Man or
unscrupulous providers of products or financial advice are acting in such a way that they are
detrimentally impacting and harming our constituents. I am not for one moment suggesting that
our well-regulated, highly ethical financial services business on the Isle of Man would ever be
guilty, but I think we should be ready to act in such cases and that is simply what this clause is
setting out to do.

In terms of the judgement calls, I am sure those judgement calls will be made were evidence
to be presented around the scale of fees that perhaps have been charged in any certain
instances or were being applied. As has already been pointed out, the UK do have some
protection already in this respect. Although I accept there are other financial products where we
do not apply fees, I would suggest that it would be incumbent on us to act if it was brought to
our attention that financial institutions were acting disproportionately or out of sync with the
realities of their costs in terms of managing people’s moneys on the Island. I think that we would
be prepared to act if that was brought to our attention.

I think, certainly in terms of other pension schemes, if there is evidence that consumers,
constituents, are being disadvantaged as a result of some inappropriate behaviours, then I
would suggest to the Hon. Member that I would happily look at that and assess whether some
sort of action should be taken, because I do think it is incumbent on us to take action in these
circumstances and not necessarily sit around and wait for the technocrats and others to come
forward and tell us that things are not working appropriately.

On that basis, I would ask Hon. Members to support the fact that we do need to be prepared
to be ahead of the game in these circumstances, particularly where large sums of money or even
small sums of money are involved but do represent, for our constituents potentially, their life
savings.

I beg to move.

The Speaker: I put to you first the question that subsection (2)(j) be taken separately. If you
vote yes to that, we will then vote on the principle of 3(2)(j). If you vote no to that, we will go
straight to the vote on clause 3. Are you all clear?
I put the question first that clause 3(2)(j) be taken separately. Those in favour, please say aye; against, no. The noes have it.

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

**FOR**
- Dr Allinson
- Mr Baker
- Miss Bettison
- Mrs Caine
- Mr Callister
- Mrs Corlett
- Mr Hooper
- Mr Moorhouse
- Mr Perkins
- Mr Speaker

**AGAINST**
- Mr Ashford
- Mr Boot
- Mr Cannan
- Mr Cregeen
- Ms Edge
- Mr Harmer
- Mr Malarkey
- Mr Peake
- Mr Quayle
- Mr Robertshaw
- Mr Shimmins
- Mr Skelly
- Mr Thomas

_The Speaker:_ With 10 for and 13 against, the noes have it. The noes have it.

We then have the question simply on clause 3 as it stands. Those in favour of clause 3, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4. Mr Cannan to move.

_Mr Cannan:_ Clause 4 sets out the amendment which is to be made to the avoidance TTO if that Order is to be confirmed.

Mr Speaker, the Assessor has confirmed to me that she has already seen that this measure is working and even at this early stage her officers are seeing that there is a change in behaviour.

The amendment is made to article 4 of the TTO. This article inserts a new section to 2BP into the Income Tax Act 1970 which, as already described, addresses practices used to pay profits out of a company in a non-taxable form rather than the taxable form of dividends. The amendment inserts a new subsection (1A) into section 2BP. The new subsection sets out three scenarios to which the section will not apply, provided the Assessor receives satisfactory evidence that it should not do so. The scenarios address transactions involving the sale of unquoted shares. These are commercial and are in no way a form of tax avoidance, but without the amendment they would be unintentionally caught up by the measure contained in section 2PB. The scenarios have come to light since the TTO came into operation.

Clause 4 also provides that the amendment to section 2PB will also be considered to have come into operation at the same time as the avoidance TTR itself came into operation in 2018 and to have been in operation since that time.

_I beg to move that clause 4 stand part of the Bill._

_The Speaker:_ Mr Shimmins.

_Mr Shimmins:_ I beg second and reserve my remarks.

_The Speaker:_ I put the question that clause 4 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

_Mr Cannan:_ Clause 5 makes three separate amendments to the Income Tax Act 1970.

The first of these amendments addresses section 88, which provides for the Income Tax Commissioners, including their constitution and certain practices and procedures. The
Commissioners consist of a chairman and eight commissioners who are appointed under the Tribunals Act 2006 by the Appointments Commission. That Act requires the Chairman of the Commissioners to have been a barrister, advocate or solicitor for at least seven years. There is no such requirement for the commissioners themselves.

Section 88 was amended by the Income Tax Legislation (Amendment) Act 2017 to require the Income Tax Commissioners to also have a deputy chairman. The deputy is appointed from the eight commissioners by the chairman and, like the chairman, must also have been a barrister, advocate or solicitor for at least seven years. However, there is no requirement for any of the commissioners to have suitable qualifications and experience to act as a deputy. This Bill therefore substitutes subsection (2)(c) in order to introduce a requirement for at least one commissioner to be suitably qualified and experienced to be appointed to act as deputy chairman.

The second amendment to the Income Tax Act 1970 addresses section 120, which contains definitions for the Act. The amendment to this section expands the definition of ‘tax position’. The Income Tax Act 1970 currently contains inspection powers which enable the Assessor to examine a person’s tax position. These powers permit an officer authorised by the Assessor to enter business premises and to inspect those premises, as well as the business assets and documents there if this is considered necessary. Such a measure might be considered appropriate in certain cases of suspected non-compliance with the Income Tax Act. The amendment to section 120 expands the definition of a tax position to include compliance with the Common Reporting Standard. This standard was developed by the OECD and is the global standard for the automatic exchange of financial account information. The Isle of Man has been exchanging information under the Common Reporting Standard since 2017. Changing the definition of ‘tax position’ in this way will mean that the inspection powers may also be used to investigate suspected non-compliance with the standard.

The third and final amendment to the Income Tax Act 1970 concerns foreign companies that are resident for tax purposes in the Island. However, before I describe what the amendment does I would like to provide Members with a brief explanation as to why it is required.

The Isle of Man is a member of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes and is subject to an in-depth peer review process which assesses the implementation of international standards of transparency and exchange of information for tax purposes. The Island has been subject to two rounds of peer reviews, the first in 2010 and the second and 2017, and has been awarded the top rating of compliance in both reviews. However, in a follow-up report to the 2017 review a recommendation was made for rules to be put in place to ensure the availability of legal ownership information for foreign companies that are resident in the Island for tax purposes.

In order to address the recommendation, the third amendment to the Income Tax Act 1970 inserts a new section 63CA into the Act. As the majority of foreign companies on the Island will have a corporate service provider here who is regulated and who will keep the necessary ownership information on the Island, this section is directed only at those companies that do not have a corporate service provider with a regulatory oversight. The new section introduces a requirement that such a company nominate an individual who is tax resident in the Island and who will hold information on the legal owners of the company and provide it to the Assessor if requested to do so. In order to help ensure compliance with this measure, the section also makes it an offence for the company to fail to comply with this requirement and for the individual to fail to hold the necessary information or to provide it when requested.

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

The Speaker: Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
I beg to second and reserve my remarks.
The Speaker: I put the question that clause 5 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that completes the business before us today. The House will now stand adjourned until 10.30 on 19th February in Tynwald Court.

The House adjourned at 12.20 p.m.