

**REPORT OF PROCEEDINGS OF  
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 23rd January 2001  
at 10.30 a.m.**

Present:

The President (Hon N Q Cringle), The Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr W J H Corlett QC), Hon Mrs C M Christian, Messrs E A Crowe, D F K Delaney, E G Lowey Mr. J N Radcliffe, with Mr T A Bawden, Clerk of the Council.

**Apologies for Absence**

**The President:** Hon. members, we have apologies from Dr Mann and Mr Waft, who are both indisposed, and from Mr Kniveton.

**Rehabilitation of Offenders Bill — Third Reading Approved**

**The President:** We come therefore to item 1 on the order paper, Rehabilitation of Offenders Bill for third reading. I call on the Attorney-General.

**The Attorney-General:** Thank you very much, Mr President. This Bill received its second reading and consideration of clauses without amendment on 5th December last.

There were, I believe, three specific points of detail which were raised by hon. members at second reading and in respect of which I indicated that I would carry out some further enquiry. Firstly, in relation to clause 3(2)(e) I believe it was the hon. member Mr Waft who enquired whether there was a similar provision in the UK Act. It will be recalled that clause 3 of our Bill provides that a person who publishes or broadcasts any matter suggesting that a rehabilitated person has been convicted of an offence which was the subject of a spent conviction is guilty of an offence and is liable on summary conviction to a fine not exceeding £2,500.

Clause 3(2) provides certain defences for a person who is charged with publishing or broadcasting such information about a rehabilitated person and the offence in clause 3(2)(e) is that the publication or broadcast took place not less than 30 years after the death of the rehabilitated person. In answer to the question raised by the hon. member there is no equivalent to clause 3 in the UK legislation and therefore no equivalent to the defence provided by clause 3(2)(e).

The position adopted in the UK is that a spent conviction is to be treated as never having existed at least as far as general public knowledge is concerned. So, although a rehabilitated person in the United Kingdom has had a conviction imposed against him, the UK Act by a legal fiction treats him as never having been convicted.

The remedy in the UK for a rehabilitated person in respect of whom details of his conviction is published or broadcast is to sue for defamation. This approach did not find favour here on the Island and we have not adopted the concepts of a legal fiction that a spent conviction is considered as never having been imposed.

There being no equivalent in the UK Act to clause 3(2)(e), a 30-year period after the death of the rehabilitated person was considered to be the appropriate period in all the circumstances.

The second point in relation to clause 3 was raised by the hon. member Mr Kniveton who is concerned with clause 3(2)(c). This clause provides a defence where the publication or broadcast is ordered by a court in the Island. The hon. member enquired as to the circumstances in which a court might make such an order. I must confess that it was difficult for me to envisage the circumstances where

the court might make an order under clause 3(2)(c). However, having had the benefit of the legislative draftsman's views, it does seem appropriate to have some provision in our Bill so that a court can, in an exceptional case, order publication of a person's spent conviction, albeit that ordinarily he would be entitled to be treated as a rehabilitated person with the benefit of clause 3(1).

By way of an example of such an exceptional case it is perhaps useful to refer to section 26 of the Companies Act 1992, which provides that a court may make a disqualification order in respect of a company director. The legislation provides that a court may treat a person as being unfit to undertake certain offices or activities in relation to companies if he has been convicted of an offence, whether in the Island or elsewhere, which involves dishonesty or he has been convicted whether in the Island or elsewhere within a period of 25 years ending with the date of the application of any combination of three or more offences under the Companies Acts of the Island or legislation having equivalent effect in any country or territory outside the Island.

In dealing with an application under section 26, the court might be concerned with the publication of reports of inspectors appointed to look into the affairs of the company and it might, in exceptional circumstances, be appropriate that the court would wish to authorise the publication of a report into the background of directors for the purpose of making recommendations about disqualification. That sort of case would, I believe, be the kind which is envisaged by clause 3(2)(c).

Finally, in relation to schedule 2 of the Bill, I believe it was the hon. member Mr Delaney who was surprised that it was only the Road Traffic Regulation Act 1985 and the Wildlife Act 1990 which required to be amended in consequence of the provisions of the Bill. Paragraph 8 of schedule 5A of the Road Traffic Regulation Act 1985 deals with the endorsement of a driving licence when a constable issues a fixed penalty notice. Paragraph 8(6) provides that, on the endorsement of a person's licence, he shall be treated for certain purposes as if he had been convicted of the offence and the endorsement is treated as if it had been made in pursuance of a court order.

The amendment in paragraph 1 of schedule 2 of the Bill will have the effect that information relating to endorsements of a person's driving licence will be treated as information about a conviction. If, therefore, a conviction for a driving offence falls to be treated as a spent conviction, information relating to that endorsement will also be treated as being spent.

In so far as the Wildlife Act 1990 is concerned, regulations under that Act are designed to ensure that no person may become or remain registered for the purposes of keeping certain types of bird if they have previous convictions for offences under the Act. The only reason why this Act has been specifically referred to in the schedule is that the equivalent legislation was referred to in the UK Act and we have followed suit.

The impact of the Bill, if passed, on other Manx legislation will be covered by exemptions in relevant subordinate legislation. Banking and financial services provisions will be dealt with in this way. The subordinate legislation will be made before the Act, if passed, comes into operation. I hope that I have dealt with these specific enquiries which arose from the second reading and subject to any further points which hon. members may have in relation to the Bill I would move that the Bill be read a third time and do pass.

**Mrs Christian:** I beg to second and reserve my remarks.

**The President:** Mrs Christian seconds. Mr Delaney.

**Mr Delaney:** Just on the point I raised at that reading of the clauses, the situation then is - just to clear my mind - the Wildlife Act is only there because the draftsman spotted it in the British Act. Is that the reason?

**The Attorney-General:** That is right. There is no specific reason.

**Mr Delaney:** There is no specific reason? That is fine.

**The Attorney-General:** It is a bit of a mystery to me, but there we are. It is in the UK Act, so we followed suit.

**Mr Delaney:** You get the same idea as I get. We just copied it?

**The Attorney-General:** Well, we have not copied it.

**The President:** It has been picked up from the same matter, yes. Mr Crowe?

**Mr Crowe:** Mr President, I support the Bill. We are passing legislation, which gives a person who does commit a crime to have the slate wiped clean after a period of time. It is an encouragement to people to continue with good behaviour, knowing that they would have this slate wiped clean after a period of time. I support the Bill.

**The President:** Okay, Mr Attorney. Anything else you wish to add?

**The Attorney-General:** No, thank you, Mr President.

**The President:** In that case, hon. members, the motion before us is that the Rehabilitation of Offenders Bill be now read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Residence Bill — First Reading Approved**

**The President:** Item 2 on our order paper then takes us to the Residence Bill for first reading. I call on the hon. member, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. The Residence Bill provides for the registration of persons who are qualified to reside in the Isle of Man. The Bill will restrict residence to persons who are registered or exempt from registration. The question of having residency controls has been out and about for many years. I have no doubt we will go into the history of it in some detail at second reading as we discuss the clauses, but in terms of the first reading I simply want to say that the way in which residency control has been developed and is now appearing in the form of this piece of legislation is based on residency, that is the occupation of accommodation.

There have at various times been other methods of control mooted, but this has been deemed to be perhaps the most effective. I will not say it will not be bureaucratic, because I believe it will. However, it does seem to be a mechanism which will provide for a degree of control with some certainty.

Those who will be entitled to residence fall into three categories. There will be exempt persons, persons unconditionally registered and persons with a conditional registration. Those who are entitled to be exempt are people who are resident in the Isle of Man when the Act takes effect and anyone who is on the Island in full-time education, but only while they are going through that full-time education.

The people who will be entitled to unconditional registration are exempt persons who change accommodation, persons with Manx connections who are either born on the Island, have established a permanent home on the Island or have had 10 years' previous residence along with a spouse or child of such a person. Those who will be entitled to conditional registration will be people who satisfy the criteria specified in regulations which may be drawn up under the Act. Those regulations will perhaps reflect the economic or social conditions of the time. It is envisaged that certain gateways will apply which may, for example, depend on the economic contribution a person may be able to bring to the Island. It may depend on humanitarian criteria. It may depend on a particular skill that a person could bring, which may

not be related to economic development, but might be related to the arts or sports and so on. The gateways will also make provision for certain dependents.

The mechanism for achieving all this is through a registration process and there will be a requirement to appoint a registrar. There will be a review procedure, which will be dealt with by a tribunal and it will be necessary for people then to receive a certificate of registration. A register will obviously be compiled of those people who have obtained registration, whether it is conditional or otherwise.

The prospective resident then has to go to the provider of accommodation to indicate that they have clearance to be resident in the Island. There will be enforcement arrangements. There are offences provided for under the Bill. There are provisions for investigation of circumstances. There are prosecutions possible under the legislation and there will be penalties such as fines or imprisonment, deportation and cancellation of conditional registration. The question of whether or not this impinges on human rights legislation has been explored and it is believed that the form of this legislation will not raise any difficulties in that particular area, nor does it impinge on the Immigration Act which will continue to have effect.

The need for a Control of Employment Act will still apply in relation to people who may be here for short-term employment. Mr President. I think that encapsulates essentially the provisions in this piece of legislation and I beg to move the first reading.

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

**The President:** Seconded by Mr Lowey. Mr Crowe.

**Mr Crowe:** Mr President, can I just ask the hon. mover about clause 2(1)(a). It says, 'the following individuals are qualified to be registered as of right' et cetera.

**Mrs Christian:** Yes.

**Mr Crowe:** It says, 'an individual who was resident in the Island immediately before the commencement of this section;' and you did talk about gateways. Now, if the gates close and the appointed day order is coming in will a definition of 'resident' be brought in? Will it be a day's residency or six months' residency? It seems that people who want to take up residency immediately before, as I have said the gates close, would appear to be eligible to have residence in terms of that. I do not think that was the intention and I may be reading something into it that does not exist, but I think perhaps if you could clarify that, please.

**The President:** Mr Delaney.

**Mr Delaney:** Yes, that is interesting. You are right about the history - over 10 years has passed since this was all started and probably before then. We have now got down to the green paper which brings a Bill in. It does not bring the Act in, it brings the Bill enabling power in for us to do something once the panic button is hit. I will vote for it. I see no point in voting against it, but I believe that I have got more chance of winning the lottery than ever seeing this Bill actually used. Nobody has told us what the definite number of people who are going to be resident on this Island before this is instigated. If I know that, I would be much happier in saying, 'Well, we know the kick-off time.' That is not it and, therefore as the population grows, which it will and is and will be shown by the census which takes place this year, the situation will be that the Bill will sit on the shelves gathering dust.

There are a couple of parts in the Bill, which if you are going to have it and you are going to pretend that we have got something in the armoury to use, I will be interested in why the two members of this tribunal, which will be the appeals section of it working with the High Bailiff, they are appointed by the Council of Ministers, for example. Is that done after nomination or reference to Tynwald in any way? Why is it that not made clear?

I see that the two members are hired and fired on the minister's say so, which virtually is the Chief Minister. It says that they can be removed at 'good cause'. Will you give an explanation of the 'good causes'? This is at the bottom of page 5 lines 25 to 30? I just wonder why, with all the time that has gone through and all the people we have been talking to about what we can do, and what we cannot do why we have by-passed Tynwald in relation to people who are going to sit there as judge and jury in the final analysis in relation to the review of the decision for or against him. Tynwald should have been brought in somewhere, but maybe by then they will not be any longer in existence.

It is an enabling Bill. It is fair enough; it has got all the time to get here, but I just do not see when this will actually be in. What number of people will we have? Will it be when the housing crisis gets so bad that we are all on the streets? I would like to know. Let us not tell the people we have solved the problem of immigration to the Isle of Man, when we have not. All we have done is brought a Bill in, which says what we are able to do. It does not tell us when we are going to do it, if we are going to do it. Why we are going to do it is obvious I think, but I think we should tell the people why we are doing this and what will instigate it. What will kick it off? What will set it in motion?

**The President:** Lord Bishop.

**The Lord Bishop:** Mr President, I would like just to make a reference to clause 19 with the Council of Ministers making regulations. It does not actually make any specific comments as to what categories of exemption there are likely to be. The Control of Employment Act 1975 in a schedule to that Act gives a very specific category of exemptions, including members of the clergy.

As I understand it, in this Bill the clergy will not be entitled to reside in the Island unless registered or exempt. I wonder why there is no specific comment made under clause 19. It makes it a bit vague.

I would like to know if the categories of the Control of Employment Act 1975 are going to be taken over. If not, I would like to know what we can do about it. For example, speaking personally, it would create a huge amount of bureaucracy for the churches to have to have a registrar and all the rest of it in a fairly mobile situation of people being employed, who cannot be employed from the Island entirely. Is provision going to be made in clause 19 or is there is going to be a schedule to this Bill? If not, we would need to discuss that as we go through the clauses.

**The President:** Mrs Christian to reply.

**Mrs Christian:** Thank you, Mr President. I want to deal with the hon. member Mr Crowe's query first in relation to clause 2(a) which says that 'an individual who was resident on the Island immediately before the commencement of this section;' It means that. It does not specify a period of time. It might be a week. It might be a day. It is not specified that they should be there for six months, a year or any other time. The effectiveness of the Bill will depend on it being implemented by an appointed day order.

Unless someone announces way in advance when the order is going to be effective, one might argue that that could lead to an influx of people, but if you do not know when the order is going to be made then it is not likely to encourage people to rush here to obtain residence before the Act is implemented.

The committee gave consideration to all of these issues, deliberated long and hard with many aspects of this particular piece of legislation and concluded that this is the appropriate form of wording in relation to defining who is a resident immediately before the Bill. With regard to the definition of 'resident' there are legal precedent's and I suppose arguments may go on about what 'resident' means, but I think that there are established definitions in different pieces of legislation as to what we mean by 'resident'.

The hon. member, Mr Delaney, has quite rightly indicated that this is an enabling piece of legislation. It provides for regulations to be made which would set what I have described as gateways.

He indicates that he feels it will not be used. Well, of course, that is a matter for his political assessment. It is, I would suggest, a matter for political judgment at any particular time as to whether or not the powers which are being created under this piece of legislation will be actually implemented.

The hon. member is a member of this Council and a member of the Court of Tynwald. He is as free as anybody else to express a view that such gateways need to be closed or opened as the case may be. It is down to the political body to pursue the powers which are being introduced under this Act, if the political mood is such that the gateway should be activated. The hon. member refers to the tribunal, which will be established under clause 5, and asks why it should be appointed by the Council of Ministers. It is not unusual for the Council of Ministers to make such appointments. It is not unusual for the Council of Ministers to perhaps seek names for any wide variety of committees or appointments from members of Tynwald or from the general public.

The provision in the Act does not require the Council of Ministers to seek the views of Tynwald members or even to go out beyond that in a trawl if you like for suitable candidates for such a tribunal. That is certainly the case in many other situations. It is not an obligation under the Act, but it is quite common practice for Tynwald so to do. I am quite sure the hon. member would not be slow in coming forward to make such nominations to the Council of Ministers if he felt he could provide for them suitable people for consideration.

I do not think it is unreasonable in clause (9) of that particular clause that the Council have a power to appoint. It should also have the power to rescind if it feels that in some way or other a tribunal member is not functioning very well. It would be a weakness in the Bill if that power were not there.

The hon. member has also referred to the question of population and, when we come to the detail of the Bill, I will refer to the issue of population. It is not a question of setting a particular ceiling. If you set a very rigid ceiling, you could certainly run into trouble in terms of the provisions of the Bill itself. With regard, for example, even to the exemptions, there are many people who currently do not live in the Island, but if this piece of legislation is accepted, through their Manx connections will have a right to be resident here. Now if they all decided to come tomorrow, we could not accommodate them. To set a precise residents' ceiling in the primary legislation I believe is inappropriate. I will expand on that further when we get to the clauses stage.

The Lord Bishop has enquired about categories of exemption. I have in my preliminary remarks listed those people who are exempted. They are not exempted by occupation. They are exempted by their connection with the Island or their current residence. There is no intention to transfer to this particular piece of legislation the sorts of categories, which are exempt from the requirements of the Employment Act. That is a separate issue. If residence is to work, it has to apply to everybody and the Bill will define who is exempt. The working part of the Bill will be the area where we are dealing with conditional residence. That will be for the moving population and I feel sure that, if people are not going to be here for long periods of time, conditional registration that will apply.

However, in respect of the Church, I cannot imagine that there will be a gateway excluding Church representatives or controlling their movement in and out of the Island. As the Lord Bishop indicated, perhaps the numbers involved are relatively small. I would find it extraordinary if a gateway were to be used specifically to exclude clergymen. Nevertheless, I think if the Act is to work at all, it has to apply to everybody. It will be a requirement that the clergy, along with other folk, will have to apply for a registration certificate. I hope, Mr President, that that has dealt with the issues that have been raised.

**The President:** Hon. members, the motion before us is that the Residence Bill be read for a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Matrimonial Proceedings Bill — First Reading Approved**

**The President:** We turn then to item 3 on our order paper, the Matrimonial Proceedings Bill, and again for first reading, Mr Attorney.

**The Attorney-General:** Thank you, Mr President. The object of this Bill is threefold. Firstly, it introduces the power for the High Court to make a pension-sharing order on granting a decree of divorce for nullity of marriage.

Secondly, it consolidates the legislation relating to financial provision in matrimonial matters, there having been considerable amendment to the Act which deals principally with such matters, namely the Judicature Matrimonial Causes Act 1976.

Thirdly, it introduces new enabling powers under which financial orders made on divorce or nullity of marriage in any part of the United Kingdom or any of the Channel Islands may be enforced in the Island, subject to reciprocal provision being made so that orders made by the court in the Isle of Man may be enforced in the relevant country.

I would make the following further brief observations in relation to these three objectives. In so far as pension rights are concerned, it will be appreciated that a pension nowadays may very well form a significant part of a spouse's assets. The courts have for many years tried to take them into account in reaching a fair division of the parties' property and income on divorce.

The main purpose of the pension-sharing provisions in the Bill therefore is to allow pension rights to be treated like other assets, so that a proportion or perhaps the whole of their value may be transferred from one spouse to the other as part of an overall financial settlement. Again, it will be appreciated that in certain cases it is in the interests of the parties that there be a clean break in the relationship between the parties.

Little further needs to be said about the object of consolidating the legislation, save to note that the Bill is concerned with part 2 of the Judicature Matrimonial Causes Act 1976, as amended, and part 3 of the Matrimonial Proceedings Act 1986 as amended.

Finally, in so far as reciprocal enforcement is concerned, it will be appreciated that a major loophole in obtaining a settlement of financial arrangements on divorce is the lack of a provision, which enables financial orders to be enforced outside the jurisdiction in which they are made. If, for example, the parties are divorced by the High Court in the Isle of Man, but have their matrimonial home in England, an order by the Manx court for the sale or transfer of the home is not enforceable in England. The same position applies vice versa.

Equally, if a pension-sharing order were to be made, that order would be worthless if a spouse's pension fund is located in a different jurisdiction from that where the divorce is granted. The Bill accordingly gives the Council of Ministers the necessary power to make the relevant order so that financial orders made on divorce may be enforced in the United Kingdom and the Channel Islands on a reciprocal basis with the Isle of Man.

Mr President, I move that the Matrimonial Proceedings Bill be read a first time.

**Mr Delaney:** I would like to second, reserve my remarks and declare an interest.

**The President:** Mr Delaney has seconded. Mrs Christian.

**Mrs Christian:** Mr President, I certainly welcome this legislation. In some ways it has come too late, but such measures are never too late. **(Mr Delaney:** Hear, hear.) I think we have seen a change in the structure of society. As we go forward there perhaps will be in marriage more equal control of the assets anyway, as many more wives now have assets, pensions or earnings of their own, whereas in the past the position was somewhat different. Wives were previously less likely to have assets of that sort

and were quite often left out on a limb in respect of pension entitlement and so on. Notwithstanding that the structure of society has changed, I think that it is a very sensible piece of legislation to clarify these issues of asset sharing in the unfortunate and sad event of divorce.

**The President:** Mr Crowe.

**Mr Crowe:** Yes, I am in support of the Bill too. I think that we should not underestimate the importance of the sections on pension sharing. As Mrs Christian said, the social fabric of society is changing and there are more instances of divorce. I am sure that we would all agree that a pension fund is, in many cases, the second most valuable asset that families have after the family home. It is very sensible that this Bill allows pension sharing for the first time. It will also allow the transfer of pension rights from one spouse to another on divorce and will give that clean break that otherwise may not have existed. So I am in support of the Bill.

**The President:** Mr Lowey.

**Mr Lowey:** I cannot declare an interest; I am the least interested of the lot!

**Mr Delaney:** Come on, declare an interest.

**Mr Lowey:** However, I should like to say, two things. I do not think that the Bill strengthens or damages marriage as an entity. What I find is that it is a two way street. It can work both ways. There is a tradition that somehow the man always earns the money and the wife stays home. In the modern world, I see more and more that it is a shared thing. In some instances, the lady of the house is the biggest bread earner and so it is a two-way street.

I do believe that it is essential in respect of this movement throughout the world that we should try and keep in step with the rest of the world. I hope that it does not do anything to further damage the estate of marriage, which I thoroughly recommend to all my friends on a regular basis. I am sad really that my hon. colleague Mr Crowe said that it is the second most important thing; once again we are stripping everything down in life to monetary values. It is sad that we come to that, but at the end of the day I suppose it is right and proper that people who entered into marriages should know that if they unfortunately have to be rescinded, their positions are known well in advance.

I will support the Bill because I think it is right and proper that we should have it clear. I think the words were said 'Well, it clears things up.' Well it is the best bit of clearing up that I have seen. There are 50-odd clauses that involve very close legal argument. I must confess that I am no better off at the end of it. I will need a lawyer to take me through it, but I will be supporting the principle of making sure that people get a fair share of whatever is in the family pot.

**The President:** Does Mr Delaney wish to add anything?

**Mr Delaney:** Well just one thing. I was going to ask a question, Mr Attorney, in relation to somebody being married several times, which is quite common nowadays. Can such a person claim against each ex-husband's pension? Because it seems to me that that would be very unfair in real terms.

**Mr Lowey:** Could I just ask for one point of clarification? Clause 32 makes special provision for polygamous marriages. Does that mean dual marriages and is that recognised in the Isle of Man?

**The President:** Mr Attorney to reply.

**The Attorney-General:** Thank you very much, Mr President. I am very grateful to hon. members for their broad support for the Bill. I think that they readily appreciate how the situation has changed, perhaps even since 1976, when the principle Act, the Judicature Matrimonial Clauses Act 1976, was enacted. It is certainly the case now that each party to the marriage is more financially independent than he or she was before.

I believe it is a sensible statute. It is a modernising statute and reflects the changes which have occurred. I am sorry that the Bill is somewhat lengthy and I will certainly try at the next stage not to over egg the situation.

In so far as remarriage is concerned, and the question of whether a divorced spouse can claim on a multiple basis, each time he or she divorces, the situation is that he or she cannot. Once a person remarries, the general rule is that he or she is then debarred from making a claim against the former spouse's assets so we cannot aggregate - *(Interjection)* In so far as polygamous marriages are concerned, generally speaking the courts in the Isle of Man do not recognise polygamous marriages. Although they may be the norm in certain cultures, they are certainly not the norm in the Island or in the United Kingdom. Ordinarily, the court would ignore polygamous marriages and people can, of course, be prosecuted for bigamy. There is a particular provision in the Bill dealing with a person who has a polygamous marriage. We will deal with that at the next stage, Mr President.

**The President:** Right, hon. members, the motion before you is that the Matrimonial Proceedings Bill be read for a first time. Those in favour please say aye; and against, no. The ayes have it. The ayes have it.

### **National Health Service Bill — Second Reading Approved — Clauses Considered**

**The President:** We are then up to item 4, which is the National Health Service Bill for second reading. I call on the hon. member, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. This Bill replaces the Acts dealing with the National Health Service in the Isle of Man which date back to its formation in 1948. The Isle of Man Act at that time was closely based on the UK Act, the Bevan Act, which created a health service under central government control after a number of existing systems.

The Island at that time brought together several existing health services, principally the voluntary hospitals of the day along with Ballamona hospital, which was at that time government operated. It embraced the semi-privately-run health insurance scheme for employees and involved those who had hitherto been independent medical, dental, optical and pharmaceutical service providers. However, the system continued to allow for private health care, including surgery and accommodation in NHS hospitals.

The principle of the NHS was originally to provide free health care at the point of delivery. The Bill's purpose is to re-enact the existing Acts with amendments to bring the legal framework of the NHS up-to-date in several important respects. The 1948 Act and later Acts provided for the establishment of numerous committees and other bodies for administering the NHS. Naturally enough, for the establishment of the NHS it was necessary to have a very detailed piece of legislation. That established this committee structure, which is very rigid and has, in the light of modern developments, become unwieldy and inefficient. The Bill that is before us allows us for more flexibility in the administrative structures of the NHS.

The present Acts impose rigid legal structures under which health services may be provided. These rather reflect the compromises made in 1946, when the British NHS was set, up but this Bill allows more flexibility in the legal and administrative arrangements for health services, including arrangements with voluntary and commercial organisations where it is perhaps now felt appropriate that we should be operating in conjunction with them.

The Bill reiterates much of what has been in the earlier legislation, and I will endeavour to make that clear as we go through the clauses. It does, however, omit a great deal of the detail found in the present legislation and provides instead for matters of detail to be covered by regulations. This will allow the department to come forward in due course if necessary to make rather more speedy changes to

regulations than they can by amending primary legislation. It will I think provide for a much more reactive legislative situation in relation to NHS provision.

I beg to move the second reading of the National Health Service Bill 2001.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second, Mr President. Can I just make one comment? Obviously, this is to update existing legislation, but is there any intention of moving to the system in the UK, where they seem to have put hospitals under a trust arrangement? Is there power in this Bill so that if in future it was determined that, rather than the department being responsible, you franchise hospitals out to a trust? Would this Bill still be relevant or would it need new primary legislation?

**The President:** Mr Lowey, do you wish to speak?

**Mr Lowey:** Yes, Mr President. If the mover of the Bill and the clauses could tell us where we deviate from the original it would be helpful. I should like to come back to the one area with which I may have a little difficulty: the independent audit of the medical profession and the setting up of what I would best call self-regulation. I am against self-regulation, as you can imagine, on a variety of fronts. It does seem to me that implicit in here is still an element of self-regulation - in other words, the same people regulating their activities. There is not enough in my view of patients having a say or people on their behalf having a say. In other words, an independent voice should be overlooking it. Will the minister describe the current feeling of her department along those lines, please.

**The President:** Lord Bishop.

**The Lord Bishop:** May I ask the hon. minister a question with reference to general dental services? I understand that in the United Kingdom, it is quite unlikely these days that you will meet an NHS dentist. They mostly seem to be in the private sector if you want to get any dental treatment. Could she comment on the future of dental services on the Island. Is it going along that line or will there still be a continuation of some form of NHS dental treatment?

**The President:** I call on Mrs Christian to reply.

**Mrs Christian:** Thank you, Mr President. I thank members generally for at least not attacking the principle of the legislation. I will endeavour to answer the specific questions which have been asked.

The hon. member, Mr Crowe, referred to the UK structures which resulted in trusts being established in various areas. When that happened, the Island generally explored what is happening in that jurisdiction to see whether or not it was appropriate here. I suppose that it could have taken steps to implement such changes. However, it was considered inappropriate in a population of this size and in a community as small as ours to intercede with yet another layer of what I will call bureaucracy, although I am sure that in the UK they would not regard it as such. I think it would have interposed an unnecessary layer of committees and so on which did not appear to be required in the Island.

I cannot see such a structure being introduced. Indeed, we have recently in the department had a review of the relationship between the management side of the hospital and the department itself which has made certain recommendations, but that review has referred to this structure in the United Kingdom and endorsed the views that have been taken here that such a development is not necessary.

I think that it might be necessary to amend legislation should that be followed, but as I do not believe that such a proposal would find favour, I think that we are talking about a hypothetical situation.

The hon. member, Mr Lowey, has, as he did at the first reading, expressed his concerns about audit and self-regulation. The Bill does provide for the department to have regulations requiring certain standards and so on of practitioners who are providing services for it. I think that we are certainly in a

mood and in a movement for change in that particular area, as everyone must be aware by reading the United Kingdom national press. The general climate is of demand for change in the area of supervision, audit and peer review. There is a strong movement for strengthening of clinical governance, which is generally recognised by the medical profession as coming and being necessary.

At the moment there is still a provision for self-regulation and that has not changed. Nor does this particular piece of legislation seek at this stage to change that. If that continues to be perceived as ineffective or not effective enough, I feel quite sure there may well be pressures to change it again. I think that that could be done by regulations under this legislation, should we need to change the basis on which we monitor the performance of those people who are employed to provide services to the department.

The hon. member has also expressed his concerns about patients having a say. Perhaps when we come to clause 2, I can elaborate on the structures which the Bill provides for and how the department sees those being developed, but I would concur with him that I believe that this Bill strengthens that area or has the potential to strengthen. That is certainly the case under clause 2 and the regulations which will provide for a body which will involve lay persons and a body which will be able to advise or inform the department of the views not only of practitioners, but of the patients who use the service.

My Lord Bishop has referred to the question of dental services and the difficulties he is conscious of in the United Kingdom with regard to obtaining NHS services. Certainly the Bill provides that we will continue to provide an NHS dental service in the Isle of Man. It has always been the function of the department and will continue to be a responsibility of the department to take whatever steps are necessary to ensure that such provision continues.

There is currently a discussion going on with the dental practitioners on the Island to see whether we have any need for change in the way in which the service is structured or remunerated and so on, but there is no doubt at all that the provisions of this legislation require that we continue to provide NHS dental services in this Island.

**The President:** Hon. members, the motion before us is that the National Health Service Bill be read for a second time. Those in favour please say aye; against, no. The ayes have it The ayes have it.

We turn then to take the clause stage of the Bill. We are dealing with it, if the Council is happy, as a full committee.

**Members:** Agreed.

**The President:** In that case, I call on the hon. member, Mrs Christian, to take clauses 1 and 2 - in other words, part 1 of the Bill.

**Mrs Christian:** Thank you, Mr President. Part 1 deals with administrative matters. Clause 1 lifts items from the 1948 Act which appeared in that Act as clauses 1 and 2. This clause restates the existing duty of the Department of Health and Social Security to maintain the National Health Service and the principle that the service should be free of charge. It requires the department to continue to promote a comprehensive health service and its functions in this regard are twofold. The functions are to secure improvement in health standards and health care - that is, the prevention diagnosis and treatment - and, secondly, to provide or secure the provision of health services.

The only difference between the original legislation and this piece is the change from the words, 'promote the establishment of' in 1948 to 'continue to promote' in this clause.

Sub-clause (2) requires the health service under the Bill to be free of charge except where the Bill or regulations provide otherwise. Of course, those regulations are subject to Tynwald procedures.

Clause 2 requires the department to set up and consult an advisory body. This effectively replaces the existing Health Services Advisory Council and it also enables the department to set up other committees to exercise or co-ordinate health service functions or to advise the department. I have referred to there being a plethora of committees under this present legislation and I refer to the fact that the Bill is enabling and does allow the department to set up committees where it feels it appropriate. We are not saying that committees are not necessary or useful, but that the existing structure is very rigid and is not in accord with current practice. So we are not getting rid of committees altogether, but we are seeking to have a greater flexibility.

When the original Act was established, there was an advisory body in that early time to advise the department on what was a completely new service and on the types of service it needed. We are in the Bill providing that the department will set up and consult this new advisory body, to which we can refer any health services matter for advice.

Sub-clause (2) brings in a new provision. It enables that advisory body to give the department advice of its own motion. In other words, it no longer will have to be consulted. It can come to the department with issues that it wishes to raise. That is new.

The department is required under sub-clause (3) to have regard to any advice given by that advisory body, which is also a new provision.

Sub-clause (4) gives the department power to set up committees, as I have already said. These will replace the multiplicity of rigidly defined committees under the existing legislation.

The final sub-clause (5) enables the constitution and functions of the advisory body under sub-clause (1) and any other committees to be specified in regulations. When we come to later clauses in the Bill, the advisory body will have to be consulted about any regulations that the department promotes.

Now our thinking at the moment - obviously there is a requirement for us to consult with an advisory body on regulations - is that we will certainly consult with the existing advisory council on changes. Again, we are going out to consultation on these issues to get a wide selection of views, but the department's view at the moment, which is subject to change depending on a consultation process, is that the advisory council of the future, whatever the precise name of this advisory body may be, will comprise an equal balance of a range of practitioners and lay people.

The feeling of the department is that it should be the Council of Ministers that nominates those lay people, because from time to time we hear that if they are nominated by the department there may be a bias. So we would seek to avoid that and would be quite content if the Council of Ministers were to nominate such lay people. That of course introduces into the advisory body a much stronger lay membership than that of the current body. Members would of course have an opportunity to look at any regulations which may deal with the constitutions and functions of this body in due course when they would be laid before Tynwald.

I beg to move clauses 1 and 2 stand part of the Bill, Mr President.

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

**Mr Crowe:** I beg to second. I was going to ask the mover about the advisory body and ask how many members it had, as well as questions about the type of representation et cetera, but Mrs Christian has advised us that it is out for consultation so that has been answered for me, Mr President.

**The President:** Mr Radcliffe.

**Mr Radcliffe:** I was going to ask the very same question as Mr Crowe about how many shall be on this committee or body. Certainly, as the mover has said, there is a plethora of committees at the

moment in the department relating to all sorts of activities. It will be interesting to see in the longer run whether this new process will get rid of any of the existing committees. We start off with the best of intent, saying there should be only x number - two, three, four or whatever - managing things very well.

At the moment, I do not know how many committees there are in the department. There must be dozens of one sort and another with experts of all sorts to advise the department. I know from my time in the department many years ago that the advice given was very much at variance with what one would have thought was the obvious thing for the committee to do. It will be interesting, anyway, to see how many of these committees will disappear when this new body is formed.

**The President:** Mr Lowey.

**Mr Lowey:** Yes, I am very happy to support clauses 1 and 2. I think that clause 1 restates the obvious and it is to continue. By and large, I think the health service, as we have said before, was one of the best bits of social legislation of the last century. To reiterate, I think the start of a new century is the right time and, I commend the department.

I am happy to go along with the department's wish to restructure the committee system that advises it. Therefore, I am happy to leave it with regulations and to get flexibility for the department to pick and choose its preferred option, subject to consultation with existing and new people and also then to put a system in place which again is subject to the regulations being examined.

I am quite happy to go along with that. I think that it is a step in the right direction and I am happy to hear that the department is mindful of the concerns that have been expressed not only on the Isle of Man, but on a broader front. Regrettably, certain happenings in recent years have forced that pace. I am sure that the medical profession as a whole recognises the need to reform itself and that it is happy to play its full part. So yes, I am happy to support clauses 1 and 2 of the Bill.

**The President:** Mrs Christian to reply.

**Mrs Christian:** Thank you, Mr President. In respect of the question from the hon. member, Mr Radcliffe, there are nine statutory committees established under the existing legislation. Obviously, the department has other committees from time to time for different purposes, but in terms of the primary legislation setting out and requiring this committee structure, as he says, there are many committees for that purpose.

I think that I illustrated in my earlier remarks that it is not so much that we wish to eliminate all committees, but we want to have more flexibility than currently exists in the rigid structures and committee layout that is established under present legislation.

Also, we have moved from a situation where the existing structures, with administration committees and so on, have been replaced by general management so that there are functions which a general manager has a responsibility to undertake. The general managers will be enabled to make certain decisions themselves without reverting to other committees. However, they will certainly wish to consult and perhaps form advisory groups with certain practitioners in order to carry out those responsibilities. A number of committees may, in the short term, continue until regulations approved or laid before Tynwald allow for some change.

In terms of the actual numbers on the Advisory Council, as it currently exists there are 12 members. They are primarily professional people. In fact, there are possibly two lay people - one person not being a doctor with experience of hospital management so that is someone who has a direct connection with the health services, and one person not being a doctor with experience in local government. That person might be described as the only one who is the lay representation in that body of 12.

The department's feeling is that we should move to a balance of six professionals and six lay people, but that matter will have to go out for consultation with the various parties and members will no doubt wish to peruse the regulations which would control the constitution of that body in due course.

I thank the hon. member Mr Lowey for his general support re the introduction of flexibility that this piece of legislation allows and note his concern about standards. I am sure he is expressing the views of the wider population. The medical and other professions are very conscious of this and seeking to put right what has not been right in the past. But we need to go forward in an open and balanced way, and try and treat change in a positively structured way, not in a condemnatory or adversarial way. Things do go wrong from time to time. It is important we address those issues, but it is important that we also address them in a fair and balanced way. I hope that will happen - I thank hon. members for their support in respect of those two clauses.

**The President:** Hon. members, the motion before us is that clauses 1 and 2 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mrs Christian, perhaps we could take clauses 3, 4 and 5, all matters dealing with general medical services.

**Mrs Christian:** Yes, thank you, Mr President. These three clauses pick up matters from the original legislation in every one of those clauses. There may be minor new powers, but essentially they reiterate what appeared in the 1948 Act and subsequent amendments to it. Primary health services which are covered in part 2 of the Bill are divided into certain categories, and the first of these is general medical services which are dealt with in these three clauses.

Clause 3 requires the department to maintain a system whereby general practitioners on an NHS list provide medical services for everyone who wants them. Sub-clause (1) requires the department to make arrangements with medical practitioners for them to provide these services. There is a slight change in that the department now has the power to make the arrangements. In the previous legislation it was dealt with in the primary legislation in a slightly different way. There is a slight change, too, in that there is a reference to employed or engaged doctors. That is simply a reflection of changed wording in today's context, but essentially the requirement to provide primary GP services is not changing.

The sub-clauses go on to define how that should be done making sure that all patients receive proper care by specifying standards and requiring regulations to make provisions for GPs to issue medical certificates for specific purposes and so on.

Clause 4 requires the department to maintain a list of GPs who provide general medical services. It provides for entitlement to entry on to that list and for a patient's choice of GPs.

There is a slightly new requirement in sub-clause (2). This is to do with changed rules in relation to GPs. For them to be registered as GPs, they have to have certain experience. The requirement for experience in the wording of the clause is new, but it does not apply to existing GPs who are deemed to have grandfather rights - if you will. Again, there is a requirement under this particular clause for regulations to be made in due course.

Clause 5 restates the basic elements of the NHS system of GP services. A GP may not sell the goodwill of his practice. That, of course, was embodied in the earlier legislation. There is nothing new in this clause. I beg to move that clauses 3, 4 and 5 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President. Can I ask one question about whether the department restricts the number of general practitioners on the department's lists? Will we have, say, 30 or 50 on the list who can only operate on the Island as GPs on the NHS, or is it totally unrestricted?

**The President:** Mr Lowey.

**Mr Lowey:** My question is on a similar theme. Will there be set numbers for GPs? In other words, is it 5,000, 3,000 and with growing numbers on the Island, have we enough GPs to service them? Does the department as a policy actually monitor the number of people who are registered to be serviced by the GPs we have?

**The President:** Mr Delaney.

**Mr Delaney:** My question is similar to that of Mr Lowey. Recently, I have had a couple of people complaining that, when they have phoned up initially to see the doctor, they have been told that it will be a week later before they get a chance to see him. It is only when they have pressed their case they have managed to find there are lots of them. I know we do monitor, but how close do we monitor the amount of lists and the waiting time before people can see the GP - or a dentist if it comes to that. It is the same problem?

**The President:** Mrs Christian to reply.

**Mrs Christian:** Thank you, Mr President. In respect of the lists, the three clauses set out, in fact, that anyone who is qualified is entitled to go on the list, but there is a provision in here for the department to determine who shall notwithstanding their entitlement actually go on to the list. Clearly, in terms of the administrative side and the department sustaining payment to anybody who wants to be a GP, we have a limit on that.

The legislation sets out a right in terms of qualification to go on the list, but it does allow the department to produce regulations under clause 4(3) to prescribe the limit on the number of patients to be accepted by any practitioner, and for the distribution among medical practitioners of names of people who want to go to a doctor.

Clearly, there are restraints on the number of GPs who will practice under the NHS in the Island. That is a matter for the department to review and consider. There are standards which normally apply within broad parameters of how many patients per GP is appropriate. The health division monitors those numbers. If it is seen that the numbers of patients for any GP or practice are in excess of those parameters, clearly they consider whether or not another GP should be added to the list.

As for waiting times for appointments, any person with an urgent need to see the doctor should be able to get a very rapid response to that request. One might argue that, if you want to see a doctor, it is always urgent. We must have a balanced view on what it is specifically that the person is going to see the doctor for.

At the moment, a review is going on in respect of dental practitioners to see how long it is taking people to get appointments. If we were experiencing excessive waits from patients, I do not think that is reflecting in any reference of the matter to the department in any great numbers, but if any person in the situation of urgency was not seen, I would certainly be very concerned. Our doctors' lists at the moment regarding the number of patients per GP are not excessive or not towards the high end as a general rule.

**The President:** Mr Delaney.

**Mr Delaney:** On a point of clarification, if you are reviewing - which is good news - the amount of waiting time, how do you know how many people have been told, for example, that they have to wait a week or more before they can see their GP unless you asked them to get in touch with you?

**Mrs Christian:** That is a matter for the health division to try and establish.

**Mr Delaney:** How do they do that?

**Mrs Christian:** I have not asked them how they are doing it. I have just told them to do it.

**Mr Delaney:** It is a good trick if you can do it.

**Mrs Christian:** The health division may wish to contact patients, I do not know how they are doing it. I have asked particularly in relation to the dental situation, because concerns have been expressed specifically in that area. We try and monitor how long people are waiting. One can tell it to some extent by going to the dental practitioner and reviewing how full the books are. If it is for six months hence, then you know that there are no vacancies for six months. There are some ways in which you can monitor that situation.

**Mr Delaney:** In the case of a doctor the person would have died by the time the six months is reached.

**Mrs Christian:** Well . . .

**The President:** Hon. members, the motion before us is that clauses 3, 4 and 5 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

We will take the general dental services section, clauses 6 and 7, together.

**Mrs Christian:** Thank you, Mr President. This clause deals with the dental services and is very much a parallel of the previous three clauses. It is a reiteration of matters which were stated in the 1948 Act. It requires the department to maintain the system under which dentists provide dental services. The department will make arrangements with dentists to provide both treatment and appliances. The details of these arrangements will be laid down by regulations.

Sub-clause (2) defines the services provided under sub-clause (1) as general dental services. That is merely a definition.

Clause 7 requires the department again to maintain a list of dentists who provide general dental services and provides for entitlement to entry on the list. The department keeps a list of dentists who undertake to provide these services and a new provision requires regulations to provide for lists. As with the medical practitioners, they have a right to be on the list subject to being qualified, but then the department under regulations can limit how many practitioners operate under the NHS. I beg to move clauses 6 and 7 stand part of the Bill.

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

**The President:** The motion, hon. members, is that clauses 6 and 7 - sorry, Mr Lowey.

**Mr Lowey:** My experience of the Isle of Man dental service is one that I have no problems with at all. I can give experiences in the United Kingdom. When people complain to me about our dental practices all I say to them is they ought to go to, parts in the south-east, where it is non-existent. If you want to go to a dentist you have to go private.

We are very fortunate here in the Isle of Man to have the depth and the quality of service under the national health. I am pleased that this is almost a replication of what we have got and I think we ought to be pleased with the service that is offered to the people in the Isle of Man.

**The President:** I do not think there is anything particularly to reply to, but, Mrs Christian, do you wish to reply?

**Mrs Christian:** I thank the hon. member for his comments and acknowledge that we do have a good service from our NHS practitioners. Clearly, the conditions in the United Kingdom have led to a diminution of service there. We will be mindful of making sure that conditions here do not lead to that sort of situation.

**The President:** The motion, hon. members, is that clauses 6 and 7 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clauses 8 and 9, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. These clauses require the department to maintain a system of general pharmaceutical services under which medicines and appliances are supplied to patients receiving general medical services and general dental services. Largely, it copies the 1948 Act, but it includes new provisions for nurses and midwives to prescribe certain medicines.

There is certainly a change taking place I think in the area of prescribing, which is reflected by this particular introduction of the facility for nurses and midwives to prescribe. This would be done under regulation, but it does acknowledge that, under certain circumstances and in defined areas, there are practitioners who currently could undertake tasks which they hitherto have not been able to do, and this is one of them.

Again, the department is required to maintain lists and this is set out in clause 9 and the question here again relates to entitlement to entry on the list and gives the department the ability to define how many pharmacists should be providing NHS services. Effectively, we are repeating for pharmacists the sort of conditions that apply to the two groups we have just dealt with. I beg to move that clauses 8 and 9 stand part of the Bill.

**The President:** Mr Crowe.

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

**The President:** Mr Radcliffe.

**Mr Radcliffe:** Thank you. It would appear that this Island is moving to a situation where all the pharmacies are going to be administered by one particular company. Is the department happy with that situation? I suppose, in reality there is little the department can do, but are they happy there should be only one real supplier of pharmaceutical services on the Island?

**The President:** Mrs Christian to reply.

**Mrs Christian:** Thank you, Mr President. I think we have to be careful here not to confuse the NHS provision of drugs and so on with the retail sector. In so far as the department is concerned, the provisions in the legislation require it to appoint qualified pharmacists to dispense drugs under the NHS, to decide how many of those are needed and where they might be distributed throughout the Island. I am very conscious that in terms of what we would in the old-fashioned sense call 'chemists shops' are perhaps being acquired not quite in a monopoly, but almost in a monopoly sense.

**Mr Radcliffe:** Almost, yes.

**Mrs Christian:** That really does not impinge on the NHS requirement. Provided we are satisfied that there is a qualified pharmacist in any particular situation and in a reasonable geographical spread in the Island, the department has no authority really to look beyond that. I suggest that, whilst that might be of concern from a retail perspective from the point of view of the National Health Service, it is not a matter which comes under our review. Our concern is with the availability of a prescribing service by qualified people.

**Mr Lowey:** May I just probe the minister just a little bit further on that? We do not allow betting shops to be in a monopoly. We do not allow doctors under this Bill to sell their goodwill, yet chemist shops are being treated in a different way. I understand the point that you make about the retail, but I am worried about that situation developing. My own village, Ballasalla, has a chemist outlet with a trained pharmacist to dispense, which is subsidised to a degree by the department under the regulations. How will that lie square with what I would call a monopoly situation if somebody owns all the outlets for drugs?

I understand the drugs are brought in and then distributed. I know the logistics that go on behind the scenes. but how will that strengthen or weaken the situation in Kirk Michael and Ballasalla, to name but

two, with medical practices to be able to prescribe, and the local people being able to deal with the next stage of medication, getting the advice, getting the medication and getting the medication locally? It is all part of the service which the department is providing?

**The President:** Mr Delaney.

**Mr Delaney:** Just a point.

**The President:** We are going back over it twice.

**Mr Delaney:** I have not spoken on this subject.

**The President:** I know.

**Mr Delaney:** Just as a follow on, one point that has not been mentioned is the public. If you get a monopoly in this Island as we have done already on all the things we have, and we need to survive, that is the danger. The point about one company taking over the lot is a danger for the public. They have not had a mention. The people who will be necessarily purchasing the services will suffer.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I can see that the public might suffer from the point of view of there not being a variety of retail outlets associated with the points at which they receive their NHS prescription. That may lead to a curtailment of over-the-counter medication that they may be able to purchase. Our concern in the department is with the NHS provision of prescribed drugs. The hon. member, Mr Lowey referred to how the monopoly situation, if such an eventuality appears, will affect the provision of services at a small pharmacy where there is provision and will continue to be provision for the department to assist financially such an establishment in a limited population area. It should not have any effect at all. The department will look at the requirement for the service and negotiate, as it does now, to provide a service in areas where it feels it is appropriate.

If we reached a stage where there was no-one willing to undertake to provide that service notwithstanding the regulations and the financial incentives, it would be down to the department to consider how else it might provide such a service. It is always open to the department to directly employ, should that circumstance have any appeal.

Whilst I fully understand and have seen the effect on the retail aspects and the diminution in choice in a retail sense, I do not think we should confuse that with the requirement under the NHS Bill for us to appoint suitably qualified people to prescribe the drugs that are deemed necessary to the patient by medical and dental practitioners or as it will be in the future by nurses and midwives. We need to keep our minds focused on that issue and, whilst it relates to the other I do not think it is absolutely directly of any consequence that one particular company may own all the pharmacy outlets.

**The President:** Hon. members, the motion before us is that clauses 8 and 9 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 10 and 11, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. This reiterates the provisions in relation to general ophthalmic services. Clause 10 requires the department to maintain the system under which sight testing is provided on the NHS. The clause will require regulations to be drafted. It will provide for lists. It will provide for patients to choose the doctor or optician to test their sight. I should mention that not only ophthalmic opticians, but suitably qualified doctors may carry out sight testing.

Clause 11 covers the issue of lists of doctors or opticians, who may provide general ophthalmic services. It defines who is entitled to be on the list and deals with the matter of the department's

determination of how many people they need to provide this service. It is very much like the other areas of the primary care service. I beg to move that clauses 10 and 11 do stand part of the Bill.

**The President:** Mr Crowe.

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

**The President:** The motion, hon. members, is that clauses 10 and 11 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

We come to the area of the Bill headed 'restrictions on entry list.' Perhaps we could take clauses 12, 13, 14 and 15, Mrs Christian.

**Mrs Christian:** Yes, Mr President, I would be happy to do that. They all fall within this heading of 'Restrictions on entry to lists'.

Clause 12 enables what has been described as the 'closed shop' under which the numbers of doctors, dentists, pharmacists and opticians on the NHS are limited to be maintained by regulations. This existed under the 1948 Act. The only difference will be that it will cease to be mandatory. It will give the department flexibility if it seeks to move away from such lists. It makes a provision for there to be limited lists, but that will not be mandatory.

Clause 13 enables the department to remove a practitioner from an NHS list and disqualify him on the grounds of ineligibility or incompetence, subject to certain safeguards. It also provides for him to be removed and disqualified if he is disqualified for inclusion in a corresponding NHS list in the United Kingdom. There is a right of appeal to the High Court from such a decision and there is a right for the department to remove them unless the department agrees to reinstate or the court allows an appeal. Any practitioner, who is disqualified for inclusion in a UK list, will automatically be removed from any Isle of Man list and disqualified. This will require regulations to be drafted.

Clause 14 gives the department reserve powers to make special arrangements for the provision of general medical dental pharmaceutical or ophthalmic services if they consider that the provision under clauses 3 to 11 is inadequate. Again regulations are required under this particular clause. Those reserve powers have existed in the 1948 Act and are not new.

Clause 15 enables the department to set up health centres, that is publicly provided premises where the NHS service is provided as a 'one stop shop' or for a number, if not all, of the services. This is also a provision which is lifted from the 1948 Act. It is not new. I beg to move that clauses 12, 13, 14 and 15 do stand part of the Bill.

**The President:** Mr Crowe.

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

**The President:** Mr Delaney.

**Mr Delaney:** I want to refer to a point that was originally raised by our colleague. Clause 12 the restriction of entry on lists includes clauses 4, 7, 9 or 11. It deals with the refusal on the grounds of adequacy of the services. Surely we could include clause 8 in that. That would give you some control over whether or not we have an adequate chemist service and dispensing service on the Island.

**Mrs Christian:** That is covered under clause 9, Mr President, which deals with I think, just let me check -

**Mr Delaney:** No, clause 8 deals with chemists.

**Mrs Christian:** Clause 9 deals with the lists of chemists -

**Mr Delaney:** Yes, chemists.

**Mrs Christian:** So clause 9 is the relevant clause in relation to lists of pharmacists.

**The President:** Mr Lowey.

**Mr Lowey:** I do not disagree with anything that the minister has said on these particular clauses. She talked about if a doctor or a practitioner were disqualified under a UK list. We all know that the world is much smaller now and we have some excellent medics from not just the United Kingdom administering to us, but various countries, such as India, Malaysia and Egypt. When I went to Liverpool, I was treated by a Mr Wong from Hong Kong. He did a marvellous job. We are getting practitioners from all over the world, yet we are restricting the lists of practising professionals from the Isle of Man or the UK. I may have misinterpreted what the minister has said but, she did mention if they are disqualified from the UK. If they are disqualified from their jurisdiction, surely that should be enough to disqualify them from practising in the Isle of Man as well?

**Mr Radcliffe:** Mr President, I picked up, as the hon. member Mr Lowey has, that the mover has mentioned the UK particularly. The question I would ask is this: if the practitioner is disqualified not only in the UK but elsewhere, is there a system in place where the department here can be informed automatically, or does one have to trust the person's honesty or leave it to rumour-mongering to let the department know that there are problems or have been problems elsewhere, not only in the UK but much further afield?

**The President:** Mrs Christian, I am a little wary here because I am a bit unsure as to whether or not Mr Lowey and Mr Radcliffe are rather indicating that in 13 (4) they might be looking for an amendment if they want any provisions in force in the United Kingdom or elsewhere corresponding to this clause.

**Mrs Christian:** Can I perhaps help by answering the points, Mr President?

**The President:** Yes, if you will, please.

**Mr Radcliffe:** That would be a big help.

**Mrs Christian:** It is the practice in the Isle of Man NHS that we employ people who are on the UK list. Irrespective of whether they come from another country, they must first be on the UK list so that they are qualified to work in the UK NHS. We do not take anybody direct from a third country. The same applies in respect of nursing. If we take nurses from, for example, the Phillipines, they must become registered under the UK CC regulations so that we know that they are of a standard which meets the United Kingdom requirements. They have to jump that hurdle first before they are acceptable in the Isle of Man. If they happen to be on that list and removed from it, this provision will allow us to immediately remove them from our lists. That has not been always possible under the existing legislation. It will make us much more flexible in situations where we want to change the situation quickly.

The requirement to have UK standards also impinges on our relationships with the professional bodies, our ability to have students here and so on and so forth. I hope that I can allay anyone's fears that we might unsuspectingly bring someone in from a third country without sufficient background information. That is not to say that the situation is infallible, but I believe that because they have to go through that UK structure, we have perhaps a better chance of uncovering any difficulty.

**Mr Radcliffe:** Just as a further supplementary, is the department automatically informed by the UK authorities when disqualification takes place?

**Mrs Christian:** There have been changes made recently, Mr President, which have improved the procedures under which the department will be notified of any suspensions and disqualifications. In terms of disqualification, certainly we would be made aware if we were seeking to interview or appoint in

terms of locums. I think I have answered in another place recently that the procedures have changed so that we are now much more rapidly informed, as is everybody else in the NHS, of situations where someone may be suspended subject to inquiry and so on.

**Mr Radcliffe:** Thank you.

**The President:** Hon. members, the motion then before us is that clauses 12, 13, 14 and 15 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 16, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. I am not sure, but I think that members may have before them an amendment in respect of this. I would seek your indulgence, Mr President, and that of the other members of Council to defer consideration of the amendment until third reading because of a drafting problem which I want to review before we consider it. In which case, I shall move the clause as it stands and will seek the indulgence of members to give consideration to an amendment to it at third reading. It is an amendment with which the department is content, but we need to be satisfied with the wording.

**The President:** I understand that Mr Crowe is to move the amendment. Would you be happy with that arrangement, sir?

**Mr Crowe:** Yes, Mr President. I was asked to do it and I am satisfied that this delay of a week will not inhibit the amendment. I am happy that it be moved at the third reading.

**The President:** Mr Delaney.

**Mr Delaney:** I would just ask the source of this amendment, if I may please?

**Mrs Christian:** The department, Mr President.

**Mr Delaney:** Ah, the department, fair enough. I was just getting confused here about not being happy with the wording if it has come from somewhere else.

**The President:** That is why I asked. As long as both Mrs Christian and Mr Crowe, who is prepared to move the amendment, are happy it strikes me as being a sensible compromise that we bring forward the amendment to clause 16 at the third reading stage. Are we content, hon. members?

**Members:** Agreed.

**The President:** Therefore, Mrs Christian, continue then with clause 16.

**Mrs Christian:** Yes, Mr President. Clause 16, which has been amended in another place, deals with the school medical service. It requires that the department shall provide for medical and dental inspection at appropriate intervals for pupils in attendance at all schools in the Island. The amendment in another place changed it from state schools to all schools. The department makes such necessary provision for providing free medical and dental treatment for children who go through the school dental service. It also requires us to deal with health promotion and education issues. This is not new, except in the extent of its provision in going beyond state schools to all colleges in the Island. I beg to move, Mr President, that clause 16 do stand part of the Bill.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second, Mr President.

**The President:** The motion, hon. members, is that clause 16 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. We note the fact that at the third reading stage next week it is possible that there will be a further amendment coming to clause 16.

We turn then to clauses 17 and 18, Mrs Christian.

**Mrs Christian:** Thank you. Clause 17 requires the department to make arrangements for antenatal and postnatal care of women and the care of preschool children.

Clause 18 requires the department to provide midwifery services for home birth.

Sub-clause (1) requires the department to ensure that sufficient midwives are available to attend mothers at home during and for at least 10 days after child birth, should the circumstances be appropriate for home delivery.

Sub-clause (2) is a saving for the department's duty to provide midwives and doctors for hospital maternity services. This is a new provision.

There are some slight changes here in clause 18. The provision to provide midwifery services for home births comes from the 1948 Act. What we are trying to ensure is that we have clear lines of understanding between those provisions in community and the department's duty to provide hospital services as well, which is the purpose of sub-clause (2).

Apart from that saving on the hospital services, the difference between this and the 1948 Act is that the duty to make doctors available to assist midwives at home births is not re-enacted. The reasons for that are that GPs perhaps no longer have the required level of skills in obstetrics and so on, so it is not reasonable or appropriate to expect all GPs to have the specialist knowledge to deal with home births. There is provision for specialist services to be available from the hospitals.

I beg to move that clauses 17 and 18 stand part of the Bill.

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

**The President:** The motion, hon. members, is that clauses 17 and 18 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. We will take clauses 19 and 20, Mrs Christian, please.

**Mrs Christian:** Thank you, Mr President. Again, this reiterates the provisions in the 1948 Act. Clause 19 requires the department to maintain the health visitors service to give advice on the health of mothers and children and to deal with health promotion.

Clause 20 gives the department power to provide home nursing services.

I beg to move that clauses 19 and 20 stand part of the Bill.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second.

**The President:** Lord Bishop.

**The Lord Bishop:** The subtle difference in clauses 19 and 20 is that the department 'shall' in clause 19 and 'may' in clause 20. Is it significant that there is a definite 'shall' for the health visitor, but you 'may' or may not make a home nursing provision? Was it just drafting?

**Mrs Christian:** It is as was, Mr President. It has always been the case. The department may make provision; it is not obliged to do so nor has it been obliged to do so in the past. I think the general philosophy of the department is developing in the direction of making as many services as possible available in the community to enable people to be at home rather than bringing them into other forms of care. I think that the affirmative requirement to make provision for health visiting is appropriate and, it puts some pressure on the department to provide health visitors. Indeed, it imposes a statutory obligation on it to do so. There may be other ways in which people can secure home nursing. I think that it is not unreasonable that that element should be more flexible, given that we have an obligation to provide our services.

**The President:** Mr Radcliffe.

**Mr Radcliffe:** Thank you, sir. Somewhere between clauses 19 and 23, there is the legislation which covers the provision of bath nurses. Now these nurses call at home, ensure that people have a proper bath and are well looked after. I would suggest that the attention of these particular nurses enables many people to stay at home whereas otherwise they would be in an institution or hospital care of some sort. There have been rumours that this very valuable service is to discontinue. I cannot put my finger on the actual clause which covers the bath nurses and their activities, but I would ask the hon. mover a question: is there any substance in the rumours that this particular service to the general public - to the elderly in particular - is not going to be continued? I seek an assurance.

**The President:** Mrs Christian to reply.

**Mrs Christian:** Thank you, Mr President. I am certainly not aware of any suggestion that provision of services in the home, including bathing facilities, is likely to be withdrawn. I am aware that there is an increasing difficulty in recruiting staff to provide some home care services. I am also conscious that there is an increasing awareness of health and safety issues and obligations in terms of lifting and handling which may impinge on some services, but I have certainly not as a policy matter been approached to make any change in relation to the sort of services that we currently provide in the community.

**The President:** The motion before us, hon. members, is that clauses 19 and 20 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 21, dealing with immunisation.

**Mrs Christian:** Thank you, Mr President. This clause deals with the requirement of the department to make arrangements for the immunisation of people, and children especially, against communicable diseases. Again, this requirement was covered in the 1948 Act. The difference here is the wording. The 1948 Act specified smallpox and diphtheria and gave power to immunise against other diseases. That is not specifically stated in this legislation, which just gives the general power to the department and allows it to supply serums to doctors free of charge. I beg to move clause 21.

**Mr Crowe:** I beg to second.

**Mr Radcliffe:** Mr President, again I am full of rumours this morning, but is influenza regarded as a communicable disease as such? I understand that people have to pay for their flu jabs. It is not a treatment that I have ever availed myself of. I reckon that I am still reasonably healthy, even though I am of an advanced age and -

**The Lord Bishop:** And you are a smoker!

**Mr Radcliffe:** And I am a smoker. But is influenza regarded as a communicable disease or not? It is a most dangerous one for people who have any respiratory problems.

**The President:** Mrs Christian to reply.

**Mrs Christian:** Mr President, in respect of flu jabs there are certain categories of patients for whom the department make provision for protection. In respect of flu, it is people over a certain age and with particular vulnerability in relation to other conditions which they may have. The department does not make provision for everyone to receive free flu jabs.

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

Clause 22, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. This clause requires the department to make arrangements for suitable ambulance and paramedic services. This is based on the 1948 Act. I beg to move that clause 22 stand part of the Bill.

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

**The President:** Mr Delaney.

**Mr Delaney:** This is a very important clause. I have been a recipient of these services many times, unfortunately. Could you just clarify and make clear in my mind exactly the situation when an ambulance is sent for. I have a question regarding the responsibility of the department if somebody phones from home - circumstances of which the minister is well aware. Has the situation been changed? Can a person phoning from home who has had a stroke or something like that get an ambulance sent to the house without first of all having to go through his GP? And, secondly, are there any rules being brought into operation where medical ambulance staff can transport persons on a stretcher from the upper reaches of the house to the ambulance without any handicap?

**The President:** Mrs Christian to reply.

**Mrs Christian:** Thank you, Mr President. The normal procedure is that you contact your doctor who gets the ambulance, but obviously there are emergency situations where people ring direct and it is unlikely that the ambulance controllers will deflect them and say 'Go back to ring your GP.'

**Mr Delaney:** I want it clearer than that, please.

**Mrs Christian:** Normally speaking, it is expected that a GP is called. If the GP thinks that the person should be transported to hospital, then he or she will arrange for the ambulance to come. If an individual calls an ambulance direct in an emergency situation, the ambulance service will respond. But it may ask, 'Have you had a GP to the situation?' or ask for further health or health status information. I am not quite sure what the hon. member is implying. Is he implying that if the person rings direct they will not get the service?

**Mr Delaney:** I went over this with you, minister, as you know, when I had my - I do not want to dwell on personal matters - when I had my unfortunate set of strokes. I knew what was happening to me, as I had already had four. I phoned up the hospital, as you are aware, to find that I had a debate then on whether or not they were going to send me an ambulance. I knew the stroke was coming on and I was in no fit state. I would not like it to happen to anybody else. I wanted assurance that this was going to be looked at. In the Isle of Man, it is now possible that hoax calls may be the reason. If somebody has taken the trouble to phone the hospital for an ambulance to be sent, particularly from the home, the call can be traced back to them anyhow. So I would imagine it would not have been a case of maybe, or maybe not, or that it will have been up to the dispatcher. It will actually be laid down that the ambulance will be sent in a small community. That is what I am asking.

**Mrs Christian:** Mr President, the hon. member has illustrated a particular concern. There are occasionally hoax calls and it is not unreasonable for staff to try and establish the nature of a call. I think it is very unfortunate when the wrong judgment is made, which may from time to time be the case. Nevertheless I think that, generally speaking, if a person rings direct without having consulted the GP, the staff will respond to that call. It is not unreasonable for them to try and establish the nature of the call and its authenticity.

**Mr Delaney:** Now to the second part of my question, Mr President. May I ask whether there are any restrictions on the paramedics dealing with patients in relation to stretchers et cetera up and down stairs?

**Mrs Christian:** Mr President, as I said, the whole area of health and safety is becoming predominant and creating some difficulties in the delivery of services. We have statutory responsibilities for health and safety. We must try to ensure that in interpreting health and safety requirements we do not diminish to a ridiculous extent the service that we are trying to provide to those in need of it.

**Mr Delaney:** That is right; that is why I am asking the question.

**Mrs Christian:** If the hon. member would care to let me have details of any circumstance where he feels that the balance has been tipped the wrong way, I should be grateful to hear from him. I am concerned that we should have a pragmatic approach, albeit understanding the risks to which staff are exposed, but they have got to be balanced against the risks to the patient. If the balance is not right, then I want to hear from him.

**Mr Delaney:** Well, for example, I am just asking for clarification that standing staff are not restricted by health and safety in relation to picking up patients from upstairs and carrying them downstairs to the ambulance or that general area.

**Mrs Christian:** Mr President, I cannot answer that specific question. I do not know the pertaining circumstances and I am not aware of a blanket ban on staff carrying people on stretchers. I do not know what the circumstances are in relation to going to the top floor of a house and bringing people down on a stretcher. Presumably a patient has to be moved, and so -

**Mr Delaney:** That is right, that is why I am asking you.

**Mrs Christian:** Well I do not know the answer to the specific situation. If the hon. member would care to give me the details, I will investigate later for him.

**The President:** Each one presumably would have to be treated in a different manner, depending on the -

**Mr Delaney:** The patient needs to be treated, Mr President, not the ambulance man.

**Mrs Christian:** It is the judgment of the patients and the staff.

**The President:** Yes. The motion before us is that clause 22 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 23, Mrs Christian.

**Mrs Christian:** Clause 23 gives the department power to make arrangements for the prevention of illness for care and aftercare. In the case of mentally ill patients, this includes the power to provide accommodation, day centres and other services. Some of this provision was in the 1948 Act.

Sub-clause (4) is a saving for the department's specific duties with respect to aftercare of mentally ill patients generally under the Mental Health Act 1998. That is a new provision, because our mental health legislation has changed.

I beg to move that clause 23 stand part of the Bill.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second.

**The President:** Mr Lowey.

**Mr Lowey:** Could I ask the minister a question that is germane at the moment to 23(1)(a) and to the prevention of illness. It is very germane with regard to immunisation, inoculation or whatever it is, for MMR vaccination. Is it not the role of the department to advise parents that they should get this done? That brings me to another point that features less in the news. We had a lot of advertisements on AIDS,

for example, and then it suddenly went quiet. Nobody ever sees an advert for AIDS now. I am quite sure out there there is still the possibility and all the rest of it that made it important to get the message over.

What priority does the department give to the prevention of illness? Does it just include advertisements and do we just tag on to the what I would call the UK advertisements? I understand that we can sometimes get a bigger coverage from the UK than locally, but it seems that we do have a responsibility locally to keep that in the forefront of preventing damage to our young people, whether through MMR or not. I use that only as an illustration.

**The President:** Mrs Christian to reply.

**Mrs Christian:** Yes, Mr President. This clause reiterates the enabling nature of the previous legislation in this Bill for the department to deal with health promotion issues and preventive measures. Certainly, in terms of promotion, I have acknowledged in another place that we have a weakness in this area and are seeking to strengthen the health promotion team. In fact, we have recently made an appointment which I hope will assist in that area, but it is still a very small team.

Health visitors have a function in relation to health promotion as is set out in clause 19. The department does tag on to the back of United Kingdom campaigns from time to time and it is quite useful to do so. We tend to use the same health promotion days for specific reasons, as they do. You are quite right that the department should try to redress the balance a bit between health promotion and prevention measures and the actual delivery of care after the event.

It is not very easy to make the transition where resources are being continually being demanded at the front end. However, I acknowledge the importance of the matter we do indeed seek to strengthen the health promotion area. You have highlighted the situation of AIDS, which is an ongoing risk. Indeed the message should not be left to float away into the ether.

There are, of course, other areas where similar messages should be continually propagated, but if you make the drum sound all the time it just becomes a background noise which is ignored so there is a balance to be found there I think.

In terms of vaccination, clearly in clause 21 we dealt with the question of immunisation against certain conditions; you have highlighted the MMR issue. Yes, I think we have done reasonably well in the Island in terms of the use of the MMR vaccine. My indications are that the percentage of youngsters in the Island who have received this vaccine is high and therefore provides what our director of public health describes as herd protection - a technical term. So whilst there are fears with some of these issues, I think that generally speaking, that particular message has been got across.

**The President:** Hon. members, the motion before us is that clause 23 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 24, hon. member, Mrs Christian.

**Mrs Christian:** Yes, clause 24, which derives again from the 1948 Act, gives the department power to provide home help services for the sick, disabled and other categories of people in need. I beg to move that clause 24 stand part of the Bill.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second, Mr President.

**The President:** The motion, hon. members is that printed at clause 24 on the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Perhaps we could take both supplemental clauses 25 and 26, Mrs Christian.

**Mrs Christian:** Clause 25 enables regulations to be produced giving a patient a right to choose a practitioner in the primary health care area. It makes special provision for the exercise of that choice by a person on behalf of a patient who may not be able to make the decision themselves, such as a child or someone suffering from mental illness.

Clause 26 enables the department to arrange for and contribute towards the cost of in-service training for practitioners who provide services under clauses 3 to 23. I beg to move that clauses 25 and 26 do stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**The President:** The motion, hon. members, is that clauses 25 and 26 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

On to part 3, hon. members, clauses 27 and 28, Mrs Christian.

**Mrs Christian:** Part 3 deals with hospital and specialist services. Clauses 27 and 28 deal with the responsibility of the department to arrange for the provision of hospital services.

Clause 27 requires that we produce hospital accommodation and medical and other services which are provided either in the Isle of Man or outside the Island. That accommodation can be provided at private nursing homes if no suitable accommodation is available in hospitals.

Sub-clause (4) is the only change in this particular provision from the earlier legislation. It gives the department power to make arrangements with private nursing homes for the accommodation of patients where no hospital accommodation of a suitable nature is available.

I beg to move that clauses 27 and 28 stand part of the Bill.

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

**Mrs Christian:** Oh, I am sorry, Mr President, I have not actually covered clause 28. It simply just imposes on the department a duty to arrange the provision of specialist services, i.e. the medics both in the hospitals and elsewhere, either in or outside the Island.

**The President:** I do not think there are any invited questions. Clauses 27 and 28, hon. members. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 29 and 30.

**Mrs Christian:** Clause 29 enables the department to carry out or assist in any health-related research.

Clause 30 requires the department to make arrangements for pathological services and enables it to allow others - that is, private practitioners - to make use of those services on suitable terms. Both of these were embodied in the 1948 Act. I beg to move that clauses 29 and 30 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**The President:** Hon. members, the motion before us is that clauses 29 and 30 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Part 4 and general provisions. We may have to take them all separately. Clause 31, Mrs Christian.

**Mrs Christian:** Clause 31 gives the department power to make arrangements for the provision of NHS services in various ways including through contractors and outside bodies. It also enables regulations to be drafted to provide for remuneration, conditions of service and so on and gives power to make provision for medical, dental, pharmaceutical and ophthalmic services otherwise than in accordance with part 2. This clause embodies bits and pieces from several clauses in the 1948 Act and

does not fundamentally alter the provisions in our current legislation. I beg to move that this clause do stand part of the Bill.

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

**The President:** The motion before us, hon. members, is that clause 31 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. We will turn to clause 32, Mrs Christian.

**Mrs Christian:** Clause 32 gives the department a general power to make charges for health services in accordance with regulations contrary to the general principle that they must be free of charge. Where these charges are payable to others - for example, to a doctor or a dentist - the regulations must impose suitable financial safeguards. I beg to move that clause 32 do stand part of the Bill as it reflects provisions of the 1948 Act.

**Mr Crowe:** I beg to second.

**Mr Lowey:** Are these and the other regulations subject to the approval of Tynwald?

**Mrs Christian:** Yes, Mr President. There are two categories of regulations under this Bill. Those which relate to financial issues will have to have the positive approval of Tynwald. The others, as we will see in the later clause, will require to be dealt with by the negative procedure.

**The President:** The motion, hon. members, is clause 32 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 33.

**Mrs Christian:** Clause 33, Mr President, makes provision for the recovery of charges including new powers to recover from a relative and to appoint a receiver. Perhaps I should go through the new powers in a little more detail.

Sub-clause (1) is existing, and provides for charges to be recoverable as a simple contract debt.

Sub-clause (2) is new and gives the department new power to make regulations under which it or others to whom charges are payable can recover charges from anyone who is liable to maintain the patient in question for social security purposes - that is, from a parent or a spouse, for example.

Sub-clause (3) gives the department new additional power to make regulations enabling the appointment of a receiver for a patient in respect of whom charges are payable and setting out his powers and duties.

Sub-clause (4) precludes any regulation making provision for the recovery of charges from a person if undue hardship would thereby be caused.

Sub-clause (5) defines 'patient' for this purpose. I beg to move that clause 33 stand part of the Bill.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second, Mr President.

**The President:** The motion, hon. members - Mr Radcliffe?

**Mr Radcliffe:** How would the department go about deciding whether undue hardship would be caused to a person. What would be the criteria? Would it be based on a formula laid down anywhere?

**The President:** Mrs Christian.

**Mrs Christian:** I would suggest it has the same sort of criteria as would apply, for example, with the social security determinations. I would like perhaps to come back with further detail at the third reading. I suspect that this might be dealt with in some detail in regulations, but I would like to have an opportunity to confirm or otherwise on that particular point.

**The President:** Hon. members, the motion before us is printed at clause 33. Clause 33 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 34, Mrs Christian.

**Mrs Christian:** Clause 34 re-enacts in a simplified form the existing powers of the department to provide private beds and to give private patients access to hospital services at appropriate charges. I beg to move that clause 34 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**The President:** Hon. members, the motion before us is that clause 34 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 35.

**Mrs Christian:** Clause 35 gives the department power to make regulations to enable it to subsidise charges for medicines for certain classes of patients, for example, and to give assistance towards travelling expenses where patients may be receiving treatment in the United Kingdom. This applies currently and it is continued under this legislation. It also provides for the return to the Island of the body of a patient who died while receiving treatment in the United Kingdom. I beg to move that clause 35 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**The President:** The motion, hon. members, is that clause 35 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 36, Mrs Christian.

**Mrs Christian:** Clause 36 enables regulations to be made to lay down any rules for means testing of charges or payments.

Sub-clause (1) enables regulations which provide for means testing and lays down how such calculations will be made. This is based on the 1948 Act, but that was limited to the provision of glasses - this is wider.

Sub-clause (2) enables regulations to apply to any other means-testing rules - for example under social security legislation. We can adopt the social security criteria for determining any means testing. I beg to move that clause 36 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**The President:** Mr Lowey.

**Mr Lowey:** We are creating an extension, but it seems to me that there is some sort of preference and that perhaps the provision should be extended to other services provided by the department. Could the minister be a little bit more specific? I know that they will be subject to regulation, but if you provide such a provision, that implies that you wish to do it.

**The President:** Mr Delaney.

**Mr Delaney:** Could I ask a similar question on this one? What is happening now that did not happen in 1948 that makes you come to the conclusion that we should widen it? What has happened? I would be interested to know.

**The President:** Mrs Christian to reply.

**Mrs Christian:** I sense from the hon. members' comments that they see this in a negative sense. I would prefer that they looked at it from the opposite point of view.

**Mr Delaney:** Same as the officers.

**Mrs Christian:** It can operate obviously in both ways. Clearly we do apply means-tested criteria for exemptions in certain circumstances. For example, if you qualify for FIS, if you are a pensioner or if you are in receipt of income support, that will affect your entitlement to free prescriptions. I ask members not to view this in the entirely negative sense. It seems that members are looking at it in that way, but, as we are dealing with a power to enable us to look at certain circumstances with reference to means testing. That needs to be in this Bill as much as it was in the last one.

The hon. member said it was limited to glasses before. The situation in relation to glasses has changed in that we have voucher schemes now for certain circumstances, but please do not read anything sinister into this. There is no thought in the department's mind, at this stage anyway, to extend the negative aspects of means-testing in relation to the provision of our services.

**Mr Delaney:** Why do you need it then?

**Mrs Christian:** We need it in order that we can do the good things by exempting people.

**Mr Delaney:** You can do them without this surely?

**Mrs Christian:** No, you cannot. It needs to be in here to allow us to means-test for whatever purpose.

**The President:** Hon. members -

**Mr Delaney:** Dollop!

**The President:** The motion before us is that clause 36 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 37, Mrs Christian, with which we will take schedule 1.

**Mrs Christian:** This clause enables the department to accept gifts and act as trustee for any purpose relating to hospitals, and gives it new powers to make schemes for hospital and similar trusts.

Sub-clause (1) enables the department to accept gifts for hospital purposes and to act as trustees. Sub-clause (2) introduces schedule 1 which gives the department new powers to make schemes for hospital trusts similar to those the High Court can make, subject to the approval by the Court. It also allows us by agreement to assume responsibility for any voluntary organisation or trust set up to provide community health services and to make schemes for such organisations or trusts. The former powers are based on provisions made for church trusts by the Church Act 1992, schedule 3. They are intended to provide a simple and cheap way of dealing with difficulties affecting hospital trusts, subject to safeguards.

I will not go through all the paragraphs of the schedule but will seek to answer any specific questions members have. I outlined at an earlier stage that the purpose here is to enable the department to deal in a practical way, subject to Court approval or Attorney-General's approval, in certain circumstances, with small trusts which have run into difficulties. They may have no trustees any more or the purposes for which they have been drawn up originally may no longer be relevant. I beg to move that clause 37 and schedule 1 stand part of the Bill.

**Mr Crowe:** Mr President, I would like to second clause 37. This obviously is not a core activity of the health services department. Is it intended that the work of acting as trustees et cetera in holding assets would be contracted out to the private sector, or would it be maintained by the department acting?

**The President:** Mrs Christian.

**Mrs Christian:** The current position is that, whilst it is not a core activity, certainly there is quite a lot of activity. A lot of gifts of different kinds are given to the department under a variety of different headings, and it gives the department a responsibility to manage those funds appropriately and properly.

The hon. member asks whether it is going to be handed out to another organisation. I am not conscious of anyone having considered that at this stage, but I presume that the department would have powers to delegate the trusteeship to whomever it chose to appoint. At the moment the department itself takes on the responsibility of trusteeship in respect of gifts which are given direct to the hospitals. There are, of course, other trusts which have their own trustees. This provision makes appropriate suggestions for ways in which to handle the failure of those trusts to function properly.

**The President:** Mr Radcliffe.

**Mr Radcliffe:** I can understand the department's proposed method of dealing with smaller trusts, which I suppose in today's terms are insignificant in the contribution that they make towards any particular institution. Times and costs have long taken away their value. As the hon. mover knows, I am involved with a larger trust which mostly deals, with the hospital in the North. I seek some sort of assurance as to whether that trust is to be allowed to go on without too much interference from the department. I think everyone acknowledges that it does not do an unreasonable job off its own bat, in co-operation with the local hospital there and I would hate to think that the funds to which we have access will be swallowed up eventually by the department.

**The President:** Mrs Christian to reply.

**Mrs Christian:** I am very happy to respond to that and I refer the hon. member to my comments at the first reading. Clearly he has not taken reassurance from my comments at that time.

**Mr Radcliffe:** Well, I am seeking reassurance again members.

**Mrs Christian:** He is seeking a further reassurance which I am very happy to give him. Paragraph 6 of the schedule enables regulations to exclude any hospital trust from the powers which we are taking unto ourselves. We have been in discussion with certain of the large trusts which function extremely well and give great support to the hospital services to exclude them under the powers given here. They know that they are going to be excluded. We have no intention of endeavouring to interfere with the way in which they operate. I hope I can reassure the hon. member on that. We seek to work in co-operation with those trusts as we have done in the past. I hope that will continue into the future.

**The President:** Hon. members, the motion is that -

**Mr Radcliffe:** I am obliged to the hon. minister for that reassurance. I hope that that goes outside this House (**Mr Delaney:** Hear, hear.) so that the general public know that they will be allowed to carry on.

**The President:** It is a double reassurance; there we are. Clause 37 and schedule 1 stand part of the Bill. Those in favour please say aye; and against, no. The ayes have it. The ayes have it. We then have clause 38, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. There is nothing corresponding to this clause in the 1948 Act - this is new. This clause imposes a new obligation on the department to set up a statutory complaints procedure. It requires the department to make regulations setting up a statutory procedure for persons provided with services under part 2 - that is the primary health services - or part 3 which relates to the hospital and specialist services. It specifies the publicity to be given to the procedure. I beg to move clause 38 stand part of the Bill.

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

**The President:** Hon. members, the motion is that clause 38 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. Clause 39.

**Mrs Christian:** Clause 39 enables the health services to be made available to non-residents - for example, visitors or persons coming to the Island for treatment - subject to any conditions which may be laid down by regulations. I beg to move clause 39 stand part of the Bill.

**Mr Crowe:** I beg to second.

**The President:** The motion, hon. members, is that Clause 39 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 40, Mrs Christian.

**Mrs Christian:** Clause 40 introduces a new power to make provisions for regulating the medical and related professions by order, subject to Tynwald approval. There is no corresponding provision in the 1948 Act.

The background to this is that the Island does not have its own system of licensing doctors or dentists and other health professionals. We rely on the licensing systems operating in the United Kingdom. Manx legislation based on certain provisions of the corresponding United Kingdom Acts is mainly to prohibit unqualified persons holding them self out as being qualified as doctors, dentist, opticians, nurses and midwives.

The United Kingdom has recently enacted legislation under which future regulation of the medical professions will be affected by Order in Council instead of by Act of Parliament. Changes in any of the UK systems of regulation may therefore be made at short notice. There is a need for a quicker means of amending the corresponding Manx legislation in order to avoid discrepancies between here and the United Kingdom.

For example, we would not wish practitioners who are suspended in the United Kingdom to practise here because of a loophole. It may also be useful to use the same procedure to introduce systems regulating other professions which are subject to the new UK legislation but which are not yet regulated in the Isle of Man.

Sub-clause (1) enables the department to make an order amending the Acts regulating the professions which I outlined earlier and take account of any changes in the regulation of those professions by an Order of Council.

Sub-clause (2) enables the department to make an order to regulate any other medical profession which is subject to regulations under the 1999 Act of Parliament. They are listed as pharmacists, osteopaths, chiropractors, chiropodists, dietitians, medical laboratory technicians, occupational therapists, physiotherapists, radiographers, art therapists and prosthetists. This is a new provision. As yet these practices are not regulated in the Island, or not all of them.

Sub-clause (3) enables an order under (1) and (2) to make consequential amendments and repeals, and any other incidental provisions which may be needed. These order procedures must be approved by virtue of a draft approved by Tynwald before the order is actually made.

Sub-clause (5) requires the department to consult the relevant professional body before laying a draft order before Tynwald for approval.

Sub-clause (6) makes it clear that an order under (1) or (2) can cover any matter which a UK Order in Council can cover. This is a new provision which gives us the ability to act in a responsive manner to any changes as a result of UK changes in the controlling mechanisms for these professional people. I beg to move that clause 40 stand part of the Bill.

**Mr Crowe:** I beg to second.

**The President:** Mr Delaney.

**Mr Delaney:** When the minister was reading out the list of people who were not covered by an Act but could be covered by an order, pharmaceutical suppliers were mentioned. Does that not cover the point raised by our colleague in relation to ensuring that we do not have a monopoly on the Island? An order could be raised to limit the number of pharmaceutical outlets they have.

**The President:** Mrs Christian to reply.

**Mrs Christian:** Mr President, the matter relates to the professional standards in relation to practising pharmacists or any other practices. It is to do with their professional standards and qualifications.

**Mr Delaney:** Not the outlets?

**Mrs Christian:** It is not to do with the outlets.

**Mr Delaney:** That is fine.

**The President:** Mr Lowey.

**Mr Lowey:** I can understand doctors and dentists and opticians having their standards and that we do not run schools. However, we run a school of nursing. Does that mean that our school of nursing is not competent to run those courses? We have a school of nursing but we do not have a medical school or opticians and dental school. I accept what the minister has said but what about the exception regarding our nursing school?

**Mrs Christian:** Our nursing system relates to the United Kingdom system. It would be unhelpful to students to have an exclusive Isle of Man qualification which was not recognised anywhere else. For that reason, our nursing school is designed and required to meet the standards of the United Kingdom licensing system. It has to meet the standards of the various colleges which are affiliated with it in terms of provision of the course. It does not mean that they have to leave the Island to get the qualification, but that the standards applying here in our nurse training programme are equal to the United Kingdom's.

**The President:** The motion, hon. members, is that clause 40 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 41.

**Mrs Christian:** Clause 41, Mr President, and schedule 2 preserve the present arrangements for consultation with certain professions which have to be made through named bodies.

Sub-clause (1) requires consultation with the medical, dental, pharmacists and opticians professions to be through the relevant bodies listed in the schedule.

Sub-clause (2) enables regulations to amend that schedule to take account of any name change of those bodies, for example, or to add or provide consultation with a different body. I beg to move clause 41, schedule 2 stand part of the Bill.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second, Mr President.

**Mr Delaney:** Just to raise one point, Mr President -

**The President:** Lord Bishop.

**The Lord Bishop:** I may be out of order here, Mr President, but there is nothing in this Bill about chaplaincy services. How does that fit in with the new Bill in view of the fact that the chaplaincy service is very much an integral part of the health service?

**The President:** Mr Delaney.

**Mr Delaney:** My point is simply on schedule 2. We have made provision to talk to the pharmacists and consult them in the Isle of Man Association of Pharmacists. If what Mr Radcliffe mentioned occurs, we will finish up with one company and all those people will work for it, so we will only consult that company. Is that not right, no?

**Mr Radcliffe:** I would view it that way, but I am probably wrong. I do not know.

**The President:** Mrs Christian to reply.

**Mrs Christian:** Yes, thank you, Mr President. First, chaplaincy services are not provided for in a statutory form. They were not included in the 1948 Act and are not embodied in this particular piece of legislation. They have been developed outwith the statutory framework as being recognised as an adjunct or a part of the provision in the hospital for spiritual care. The department has not considered whether that needs to be statutory and it is not included in the Bill.

I do not know whether the Lord Bishop feels that there is a need for a statutory imposition on the department in respect of that. We have worked on a non-statutory but I hope satisfactory basis hitherto, and I would hope that would continue. Certainly we make provision for chaplaincy services in our budgets and for a chapels to be a part of our hospitals.

**The Lord Bishop:** I know that chapels are included in the new bill but, if it is not made statutory, they could at some stage be considered to be an unnecessary part of a building. When you have a tight budgetary system you might say, 'Well, that has to go' and it will if it is not statutory to do it.

**The President:** I ask members to note there was an amendment to schedule 2 so that it has changed in your green paper. The amendment was passed in the Keys to turn the Isle of Man Association of Pharmacists, to which Mr Delaney referred, as the 'Isle of Man Pharmacy Contractors Association'.

The motion is that clause 41 and schedule 2 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, I am aware of the clock, I do not wish to rush you, but I would like to finish this before lunch. Clause 42.

**Mrs Christian:** Clause 42 sets out the procedure for making of regulations under the Bill and enables regulations reproducing corresponding United Kingdom regulations to be backdated.

Sub-clause (1) provides for certain regulations of the Bill to require Tynwald approval. Anything to do with charges will have to have Tynwald approval.

Sub-clause (2) keeps the existing procedure for regulations which do not require Tynwald approval under (1) - that is, they can be laid before Tynwald and be subject to annulment by resolution of Tynwald, on any matters which are not financial matters.

The other new provision is in sub-clause (4), which provides that a statement in regulations that they make provisions corresponding to United Kingdom regulations is conclusive so that evidence of validity of backdated provision does not have to be adduced.

Sub-clause (5) requires the department to consult the advisory body set up under clause 2, and any profession affected, before it makes any regulations under the Bill. I beg to move that clause 42 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**The President:** The motion, hon. members, is that clause 42 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Mrs Christian, perhaps we could complete the Bill with clause 43 and 44 and the short title at clause 45, as well as the two remaining schedules.

**Mrs Christian:** Yes, Mr President. Clause 43 defines various terms used in the Bill. Clause 44 and schedules 3, 4 and 5 make transitional provisions and consequential amendments and repeals and enable regulations to make further transitional provisions should that be necessary. Clause 45 gives the Bill its short title and provides for it to come into force on an appointed day or days. I beg to move clauses 43, 44 and schedules 3, 4 and 5 and clause 45 stand part of the Bill.

**Mr Crowe:** Mr President, I beg to second. I ask for your forbearance and that of my colleague. If the amendment I am moving next week is approved, it would lead to a consequential amendment in clause 44, so and I would like permission to move that as well, next week at the third reading.

**The President:** So there may be a consequential amendment to clause 44?

**Mr Crowe:** Yes. It is on a definition of education and reference to the Education Act 2001 and the Education Act 1949. It is a very simple change but it is necessary that you give permission or we agree that it be passed or approved or considered.

**The President:** Providing it is approved and gets sufficient votes, it will happen.

**Mr Lowey:** Could I just ask the minister about clause 45, which states that 'This Act may be cited as the National Health Service Act 2000. As we are in the year 2001, I presume it automatically gets updated at that time?

**Mrs Christian:** I think it is automatically updated, yes.

**Mr Lowey:** That is fine.

**The President:** Hon. members, to make it clear and concise, the motion before us is that clause 43, clause 44 together with the schedules 3 and 4 and clause 45 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Thank you, hon. members. I think it is an appropriate time to have lunch. We will resume at 2.30 with the Adoption (Amendment) Bill. Thank you, hon. members.

*The Council adjourned.*

### **Adoption (Amendment) Bill — Second Reading Approved — Clauses Considered**

**The President:** We had reached item 5 on our order paper so we are dealing now with the Adoption (Amendment) Bill for second reading. It is in the hands of the hon. minister, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. The Adoption (Amendment) Bill is based on the UK Adoption (Intercountry Aspects) Act 1999. Adoption is a legal procedure whereby, under a court order, a child under 18 years ceases to be in law the child of its natural parents and becomes the child of its adopted parents. Intercountry adoption is a general term referring to the adoption of a child resident in one country by adopters resident in another.

Intercountry adoptions involving parents living in the Isle of Man are not very common. We have about three a year at the moment, but there is evidence to show that it is increasing in frequency both on the Island and in the United Kingdom where more than 300 children are adopted from overseas per annum. It is therefore important that the Island should have proper machinery in place to regulate such adoptions.

In 1993, an international convention met at the Hague and agreed to impose stricter requirements on intercountry adoptions to protect against cruelty and neglect. The convention has been ratified by the United Kingdom and this Bill will enable the convention to be extended to the Island. It has been

increasingly the practice in the United Kingdom to unofficially adopt children in other countries, where people avoid the official adoption procedures and bring children into the country without approval. There have been about 100 such cases a year in the United Kingdom.

This Bill seeks to prevent this happening here by creating new offences of failing to comply with regulatory requirements. When our current law on adoption was introduced in 1984, intercountry adoptions were unusual and detailed provision was not therefore included in the Act. The DHSS or an adoption society approved by the department may make arrangements for the adoption of a child, except where the child is a relative. That process is set out in regulations.

The Bill will enable the DHSS to apply the existing regulations with amendments and make new regulations to implement the 1993 Hague convention. In addition, an adoption order made in the United Kingdom or the Channel Islands is recognised by law in the Isle of Man. An order made in an overseas country is recognised by law if it is made in a country designated by order, the Adoptions (Overseas) Adoption Order 1985.

The adoption order made in a country other than a designated country is not recognised and the adoptive parents must make a subsequent application to a court in the Isle of Man, the United Kingdom or Channel Islands for an adoption order. This Bill provides that adoption orders made under the 1993 convention in any convention country are to be recognised.

The Bill does not deal with nationality, which is dealt with by UK legislation extending to the Isle of Man. The convention is important in that it acts as a framework, setting out minimum standards for intercountry adoption to work in the best interests of the children concerned. The convention is underpinned by the United Nation's Convention on the Rights of the Child, which includes references to adoption where parents can no longer look after their child. The Bill enables regulations to be made to give effect to the Hague convention, but also to regulate intercountry adoption in non-convention cases.

Consultation has taken place over the contents of the Bill with relevant sectors of the DHSS, the adoption agencies, the Manx Church Adoption Welfare Society and Nugent Care with whom the department currently contract for adoption services. This Bill strengthens the law relating to adoption and ensures that in terms of intercountry adoptions the Isle of Man complies with best practice which is in the interest of the child. I beg to move the second reading of the Adoption (Amendment) Bill 2001.

**The President:** Mr Crowe.

**Mr Crowe:** Mr President, I beg to second. I support this Bill. I would just raise a question on this recent high profile case of buying babies on the internet, which is very topical at the minute. In yesterday's press, it was announced that the UK were going to change the law to put some safeguards into buying babies on the internet for adoption. The minister might like to comment on whether we should pre-empt their legislation. What are her views?

**The President:** Mr Lowey:

**Mr Lowey:** A fortnight ago, I would have supported the Bill wholeheartedly. I know what the intent is. In the light of what the United Kingdom are now proposing, which is that no child would be allowed into the country unless it has the approval of the agencies of government, it seems to me that we would be very wise to make sure that that is incorporated into our legislation. Perhaps the minister could give an undertaking that the third reading of the Bill could be delayed a month to allow whatever their legislation is to mirror that.

The minister put it all in the last sentence when she said that uppermost in all of this legislation is the interest of the child. That is very important. We must bear in mind the horrible act of being sold on the internet. However the children are brought into a family, they should not be used as commodities. The

interests of the child is paramount. Our legislation is well meaning and I know that was the intention was to be up-to-date. I applaud the department for that, but if there is a change to come about in the next week or two - I believe it will be speedy - it would be wise for us to make sure that we incorporate that, too, in our legislation to mirror what I am sure is all our intentions.

**The President:** The Lord Bishop.

**The Lord Bishop:** Mr President, I pay tribute to the department in its support of the Manx Churches Adoption Welfare Society which, years ago, worked a bit on its own. In recent years, they have come together to provide what I think is an extremely high calibre service. It makes me feel that what we currently have is fairly well defended against the internet-type debacle we have seen, but you never quite know how these things are.

During my 12 years here, I have been extremely impressed with the work of the department, the social services and our own in this combined way in which we do our best to provide care for children in that sort of need and also to 'match', if that is the right word, to give them the parents that will look after them to the best advantage. We have a very good system and I am sure this Bill will reinforce it.

**The President:** Mrs Christian to reply.

**Mrs Christian:** Yes, thank you, Mr President. First of all, I thank the Lord Bishop for those comments. I, too, would like to reinforce his remarks in relation to the Manx Churches Adoption Society who work with the department and do a tremendous job under an increasing work load. They do so under an existing framework which has worked well, but the reasons for us seeking to bring forward this legislation are to strengthen that even further and to streamline intercountry adoption. The high profile of the twins at the current time is, if it had to occur at all, it is perhaps timely in relation to this Bill. However, whilst listening to the hon. member, Mr Lowey, I concur that changes may be required, but I certainly would not wish to slow down the clauses stage of the Bill until I have had time to take further advice from the department as to what changes are going to occur. Irrespective of any changes, we still need this particular measure to be adopted.

It might be helpful if I comment now on the United States position, which has highlighted a weakness in the convention that perhaps other countries will be seeking to tighten up on. Insofar as the department has been able to get information on this situation, I have been given the information that Mr and Mrs Kilshaw paid some thousands of pounds to an internet adoption agency. Most of us would find that abhorrent anyway. There may be requirements to deal with internet business apart from adoption in its more properly regulated form.

That adoption was completed in Arkansas, where the adoption rules to the rest of us who are signatories to the convention seem to be very lax and free from many of the safeguards which we would expect from someone in a country which is a signatory to the convention. However but each state in the USA has its own adoption rules, notwithstanding that the USA as a whole is a signatory.

That highlights the problem that the United States will have to address as to whether or not their individual states are meeting their national requirements. The result of this case apparently is that the United States authorities are calling for common adoption laws to be introduced across all their states. We have heard via the media various suggestions of the way these children have been moved around between one adoptive couple, then taken back by their mother and then sold on again to another couple with lawyers who have adoption agencies of their own being involved. It is a very messy situation.

It would appear that the adoption granted in the United States by a United States court allowed these children to be given temporary visas to enter England. Whether or not they stay there is a matter that is before the court in England today. As a result of this and notwithstanding that many countries are

signatories to the convention, we therefore would have expected the convention countries to apply the appropriate rigorous regulation.

However, there is an indication in the United Kingdom that the government intend to produce a response to this particular situation. The indications are that there will be something introduced to make it an offence for people to bring into England and Wales a child for adoption, unless a proper home circumstances report has been carried out in that country. They must also be deemed to be suitable to adopt by a local authority or an agency acting on its behalf. That adds a further safeguard to the situation, however, the information I have at the moment is that those attempting to dodge this could face up to three months prison or a fine of £600. I am not sure whether, if they are paying thousands out on an internet purchase, that is going to be the appropriate response. However, that seems to be the indication at the moment.

What I am concerned to establish before we deal with the third reading, provided the Council supports the clauses stages, is whether or not these changes in the United Kingdom will be carried through in primary legislation or by regulation. We believe, from what we have heard so far, that it is likely to be down the regulatory route. Our amendments today give the department powers to introduce regulations. I think that such a change in the United Kingdom would be followed down the regulatory route here rather than us having primary legislation on a slightly different basis. I hope that that information will assist members and I will certainly, at a later stage, update them on that.

With regard to the comment made by the hon. member, Mr Lowey, who I think suggested we might pre-empt any moves in other countries by introducing our own changes, whilst we might have an appetite for that, we are trying to operate on a level playing field, vis-à-vis the United Kingdom and the Channel Islands so that British island adoptions and movements are standardised to simplify the procedure. To that extent, I would be a little wary of introducing regulations of our own without being aware how these situations were handled somewhere else.

With that, Mr President, I will conclude my response. I hope I have covered all the points raised. It is interesting that this is happening at a time when, clearly, a weakness has been revealed in the whole of the adoption structure, notwithstanding an international convention and various signatories to it.

**The Attorney-General:** I want to be of help to hon. members, Mr President, Clause 9 of the Bill, which we will be looking at later adds a new section 44A to our principal Act. It probably is exactly the provision, which will deal with the problem of internet adoption. I do not want to steal the thunder of the hon. member who has the conduct of this Bill, but we can see that 'A person habitually resident in the British islands who at any time brings into the Island for the purpose of adoption a child who is habitually resident outside those islands, is guilty of an offence unless such requirements as may be prescribed are satisfied' and that provision is taken from section 14 of the Adoption (Intercountry Aspects) Act 1999 of Parliament.

I, like other hon. members, was interested to read the comment on the so-called internet babies. I am fairly certain that I did hear it say that the purpose of the amendments in the UK is to bring into force regulations which will be made under its legislation in the same way that the department may prescribe regulations at the time.

Whilst I very well understand the minister is anxious to proceed with the clauses, I do not think the problem that has arisen need deter us from that because the provision is there in the Bill and, if passed, will enable the department to make the regulations.

**The President:** Thank you very much. Mrs Christian, do you want to add anything to that?

**Mrs Christian:** No, I thank the learned Attorney-General for his advice on that particular issue, which restates the position that I had alluded to in that we can introduce regulations. I am pleased to have

confirmation that my understanding was correct, but we need to wait. I do not think the United Kingdom is likely in these circumstances to have to change any primary legislation. That is really what the Attorney-General is saying. Thank you.

**The President:** Hon. members, the motion before us is that the Adoption (Amendment) Bill be read for a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

We will turn then to clause 1 and I call on the Minister for Health and Social Security, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. Clause 1 enables the department, by making regulations, to implement the 1993 Hague Convention on the protection of children and co-operation in respect of intercountry adoption. The material parts of the convention are included as schedule 1 of the Bill. It also provides for the department to be the central authority or the body responsible for the implementation of the convention.

The department is able to approve adoption societies to be accredited bodies or agencies, which carry out the work under the convention. To do this the clause inserts new section 6, 6A and 6B into the 1984 Act. Section 6 enables the high court, that is the sole jurisdiction to make such orders on the Island, to make a convention adoption order under certain prescribed circumstances laid down by regulations under section 6A. These regulations may create criminal offences.

Section 6B provides for the department to discharge the functions of the central authority as defined in the legislation to carry out the work under the convention specified in articles 6 to 22 of the convention. Section 6B implements articles 9 to 11 by making certain approved adoption societies accredited bodies to carry out the work under the convention. Section 6B(3) provides for the functions set out under article 9(a) to (c) of the convention to be discharged by the department or accredited adoption agencies on its behalf. I beg to move that clause 1 stand part of the Bill.

**The President:** Mr Crowe.

**Mr Crowe:** Mr President, I beg to second. I support the clause. It highlights that, although we are an Island, we are not an Island which is isolated in world terms. We have to adopt various international conventions and norms if we are to progress in this world.

**The President:** Mrs Christian, do you wish to respond to that?

**Mrs Christian:** No, I thank the hon. member for his comments.

**The President:** The motion before us then is that clause 1 stand part of the Bill. Will those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We will take clause 2, Mrs Christian.

**Mrs Christian:** Clause 2 enables a convention adoption made in a foreign country to be recognised as what is called a full adoption in Manx law. It also makes provision so that adoption in certain countries, known as 'simple adoptions', can be recognised on the Island.

In moving the second reading of the Bill, I explained that adoption in the Isle of Man followed that in the United Kingdom. Adoption law in the British Isles recognises only the type of adoption that is called a full adoption, which creates a new legal relationship between child and adoptive parents and severs the legal ties with natural parents. In some countries certain adoptions - simple adoptions - do not totally sever the legal ties with natural parents.

Article 26 of the convention recognises both simple and full adoptions, but recognises that the child shall enjoy in the Island rights equivalent to those resulting from adoptions made in the Island. Adoptions

can therefore be treated as full adoptions, provided that the natural parents and relevant parties consent to this. To treat it any other way would require an application to the high court.

Sub-clause (1) amends the 1984 Adoption Act, section 28, and adds a convention adoption, that is one from a foreign country, to the list of adoptions that are recognised in Manx law.

Sub-clauses (2) and (3) make provision for a new section 29(3A), which modifies the effect of section 29(2), and is subject to a simple adoption. Section 29(2) provides that an application can be made to the high court, so that the severing of the parental legal ties to the child apply only to a limited extent, for example, so as not to take away from the child any rights to inheritance, if this would be more favourable to the child. This will apply only in the case of simple adoption and not in the case of a full adoption.

A new section 29(3) of the 1984 Act applies to two procedural provisions of the Judicature (Matrimonial Clauses) Act 1976. It deals with evidence in applications for and the effects of declarations as to marital status and enables the Attorney-General to intervene in proceedings for such declarations. I beg to move that clause 2 stand part of the Bill.

**Mr Crowe:** Mr President, I beg to second. I seek a little clarification. The minister is talking about simple adoptions and full adoptions. In both cases, they would be given in Isle of Man law full adoption rights and for a simple adoption in a foreign country to receive full adoption in the Isle of Man, it requires the parents' consent. This presumably would stop then those parents from claiming back the child after a simple adoption in their own country, but a full adoption in the Isle of Man. You did mention inheritance.

It was always my understanding that a full adoption meant that the adopted child received equivalent rights of inheritance in the country of its adoption and had equivalent rights to natural born children of a marriage. There seems to be a little greyness. Perhaps you can clarify simple, full adoptions.

**Mrs Christian:** I will endeavour, Mr President, to clarify such matters. I would appreciate if the Attorney-General will correct me if I am not quite right. My understanding, for example, is that where the reference is made to the child's rights to inheritance in the case of the simple adoption, it is inheritance from its natural parents. The way it was described to me was that you may have a family situation in a war-torn country in some very deprived part of the world where they have agreed to adoption, but do not want to totally sever all the child's rights or connections with the family.

Notwithstanding that in the Isle of Man the child has full adoption rights, there is a power in the high court to deal with the severing of parental legal ties in a limited way, for example, the child might reluctantly, but necessarily, be given up for adoption by the family in the area of the world where life is very difficult, but they would not want to take away from the child the right for the child to inherit from them. It is nothing to do, as I understand, with the inheritance rights in the family to which the child is now going.

**Mr Crowe:** Right.

**Mrs Christian:** Perhaps the Attorney-General can help me on that if I have not got it quite right.

**Mr Crowe:** Mr President, if I was adopting a child from, say, Romania and it was a full adoption in Romania and a full adoption in the Isle of Man, that child would be a full adopted child in the Isle of Man. It is was a simple adoption in Romania and a full adoption in the Isle of Man, do the parents in Romania have rights to claim back that adopted child? That was really the question.

**Mrs Christian:** No.

**The President:** Would those parents have rights to pass something on in inheritance form to that child?

**Mrs Christian:** My understanding is that the full adoption, as modified by the High Court in the Isle of Man, makes it partly a simple adoption. It leaves some rights with the parents, not of having the child back, but of being able to give to or communicate with the child.

**Mr Crowe:** Right.

**Mrs Christian:** I would appreciate some help from the learned Attorney-General.

**The President:** Mr Attorney-General.

**The Attorney-General:** Well, Mr President, I think the hon. member has described it admirably. It is a difficult matter, but the key to it all is set out at page 3 of our Bill where we see that it is open to the court to disapply the full adoption status, if it would be more favourable to the child for a direction to be given. Let us suppose that the parents in Romania had been very rich and that they had died without any other next of kin and that under Romanian law when somebody dies the whole estate goes to the child of the family. Perhaps the Attorney-General on behalf of the child, who would be treated as fully adopted here, but simply adopted, as it were, from the convention country, could urge to the court, 'Well, it would be in the interests of this child to still be treated as the child of the Romanian family to enable him to inherit. Mr President it is a difficult area and perhaps, as this is the second reading, perhaps I could look into that further if hon. members wish.

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

We will move on to clause 3.

**Mrs Christian:** Clause 3 implements article 24 of the convention, which states that the recognition of an adoption may be refused in a contracting state, only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

Sub-clause (1) amends section 41(1) of the 1984 Act to provide for the high court to annul a convention adoption on the grounds that the particular adoption was contrary to public policy. The effect of this is that the particular convention adoption will cease to have effect on the Island.

Sub-clause (2) and (3) amend section 41(4) of the Act to provide that, except for the amendment I have just mentioned in the previous sub-clause, the validity of a convention adoption shall not be challenged in any Manx court.

Sub-clause (4) provides in the Isle of Man for decisions of the court or other authority in a convention country or in the United Kingdom or Channel Islands to be recognised. I beg to move that clause 3 do stand part of the Bill.

**The President:** Mr Crowe.

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

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

Clause 4, minister.

**Mrs Christian:** Clause 4 inserts new definitions into the 1984 Act relating to convention matters. They include definitions of the convention adoptions. The clause sets the text of the convention as new schedule 2A in the 1984 Act. I beg to move that clause 4 stand part of the Bill.

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

**The President:** The motion, hon. members, is that clause 4 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

**Mrs Christian:** Clause 5 provides for the approval of adoption societies that may wish to act as adoption agencies in relation either to adoptions which are not intercountry adoptions or to all adoptions, including intercountry adoptions. This is contained in a new sub-clause (2)(a) in section 14 of the 1984 Act. A new subsection (2)(b) defines adoptions for which special approval is required.

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

**Mr Crowe:** I beg to second. That recent internet baby case suggested that in the USA, they seem to have intermediary adoption agencies. Will that be covered in this part of the Bill or in the 1984 Act? Does it cover or control the actions of intermediaries who might be involved in the buying and selling?

**Mrs Christian:** My own feeling is that legislation in the Isle of Man precludes agencies being involved. I think the difficulty is in the United States legislation in this particular case. It is up to the United States to deal with its provisions in different states in order that they all come into line with the required standards. I do not believe that our legislation would allow the introduction of agents and the exchange of moneys. Certainly this clause provides, as the Bill does, that we have to approve certain societies and agencies to exercise the proper judgments in respect of people's suitability to adopt children. I think that our examples, which the Lord Bishop mentioned earlier, indicate clearly in the Island that we have two agencies which are very well qualified to act in this capacity and do so with integrity and proper exercise of their functions.

**The President:** The approval of adoption societies is in the plural, is it not?

**Mrs Christian:** It is an approval.

**The President:** In the plural?

**Mrs Christian:** Oh, in the plural, yes, it can be more than one. We do want more than one.

**The President:** So it could be more than one.

**Mrs Christian:** Yes, but I cannot see us approving agents to act as brokers for the obtainment of babies.

**The President:** Thank you.

**Mr Crowe:** It is not that we set up a cottage industry to be an intermediary baby broker or whatever it is, whether it is legal or illegal.

**The President:** The motion then, hon. members, is that clause 5 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

We will take clause 6, minister.

**Mrs Christian:** Thank you. Clause 6 provides that where a child is adopted in the Island and comes from abroad, and where the arrangements for adoption are made by an adoption agency or the adopters are related to him, he must have lived with the adopters for six months rather than the 13 weeks as previously required. In other cases, the child must have lived with them for at least 12 months and a new subsection (4) is inserted into section 2 to achieve this.

I beg to move that clause 6 stand part of the Bill.

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

**The President:** The motion is that clause 6 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Mrs Christian.

**Mrs Christian:** Clause 7 makes amendments to the procedures for registering adoptions.

Sub-clause (1) requires the Chief Registrar, by an amendment to section 38(1) of the 1984 Act, to make such entries into the adopted children's register as may be required under schedule 1 of the 1984 Act.

Sub-clause (2) amends schedule 2 of the 1984 Act to remove the requirement to mark entries in the adopted children's register as a convention order. It also substitutes a new paragraph 3 in schedule 1 of the 1984 Act which requires the Chief Registrar to enter into the adopted children's register an adoption order made under the convention or an order made overseas which meets the criteria set out in regulations. It also sets out the form and content of applications for registration and by whom they can be made.

I beg to move that clause 7 do stand part of the Bill.

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

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

Clause 8.

**Mrs Christian:** Clause 8 makes minor amendments to the 1984 Act to make it clear that in an intercountry adoption, a home circumstances assessment report must be prepared by or on behalf of an adoption agency and that where an adoption agency has made arrangements for the adoption of a child from overseas, the placement will be treated as having been made by the agency, even though it is not directly involved in those stages which take place in the child's country of origin.

The clause inserts two new subsections in section 58 of the 1984 Act. Subsection (4) establishes the need to carry out an assessment to identify if the person is suitable to adopt a child.

New subsection (5) extends the reference to a child placed with any persons by an adoption agency in the case of a child from abroad to include reference to a child placed for adoption by those persons under the law of a foreign country.

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

**Mr Crowe:** Mr President, I beg to second clause 8. Can I just ask a question on citizenship? If a foreign baby is adopted in this country does his citizenship change if he is from Burma or Vietnam or wherever and is adopted in the Isle of Man? Does he become British by adoption or does he remain Vietnamese by birth? It is not something I would expect you to answer now, Mr Attorney-General, but something that is significant.

**The President:** Mrs Christian?

**Mrs Christian:** Yes, the Bill does not deal with nationality. That is dealt with under UK legislation extending to the Isle of Man. I imagine that any child coming into the United Kingdom and, via the United Kingdom, to the Isle of Man will first have to deal with the United Kingdom legislation with regard to the child's nationality. I do not know whether that means that they have to change their nationality on being adopted. This Bill simply does not deal with that issue.

**The President:** Mr Attorney-General.

**The Attorney-General:** I am afraid, Mr President, that I cannot help here. It is a difficult area and a specialised area, but I can try to make some enquiries for the hon. member.

**The President:** Mr Lowey, did you wish to comment?

**Mr Lowey:** No, it is far too complicated for me. Far too complicated.

**The President:** In that case, hon. members, I will put to you clause 8. Will those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We turn to clause 9.

**Mrs Christian:** Clause 9 makes it an offence for a person other than a parent, guardian or relative to bring to the Isle of Man for the purposes of adoption a child who is habitually resident outside of the British Isles, unless they comply with requirements to be prescribed in regulations.

The purpose of this clause is to deter those who bring children to the Island for the purposes of adoption without authority and who fail to make the presence of the child known to the Department of Health and Social Security. It does so to enable the department to visit the child on a regular basis - a child who becomes, under section 22 of the 1984 Act a protected child - in order that the department can be satisfied about the child's safety and welfare.

The clause inserts a new section 44A into the 1984 Act. It creates a criminal offence for a person habitually resident in the British Isles to bring to the Island a child for the purposes of adoption unless the person complies with the requirements as prescribed in regulations. I think that we have covered that point before; if regulations need to be changed to meet the situation we are currently aware of then that could happen.

Subsection (2) excludes those requirements in the case of a parent, guardian or close relative of the child.

Subsection (3) specifies the penalties for an offence under sub-clause (1).

Under subsection (4), proceedings for a summary offence under this section may be brought within six months from the date in which sufficient evidence came to the prosecutor's knowledge or within three years of the offence - whichever is sooner.

I beg to move that clause 9 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**Mr Lowey:** Could I ask for a bit of clarification on sub-clause (4)? If I see it rightly, after three years, if there is nothing being picked up, you cannot do anything about it anyway. However is six months from the date on which evidence came to the prosecutor's knowledge sufficient in the opinion of the prosecutor to warrant the proceedings? Who would be the prosecutor? Is it the Attorney-General? Is it the department? I have not seen the word 'prosecutor' very much in evidence in the primary legislation. Maybe it is, but it sounds rather strange to me.

**The President:** Minister, would you like to reply?

**Mrs Christian:** I have to say, Mr President, that I am not sure who would prosecute in respect of a breach. I imagine it would be the Attorney-General's department on instruction, or at least on being made aware of an offence either by the police or by the department. I would certainly undertake to try and clarify that point, unless the Attorney-General can confirm whether that is correct.

**The Attorney-General:** The Act has just been brought, Mr President. Sorry, it is -

**The President:** No, no.

**Mrs Christian:** We need the 1994 Act.

**The Attorney-General:** It is the 1984 Act.

**Mrs Christian:** The 1984 Act; it might say in there. Right.

**The President:** Section 44 of the 1984 Act.

**Mr Lowey:** It may very well be used in other Acts, but it does not read right somehow to me. It sounds almost American, but I do not like saying that in the circumstances.

**Mrs Christian:** There are rules made by deemsters, but whether they relate to that I do not know.

**The Attorney-General:** I am sorry, Mr President, I just cannot find the provision right away.

**The President:** It does not matter. I did notice that there is a whole clause in the 1984 Act with reference to nationality.

**The Attorney-General:** I saw that as well, Mr President. Yes, yes, I should have had this.

**The President:** We have come past that and I am sure it will be cleared later, but the actual prosecutor in this instance at the present we have not quite put our finger upon. I think that is it.

**The Attorney-General:** I would think it would be the department, Mr President, but perhaps again, may I just check that and come back to you and Mr Lowey?

**Mr Lowey:** No problem.

**The President:** Yes. Okay, in that case, hon. members, I put to you clause 9. Will those in favour please say aye; and against, no. The ayes have it. The ayes have it.

We now reach the miscellaneous and supplemental provisions under clause 10.

**Mrs Christian:** Clause 10 removes the difficulty affecting applications by Manx couples wishing to adopt children from the United Kingdom by enabling the Manx High Court to recognise an order made by a court in the United Kingdom freeing a child for adoption, thus removing the need for the natural parents consent to be sought again, so that if they have that freeing order in the UK, it will be applicable here.

The clause amends section 5 of the 1984 Act, which requires consent of each natural parent or guardian to the adoption of a child unless the court dispenses with consent on certain grounds. This can happen, for example, if the parent cannot be found, is withholding consent unreasonably or has abandoned or seriously ill-treated the child. Such consent is not required when there is in force a freeing order made in the United Kingdom.

I beg to move that clause 10 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

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

Clause 11.

**Mrs Christian:** Clause 11 and schedules 2 and 3 make minor and consequential amendments and repeals of the 1984, Act mostly to remove references to the 1965 Hague convention which have never been brought into force.

I beg to move that clause 11 and schedules 2 and 3 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**The President:** Hon. members, the motion before us is that clause 11 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

The final clause, clause 12, minister.

**Mrs Christian:** Clause 12 deals with the Bill, the short title, defines the terms 'the 1984 Act' and provides for the Bill to come into force on a day appointed by the Department of Health and Social Security to enable regulations to be made under various sections.

I beg to move that clause 12 stand part of the Bill.

**Mr Crowe:** I beg to second, Mr President.

**The President:** Hon. members, the motion before us is that clause 12 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

That brings to a conclusion the order paper before us today. Council will now sit in private for the summaries of proceedings in the Council of Ministers.

*The Council sat in private.*