

REPORT OF PROCEEDINGS OF HOUSE OF KEYS (QUESTIONS)

Douglas, Tuesday, 7th May 2002
at 10.05 a.m.

Present:

The Speaker (the Hon J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon A R Bell and Mr L I Singer (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon S C Rodan (Garff); Mr P Karran and Hon R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Hon R P Braidwood and Mrs B J Cannell (Douglas East); Hon A F Downie and Hon J P Shimmin (Douglas West); Mr D J Gelling (Malew and Santon); Mr Q B Gill and Hon Mrs P M Crowe (Rushen); with Mr M Cornwell-Kelly, Secretary of the House.

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**UK National Insurance –
Increase in Contributions –
Implications for the Island –
Question by Mr Quine**

Question 1. The hon. member for Ayre (Mr Quine) to ask the Chief Minister:

What are the implications for the Isle of Man for (a) businesses and (b) residents of the increase in national insurance contributions announced in the recent UK budget?

The Speaker: I call on the hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr Speaker. I beg leave to ask the question standing in my name.

The Speaker: I call on the hon. member for Onchan, Mr Corkill, the Chief Minister.

Mr Corkill: Thank you, Mr Speaker. The increase in national insurance contributions announced in the recent United Kingdom budget will have implications for Isle of Man-based businesses who employ people who are resident in and work in the United Kingdom - for example, sales persons. In this case, the liability for national insurance contributions will fall under UK law. In contrast, Isle of Man-based businesses who send Isle of Man resident employees to work in the United Kingdom fall under what is known as 'detached worker provisions' whereby the worker sent to the other country, in this case the United Kingdom, remains subject to the national insurance law of the country in which his employer is situated, in this case the Isle of Man. Such detached workers, therefore, will not be subject to the increase in national insurance contributions as per the United Kingdom budget.

Turning now to Isle of Man residents, where an Isle of Man resident is a detached worker in the Isle of Man being employed by a United Kingdom employer, then his employment will be subject to United Kingdom national insurance law, and this, of course, will include the increase in contributions announced in the United Kingdom budget.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: May I take it from that that the Chief Minister is confirming that the NI contribution increases - *de facto*, of course, a tax on employment - are embraced by our reciprocal agreement with the United Kingdom?

The Speaker: Chief Minister to reply.

Mr Corkill: I think I said in answer to a question from the hon. member, Mr Cannan, member for Michael, at last week's sitting, sir, that in fact the Isle of Man Government, in particular the Department

of Health and Social Security, were still examining the outcome of the United Kingdom budget decisions where it would appear that a precedent had been set, and at this time I have no further comment to make.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Some considerable time has now passed since the UK budget. Surely this is the key issue: either we are caught within this through the reciprocal agreement or we are not caught within this NI contribution increase. If the Chief Minister cannot give us an assurance today - and I would have hoped that this would have been clarified by now (**Mr Henderson:** Hear, hear.) - will he give us an undertaking to advise us, as a matter of some urgency, as to our position in relation to the reciprocal agreement?

The Speaker: Chief Minister to reply.

Mr Corkill: The hon. member is trying to make a case for urgency. Can I say, as I did a week ago, that these changes within the United Kingdom will not be occurring until April of next year and that we do have some time to consider in a balanced way the issues before us. That is not to say that nothing is happening; in fact we are certainly studying the situation, and as I have said, the UK action does appear to be something of a new departure in that, for the first time in the life of the national insurance scheme, contributions will be paid by employees which will not rank for the purpose of determining benefit entitlement. The new provision imposes a one per cent rate of contribution on employees in relation to that tranche of their earnings, if any, above the upper earnings limit, which is currently set at £585. Pensions and other benefits are duly determined on the basis of contributions paid on earnings between the lower and upper earnings limits, and the UK has no proposals for amending that feature of the NI scheme. The one per cent rate of contribution by employees on that part of their earnings above the upper earnings limit thus only represents, except in name, a general tax on earnings. This is the very issue that we are carefully considering and, as I said at last week's sitting, I mentioned the amount of revenue that could be raised if we were to introduce a similar provision here, but at this stage I was not estimating or stating a decision one way or the other.

Now, a week has gone by since that statement and the hon. member is saying there is a case for urgency. I would say that the government will be producing clarity in the near future but the timescale of one week would not allow for proper consideration.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that the issue of the upper limit being done away with has been raised by the DHSS on a number of occasions? And would he also

not agree that many of us believe that it would not be unreasonable for that upper limit to be removed in order that more resources can be got from the ones who are earning the money in order to make sure that we have the first-class health service that is properly resourced to do so? So would the Chief Minister tell this hon. House that these issues have been raised at least on three or four occasions by the Manx DHSS as a unilateral measure in the past?

The Speaker: Hon. member for Onchan, Mr Corkill, Chief Minister, to reply.

Mr Corkill: The hon. member, my colleague from Onchan, Mr Karran, has issued his view that the ceiling should be removed in order to allow more revenue to be collected in that way. That is not the issue that the United Kingdom Chancellor was talking about. He has introduced something different from that; he has not done away with that limit at all. Can I say that there has been a very impressive record of investing in health by the government, particularly in recent years. If there is a need to raise more revenue for improving our health services then that will be done, but that is a separate issue from the question before us today. The actual amount of government expenditure in the year 2002 is £68.8 million, which accounts for a very big percentage of general revenue that goes towards our health services, and so obviously funding of our government services is a very important issue for us all.

The hon. member, Mr Karran, has suggested a way of raising even more revenue for that purpose and I take note of what he says, but really what we are talking about are issues of reciprocity here as to whether we need to follow and in fact, as I have said, the United Kingdom would appear to have diverged from its normal way of dealing with the national insurance scheme. There are other things here involved in this taxation other than health, because this is the NI fund which funds many, many things as well as health including the pension supplement, the retirement payments - there is a whole list of them in my briefing paper here: disability benefits, people who are in a position of unemployment - and these moneys are used for a variety of purposes and I think we ought to keep that in mind before a balanced decision is reached.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Surely the Chief Minister appreciates that in the context of the Island's businesses they need to know, as a matter of urgency, what is the position in relation to this UK budget measure and that is a matter of urgency. Continued uncertainty, I am sure he will accept, is not in the interests of Isle of Man businesses.

Secondly, in regard to the decision which of course is UK-led, they have announced a specific range of measures for small businesses in order to alleviate the impact of the proposed increases. Now, here in the Isle of Man I would suggest that the great majority of our

businesses are small businesses, so what consideration is being given preparatory to addressing that problem?

The Speaker: Chief Minister to reply.

Mr Corkill: I think the hon. member for Ayre is failing to appreciate the great steps forward that the Treasury minister announced in his budget only a few weeks ago, where in fact corporate taxes, particularly for small businesses on the Island, have been reduced in order to increase competitiveness, and this has been a way of acknowledging that costs for businesses on the Island have risen, salaries have risen, operating costs have risen and we are very determined to keep business competitive so in fact the Isle of Man can now boast some of the lowest corporate rates of tax to keep that business competitive of any jurisdiction in this part of the world, and certainly it is policy of government to maintain that momentum.

Now, the hon. member is saying that there is uncertainty in this area of national insurance and for a moment or two there will be. The degree of urgency, I would say, he is overstating. As I have said, these changes will not come into effect in the United Kingdom until April of next year. That gives us a little time to consider the impact if we were to apply those changes on the Island, but in fact that is a decision, as I have said before, that the government has not yet taken. Now, uncertainty - we try to remove that for business on an ongoing basis and this is an issue that will be dealt with, but I think the hon. member is overstating this.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that the point that I raised in my question was to do with the issue of reciprocal agreement? The fact of the matter is we have full flexibility as far as that is concerned. The fact that we spend 30 years contributing to our national insurance fund through our contributions without Manx workers being able to get redundancy pay, which was part of the agreement we decided to ignore - would the Chief Minister not agree in this House that we have the flexibility, or you and the executive have the flexibility, to either take on these implications as far as these national insurance contributions are concerned or not?

The Speaker: Hon. Chief Minister to reply.

Mr Corkill: Mr Speaker, on the issue of reciprocity, whilst on the face of it the terms of the agreement would seem to prevent the Island adopting rates of NI contributions which differ from those in the United Kingdom, there may well be scope for adopting differential rates in circumstances where the imposition is for purposes other than the national insurance scheme. There are precedents, notably between 1976 and 1984, when in the United Kingdom a surcharge on the employer's rate of contribution was imposed for

general revenue rather than national insurance scheme purposes, and that surcharge was not applied in the Isle of Man at that time. This is a complex area that deserves full scrutiny and that is what is happening, Mr Speaker.

The Speaker: A final supplementary. Mr Quine, the hon. member for Ayre.

Mr Quine: The small business package which has been announced by the UK Chancellor - I think the number is 10 in total - in relation to that list of 10 items, can the Chief Minister advise me how many of those items are embraced by our Customs and Excise Agreement and therefore are not at our gift to change? And secondly, in respect of those items, how many of them already represent a more favourable position here on the Island than in the UK and consequently our position in competitive terms would be reduced to the extent that we cannot afford to grant the same benefits?

The Speaker: Hon. member for Onchan, Mr Corkill, Chief Minister, to reply.

Mr Corkill: Mr Speaker, I have not got the full details of all those 10 initiatives in front of me today. Can I say I am heartened that the hon. member for Ayre does appreciate that the United Kingdom is a major competitor of the Isle of Man as a jurisdiction, recognises that taxation is something which incurs costs for businesses and is something that has to be taken account of. I am aware of one particular measure, and the hon. member talks of the Customs and Excise Agreement; can I say that the issues to do with the Customs and Excise Agreement are totally within the control of this Island and Tynwald, and in fact all the decisions to do with the Customs and Excise Agreement are voluntary; there is nothing constitutional, it is nothing outside of our remit. We choose to have a Customs and Excise Agreement which can be terminated by either party with six months' notice, and I know the hon. member would perhaps wish to see that perhaps happen at some time. I would restate that that agreement is very much in the interests of this Island; I would not wish to see it threatened. There have been moves by the United Kingdom Government to remove some of bureaucracy in the VAT system for small businesses and that is very encouraging. The proof of the pudding will be in the eating of that, because what has been announced may not be quite as easy as has been suggested by the Chancellor in the United Kingdom, but certainly anything that removes bureaucracy and cost for small businesses will be as welcome in this Island as it will be in the United Kingdom, our major competitor in a number of areas.

**VAT Rate –
Concessions for House Building
and Improvements –
Question by Mr Houghton**

Question 2. The hon. member for Douglas North (Mr Houghton) to ask the Minister for the Treasury:

- (1) *Will you extend the concession in respect of the five per cent value added tax rate on household building work and improvement which expires in December 2002; and, if so*
- (2) *for how long do you intend to extend the concession?*

The Speaker: I call on the hon. member for Douglas North, Mr Houghton.

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

The Speaker: I call on the hon. member for Ramsey, Mr Bell, the Minister for Treasury.

Mr Bell: Mr Speaker, hon. members will recall that I made reference to this subject in my budget speech in March, when I pointed out that the Treasury was seeking, with its United Kingdom counterparts, to have this concession extended. The concession itself was achieved by way of a special derogation obtained by the United Kingdom under a European Union Council decision of 28th February 2000. As far as I am aware, the current position is that a proposal will be put by the commission to extend the scheme for at least one year.

Because of the structure of our agreements with the United Kingdom and the relationship between the United Kingdom and Europe, it is not possible for the Island to make a unilateral decision to extend this concession. However, I am aware that the European Union intends to undertake a review of that rationale and scope of reduced rates of value added tax during the year 2003. The Island has been asked to complete a report to assist with that process and we shall continue to press the United Kingdom to represent our views on this issue.

The Speaker: Hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I welcome the hon. minister's comprehensive reply to try and extend this special derogation but could I ask him - he is doing his best, I appreciate that - could he try and extend it for three years rather than one? It would be pointless to extend such an important initiative as this for just one single year.

The Speaker: Minister for Treasury to reply.

Mr Bell: Mr Speaker, I think it is fair to say that if I had my way as Treasury minister this would be a permanent extension and a permanent feature of the VAT arrangements, because undoubtedly it has been very beneficial to the Island, it stimulated a lot of small business and ironically has actually brought more money into the revenue with the lower rate than it did with the higher rate. (**Mr Houghton:** Hear, hear.) But, as I did explain, this is not entirely in our hands and we have to recognise the agreement which we freely negotiated and work within the boundaries of that agreement.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the minister, due to the fact that it has actually brought in more money by lowering the rate, inform this hon. House what sort of amounts of money are involved in this initiative? And would he not agree that when we put the motion down in 1997 the issue was that the government then was proactive as far as making representation on this issue, and will he look at the issue of whether it would pay us to actually pay into the agreement in order to keep this level of taxation going in order to stop the black economy that was happening that brought this about in the first place?

The Speaker: Minister for Treasury to reply.

Mr Bell: Mr Speaker, I do not have the figures here with me this morning to give the member the information he seeks, although the actual figure itself is irrelevant; the point is that it did bring in more money at the end of the day than the higher rate did. Treasury is proactive all the time on many of these issues to argue the case for the Isle of Man. We have strenuously put forward an argument that this concession should be extended at least for one year and, if not, as I have said to the hon. member for North Douglas, on a permanent basis. I do not believe, though, that we should willy-nilly go in and try and adjust the terms of this particular agreement. As the hon. Chief Minister has previously said, this agreement is extremely beneficial to the Isle of Man. It has proven its worth especially over the last few years and we need to be very careful before we start to tinker with the terms of that agreement.

**Young Convicts –
Rehabilitation after Release –
Question by Mr Henderson**

Question 3. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Trade and Industry:

What procedures and policies has your department adopted in assisting convicted persons, especially young convicted people recently released from detention

and wishing to get on with their lives, to learn from their mistakes and find gainful employment?

The Speaker: I call on the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the question standing in my name.

The Speaker: I call on the hon. member for Douglas West, Mr Downie, Minister for Trade and Industry.

Mr Downie: Thank you, Mr Speaker. Although my department will seek to enhance an individual's potential to secure future employment, it is not within our remit to assist convicted persons to learn from their mistakes and we have neither the resources nor the appropriately trained staff to do so. The primary sources of advice for such individuals are through the probation service and the Social Services Division of the Department of Health and Social Security as part of their work. They do utilise the resources of both the Jobcentre and the Training Centre where our staff are available to provide advice and assistance which is intended to help individuals with a previous criminal conviction to secure gainful employment. Each individual needs personal attention according to his or her circumstances in order to determine the most appropriate way forward. The issue of previous convictions is only one of a range of matters that may need to be addressed and it is not considered practical to develop specific procedures and policies in relation to this one area. Indeed to do so, we would be viewed in some quarters as discriminatory.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Would the minister agree with me that it is very difficult for a person, especially a young offender, to find gainful employment following a recent criminal conviction, which has to be declared on a job application form for at least 12 months, and that employers require some encouragement to assist in this area? Would he further accept that currently there exists a dangerous hiatus within this declaratory period for job applications and will he give an undertaking to review this system which has the potential of turning genuine people back to a life of crime?

The Speaker: Minister for Trade and Industry to reply.

Mr Downie: Yes, as far as I am concerned, the youth service and the probation service are there to provide all the necessary advice and I am sure that the Training Centre are only too willing to assist but, as far as I am concerned, the message that needs to go out to young people is 'do not get into trouble in the first place and mistakes made in early life can seriously affect your career prospects in the future.'

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I thank the minister for his answer but I am afraid it is issue-dodging. Would he accept that as far as his department is concerned and as far as their remit can go some of the responsibility here lies with the Training Centre and his Jobcentre, and that there is an actual hiatus here where young folk are going to the Jobcentre and there is very little help that the folk in the Jobcentre can offer in the way of employment advice because it is difficult to find a job when you have to declare something on a job form? And therefore would he agree with me that it is time for his Training Division and his Jobcentre section to talk to the relevant agencies he has spoken of to try and strike up something, including a list of sympathetic employers who may be able to help out on a trial basis and see how that goes?

The Speaker: Minister for Trade and Industry to reply.

Mr Downie: I am sorry I do not accept the comments that the questioner has posed to me. In the Isle of Man a lot of work that is carried out involves banks and insurance companies; a lot of workers now work out of hours in offices, a lot of security work is carried on and, in fairness, the message that needs to go out to people is that we have a situation where there is rehabilitation of offenders but that takes a few years to come into force, but if a person is permanently in trouble in a small place like the Isle of Man, no doubt they will have difficulties getting employed because people will not employ people who have a record of, in particular, crimes involving theft. In the Training Centre the staff do talk on a regular basis to people from the probation service, people from the Salvation Army who run the David Gray Trust and, where possible, we try to accommodate their wishes but, as I have said, the Isle of Man is a small place and if you get a reputation for being light-fingered, I am sure that a lot of these companies just will not take you on, so the message I have to repeat again is: in a little place like the Isle of Man, do not get into trouble in the first place.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that they are not the only section of the community that have problems with employment? We have the disabled who have problems, we have other sections of the community, and the accommodation issue that the minister told this hon. House about, in David Gray House, is equally a problem for these people to get them out of the circle? But will the minister take on board representations that I have made to the Employers' Federation some considerable time ago about getting a more advantageous apprenticeship scheme, less bureaucratic, less on paper qualifications and more on practical

knowledge, and would he look at trying to get some more progressive schemes in to get employers to take on more apprentices (**Mr Henderson:** Hear, hear.) in the building trade? This would be maybe one way of helping this section of the community. Up to now, after going to see the Employers' Federation on a couple of occasions, I still see no action on that point - plenty of promises from your department but no action. Will he make a point of going to see them because that would be one way of helping this section of the community? Those that are in our community cannot get into the finance sector because they are not academic enough?

The Speaker: Minister for Trade and Industry to reply.

Mr Downie: I am only too pleased to inform the questioner, the hon. member from Onchan, that I do meet with the Employers' Federation on a regular basis; so does the manager of the Employment Division. I also meet with the construction forum. We have plans to bring on 360 apprenticeships in the forthcoming year and in fact the Department of Trade and Industry is in regular discussion with the Department of Education where we are looking to work together on various schemes and, where possible, we will be trying to bring younger people into the system, particularly those who are not really suited for a career in banking or finance, and try and, by vocational training, utilise their full potential.

As far as people who have been in trouble in the past, the probation services typically deal with persons over 17 years of age and provide help directly through advice and assistance provided by the probation officers on matters such as help with writing letters of application, help in preparing for interviews and help occasioned by officers establishing contact with employers to encourage them to take on their clients. On a more basic level, probation officers have been involved in securing suitable clothing for their clients to help them with their efforts to secure work. So we are mindful that there are people out there who perhaps have put a foot wrong in the past, but there are, as far as I am concerned, enough avenues of assistance available with the system to make sure that these people do eventually get properly located and hopefully gainfully employed and get back to being useful members of society again.

The Speaker: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I wonder, could I ask the minister - he has mentioned a number of groups that are working with these people - if he could set up an intergovernmental group which would look at broadening out the assistance that is given to people that have been in custody because of criminal activities, encouraging them to find gainful employment? As the questioner has suggested, would he not agree that whilst we are not assisting these people, we are assisting them actually to use their time

ungainfully, so would he look with all these other groups to see if we could not assist these people instead of passing more laws which tend to criminalise more people? I think there needs to be a balance.

The Speaker: Minister for Trade and Industry to reply.

Mr Downie: Yes, I am more than willing to refer this matter to the manager of the Training Centre and see if they can do some co-ordination work, but I think one of the issues that does really justify government's policy in the procurement of a new prison is to have a situation where, rather than locking people up all the time, they can be retrained, they can be re-educated in some ways and hopefully, when they do leave their time at Her Majesty's pleasure, they will have developed some useful skills and will be able to integrate better into society, and perhaps at this stage this is the time when there needs to be better co-ordination between potential employers and those who, sadly, have a criminal past.

The Speaker: Before I call on the next hon. member to ask a question I would ask hon. members, because there has been a drift, to focus on the main question, which is to do with convicted persons. I will not allow the questions to go too broad. Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Will the Minister for the Department of Trade and Industry agree with me that my properly placed question on this morning's question paper is referring to a range of folk in our community, including young people, but specifically people who are willing to try their hardest to amend their ways? Will he agree I am not referring to recidivists or any other long-term criminals? Will he agree with me I am referring to folk who are really wishing to have a genuine try and make amends for something that they deeply regret? And will he further agree with me that this problem that I am highlighting is just that; that I am not being confrontational with him but I am asking him to examine at least the 12-month period where somebody who is trying to find employment finds it difficult? Will he please agree this morning to a commitment - and I thank him for getting his Department of Training involved - to look at ways of getting employers on board who may be sympathetic to trialing out employing these young people who are trying their very best?

The Speaker: Minister of Trade and Industry to reply.

Mr Downie: Yes, I will concur with some of the points that have been raised by the hon. questioner but, as far as I am concerned, it really is not the Training Division's requirement or duty to interface with potential employers when they do have a person on their books who has a criminal record. Now, I see it quite clearly as being part of the remit of the probation service or the DHSS or some of the other agencies who

have a first-hand working knowledge of that person. I, sadly, do not have the resources available either at the counter, where hundreds of people come in on a regular basis to enquire about jobs, to give this information. We do not have a situation where we can interview people in privacy and go into their backgrounds; I think that would be unjust. I do know that there are a number of employers in the Isle of Man who are working with the probation service and aftercare services and they are more than willing to give people with a criminal record a start, but I must emphasise the point I made: in a little place like the Isle of Man it makes sense to me that you do not get into trouble in the first place and find yourself in this unfortunate situation.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, whilst welcoming the reply to my question about 300 apprentices being taken on, would the minister not agree that it is a fact that many of these young convicted persons are older by the time they come out to be able to take up apprentices? Will he look at the schemes of apprenticeships where it is worked on their age so the older they are, the less advantageous they are to the employer, and will he look at the schemes to see whether there can be more flexibility in order that older people can retrain? Just like we see with SENs being able to train up to become SRNs, maybe we can see his department looking at the possibility of where we have the likes of labourers becoming plasterers and things like this. Will he look at that issue as well as the issue of apprenticeship flexibility as far as making sure we can get a scheme together where we can get employers in a position where it is advantageous for them to take on apprentices in order to help this section and other sections of the community as well?

The Speaker: Minister of Trade and Industry to reply.

Mr Downie: Thank you, Mr Speaker. I am very pleased to inform the hon. questioner that, as well as a very comprehensive apprentice training scheme, we also run a number of retraining schemes and these are suitable for people who in the past have been semi-skilled. You may have been an electrician's mate or an electrician's labourer; they can now go and do the relevant courses. The same applies with other skills in the construction industry, and this is part of government's overall policy. There is a chronic labour shortage in the construction industry at the moment and you will know that one of the main objects that I have in my rôle is to procure a new training centre so that we are able to extend our services even further. The department is also responsible for IT training, we have recently entered into a partnership with Manx Telecom and we run a number of new training initiatives in most parts of the Island. We use some of the public buildings in Ramsey, Peel and the South. These are held on a regular basis and they are a good means of

providing a refresher course for people on IT and get them to improve their computer skills, but the member can be assured that we are doing our utmost to provide proper retraining and I will give him this invitation now: he can come and visit the Training Centre at any time and can come and talk to some of the young people and some of the older end of the market who are involved in the various schemes, and I think you will be surprised at the progress that has been made.

The Speaker: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. In response to my question, is the minister suggesting that it is the policy of this government to lock up huge numbers of people in the new prison instead of using probation or community service?

The Speaker: Minister for Trade and Industry to reply.

Mr Downie: I would not interfere with the decisions made by the judiciary. The decision rests with them whether people get locked up or whether they go on probation but, as far as I am concerned, for those seeking employment with a criminal record there are a lot of opportunities available through their Probation Officer, through the DHSS and through the other agencies that are available, but it is not my remit to interfere with decisions of the judiciary on sentencing or whether a person goes to jail or whether they go on probation. That is a matter for the courts.

Rehabilitation of Offenders Act – Department of Home Affairs Liaison – Question by Mr Henderson

Question 4. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Home Affairs:

Do you accept that, as the sponsoring department of the Rehabilitation of Offenders Act 2001, in order for the principles behind this legislation to be truly effective your department must accept some responsibility for the success of those principles, and in doing so must liaise with relevant agencies if it becomes apparent that there are deficiencies or problems with this new legislation?

The Speaker: I call on the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the question standing in my name.

The Speaker: I call on the hon. member for Douglas East, Mr Braidwood, Minister for Home Affairs.

Mr Braidwood: Thank you, Mr Speaker. As I have previously stated, the Department of Home

Affairs sponsored this legislation because it felt it was both necessary and right in principle. The department framed the legislation to take account of comments made during the consultation process, hence the Manx and UK Acts being similar in principle but different in detail.

My department has received no information suggesting that there are any problems or deficiencies in this legislation; indeed, it appears to be working well. The Department of Home Affairs is proactive in this regard. It is aware of the ongoing review in England and Wales relating to the Rehabilitation of Offenders Act. My officers are keeping a watching brief over this review. If changes are recommended intended to make the Act more effective whilst promoting the twin aims of rehabilitation and protection of vulnerable groups, they will be considered and, if felt appropriate, brought forward in amending legislation.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Will the hon. minister agree with me that there in fact is a problem with the Rehabilitation of Offenders Act? It is the same problem I highlighted to him a week or two ago and the same problem this morning that I have been questioning the hon. minister for the DTI. Will he agree that there is a problem, and he knows very well what it is - that is, the minimum of a 12-month period where somebody has to declare on a job application form that they may have a conviction, and that is causing young people, especially, a problem finding employment because employers are less enthusiastic about employing them? And would he further agree that he needs to talk to the DTI and Social Services in order to address this position and, instead of saying, 'Oh, it is somebody else's problem and some other department' and running round in circles trying to offload his responsibility, would he agree to finally take the reins up and initiate something to help our people?

The Speaker: Minister for Home Affairs to reply.

Mr Braidwood: Thank you, Mr Speaker. No, I would not agree with the hon. member for Douglas North, Mr Henderson, in saying that there is a problem. I think the hon. member for Douglas West, the Minister for the DTI, has covered a lot of the points, but what I would like to say is that any person over 17 or offender comes under the probation service, and a good probation officer will have an informal list of sympathetic employers. As the hon. member knows, offenders under the age of 17 come under the Social Services. Now, the hon. member is mentioning a year but if a person is convicted they have to have a spent time and that spent time at the present time is one year -

Mr Henderson: I know that.

Mr Braidwood: - and unfortunately that is in the Act. That is the whole point. They have to have a spent time before that offence is taken away so that on the application form they do not need to put down the offence. A probation officer will also take charitable assistance such as to assist ex-offenders such as the Police Court Mission, and I feel at the present time everything possible is being done to assist those people who have an offence before it is spent on their conviction.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Will the hon. minister agree with me that I am not in any way wanting to have the conviction removed earlier? What I am on about - it is quite obvious and to the members of the public out there that the very simple thing which I seek is for his department to talk to other departments, because, within the 12-month period that I am specifying, somebody who is really trying to get back into society and who realises they have made a mistake is finding it difficult and is having problems finding employment. That is the whole issue of why we are here this morning and my questions. And is he also aware that the Jobcentre at times hold their hands up to folk trying to find employment because they do not know what to do, there are no information packs? Would he agree that perhaps a little bit of liaison with a couple of departments and some more information may well be beneficial here?

The Speaker: Minister for Home Affairs to reply.

Mr Braidwood: Mr Speaker, I cannot speak on behalf of the Jobcentre, but what I can say is I am quite willing, my department is very sympathetic and will liaise with any other department such as the Department of Trade and Industry or Department of Health and Social Services.

**Isle of Man Constabulary –
Local Recruitment – Training –
Question by Mr Henderson**

Question 5. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Home Affairs:

You are reported as stating that the police Training Sergeant had submitted to a police policy committee a request that the Isle of Man police force should move away from its recruitment policy of recruiting local candidates and candidates with local connections to candidates from further afield due to an apparent lack of experience levels; it is also reported that you gave a categorical assurance that your department would be sticking to the original policy of local recruitment. Therefore, given this information, what initiatives will your department be undertaking to help our police gain

the kind of experience the Training Sergeant is seeking?

The Speaker: I call on the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the question standing in my name.

The Speaker: I call on the hon. member for Douglas East, Mr Braidwood, Minister for Home Affairs.

Mr Braidwood: Thank you, Mr Speaker. From time to time unsolicited enquiries are received by the constabulary from experienced police officers who have served in forces in the United Kingdom. Some of these officers have Manx connections and some do not. Hitherto, those with Manx connections have been invited to join the constabulary subject to satisfying the selection criteria. Presently the constabulary are in correspondence with eight officers serving in forces in the United Kingdom who have a broad range of experience, all of whom have Manx connections. In the meantime the constabulary has redesigned the training programmes in an effort to compensate for an identified lack of experience at divisional level within the force.

In the near future development courses are to be run for 40 officers at constable level. These are the first courses of this type to be run on the Isle of Man and this demonstrates the priority the Chief Constable gives to the training and development of his officers.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr speaker. I thank the hon. minister for his positive reply there and recognising local training requirements, but would he not agree with me that if there are any failings in the remit for training it is down to the fault of senior management if staff have not got the right training and experience profile required, and that is where any failings lie - for not initiating adequate and appropriate training programmes in the first place?

The Speaker: Minister for Home Affairs to reply.

Mr Braidwood: Mr Speaker, I think I said in the answer to the initial question a training programme has now been implemented. (**A Member:** Hear, hear.) Previously, before the arrival of the new Chief Constable, no training programmes had been put into force.

The Speaker: Hon. members, question 6 has been withdrawn and therefore will not be raised.

**Postage Stamps –
Return of Proof Sets to Archives –
Question by Mr Houghton**

Question 7. The hon. member for Douglas North (Mr Houghton) to ask the Chairman of the Post Office:

Can you confirm that all proof sets of stamps which were previously issued to members of the Post Office Board have now been returned to the Post Office archives?

The Speaker: I call on the hon. member for Douglas North, Mr Houghton in relation to question 7.

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

The Speaker: I call on the hon. member for Ayre, the Chairman of the Post Office, Mr Quine.

Mr Quine: Thank you, sir. According to the Post Office records no proof of stamps has been made available to board members since February 1977. All proof stamps are recorded and retained in the safe custody and under the control of the Isle of Man Post Office. That is the position post-1977. In terms of past events I would refer the hon. member to the proceedings of Tynwald Court dated 21st December 1976 and 26th April 1977 which related to a similar question and consequent police inquiries and audit inquiries into a similar allegation. An assurance was given by the then Chairman of the Post Office in April 1977 that all proof stamps had been handed back and that the Governor of the day and the Attorney-General had certificates from the auditor to this effect. If the hon. member has evidence to the contrary I would, of course, be pleased to have that matter investigated.

The Speaker: Hon. member for Douglas North, Mr Houghton.

Mr Houghton: I simply thank the hon. member for his full and comprehensive answer this morning, sir. Thank you.

The Speaker: Hon. members, that completes item 1 which is questions for oral answer. Item 2 on our order paper is questions for written answer, and the questions and answers will be circulated in compliance with our standing orders.

**Banks – Fixed Tax Liability –
Question by Mr Karran
for Written Answer**

Question 1. The hon. member for Onchan (Mr Karran) to ask the Treasury:

- (1) *Will you provide a list of licensed managed banks in the Isle of Man, together with details of their deposit base and, where applicable, any negotiated fixed liability to Isle of Man tax;*
- (2) *on what date did fixed liability in these cases start; and*
- (3) *what is the estimated cost to the Isle of Man revenue for such tax arrangements?*

Answer

The 'managed bank' category was created in 1986 through an amendment to the Banking Act 1975. The Banking Act 1998 did not continue this category but banks in that category that were licensed prior to the coming into effect of the 1998 legislation were 'grandfathered', i.e. were allowed to continue their business as before under the new legislation.

Currently six licence-holders operated on a 'managed bank' basis. These are:-

Standard Bank Asia Limited
Clydesdale Bank PLC
Coutts (IOM) International Limited
National Irish Bank Limited
The Derbyshire (Isle of Man) Limited
The Standard Bank of South Africa Limited

Five of the six are managed by other banks with the same banking group which have a presence in the Island. The sixth is managed by a third party manager, which has a presence in the Island.

The aggregate deposit base for the six banks at 31st March 2002 was approximately £2.8 billion.

The six banks concerned are all subject to taxation under the statutory provisions of the Income Tax Act 1970 (as amended) as approved by Tynwald and none of the six are the subject of any negotiated fixed liability to income tax.

There is, therefore, no additional cost to the Isle of Man revenue in relation to the taxation arrangements of these banks other than the normal government costs. As the House will appreciate, such costs are far outweighed by the benefit to the Island of the presence of these and the many other financial institutions which have chosen to have a presence in the Island and reinforce the Island's status as a premier finance centre.

**Employment Tribunal – Legal Aid
Applications – Question by Mr
Henderson for Written Answer**

Question 2. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Trade and Industry:

- (1) *Are employees making an application to the Isle of Man Employment Tribunal eligible for legal aid;*
- (2) *if not, will your department review this situation;*
- (3) *will you supply information on any inadequacies that this may cause, given the expense of legal fees, which an employee bringing a case to the Isle of Man Employment Tribunal may not be able to afford?*

Answer

- (1) Legal aid is not available to parties to proceedings before the Employment Tribunal, but it is understood that limited assistance may be available under the provisions of the green form scheme, which effectively allows for approximately two hours work to be undertaken by an advocate.
- (2) As explained to the hon. member in reply to his question in Tynwald in December 1999, legal aid is not a matter falling with the Department of Trade and Industry's remit. The hon. member will be aware that the Council of Ministers announced the appointment of a Legal Services Commission on February 1st 2002 to review the operation of legal aid on the Island. The commission is chaired by Mr Malcolm Bishop QC and the other members are Mr Peter R Wood, a local advocate and nominee of the Isle of Man Law Society, Mrs Anne Craine JP, Mrs Elaine Christian JP and Mr Bernard Moffatt, Isle of Man Regional Organiser of the Transport and General Workers' Union. The commission is expected to report before the end of the year.
- (3) The Employment Tribunal is expected to have a flexible and, as far as is appropriate, informal approach to conducting hearings to enable parties, whether represented or not, to present their case, provision being made at Rule 10(1) of the Employment Tribunal Rules 1992 that:

'The Tribunal shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings; it shall so far as appears to it appropriate seek to avoid formality in its proceedings and it shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before the courts of law.'

An individual bringing a case to the Employment Tribunal is not compelled to engage legal representation and, indeed, may choose to either represent himself/herself or to seek representation from a trade union or other source as felt appropriate, provision being made at Section 6 of Part II of Schedule 4 to the Employment Act 1991 that:

'Any person may appear before the Tribunal in person or be represented by an advocate or by a representative of a trade union or an employers' association or by any other person whom he desires to represent him.'

Consideration, in light of the above provisions, as to whether the lack of legal aid gives rise to inadequacies will, no doubt, be an issue for the Legal Services Commission to consider.

**Rehabilitation of Offenders Act –
Basic Principles – Question by
Mr Henderson for Written Answer**

Question 3. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Home Affairs:

What are the basic principles behind the introduction of the Rehabilitation of Offenders Act 2001?

Answer

This Act has its origins in the report prepared by the Gardiner Committee titled 'Living it Down' which resulted in the UK 1974 Rehabilitation of Offenders Act.

The Island from 1974 to 2001 was, in effect, out of step in that we discriminated against the individual who offended in their early years but then became a model citizen. Without our 2001 Act that individual could never live down their past as they permanently had to declare it to their prospective employers.

This Act does not concern itself with recidivists, it is aimed at the many who offend once or perhaps a few times and then try to settle down to a law-abiding existence.

Its overall aim is to restore the offender who has reformed to a position in society no less favourable than that of one who has not offended.

I believe that this aim is laudable, Mr Speaker, as indeed is the Act itself.

**Rehabilitation of Offenders Act –
Consultation before Introduction –
Question by Mr Henderson
for Written Answer**

Question 4. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Home Affairs:

What bodies were consulted prior to the introduction of the Rehabilitation of Offenders Act 2001?

Answer

The department undertook a comprehensive consultation exercise before progressing this Bill. As hon. members may remember, the concept of this Bill was rejected initially but the department felt strongly that the legislation was both morally right and necessary, hence its reintroduction into the legislative process.

The department advertised for responses in the media, generating considerable press comment. In addition, all government bodies and members of Tynwald were consulted directly.

The department, due to the nature of the legislation, also looked to different legal and geographical jurisdictions to ascertain what similar provisions existed elsewhere.

I believe, Mr Speaker, that this represents a real and genuine attempt to widely consult on an issue that the department felt was fundamental to the justice system.

departments refer on to my department, or the Probation Service, those seeking advice.

Persons coming from England and Wales are aware of legislation in that jurisdiction and are currently contacting the Probation Service to clarify the situation in relation to the Island's legislation. Hon. members may be aware that the time limits for rehabilitation do differ between the jurisdictions, with the Manx legislation being more comprehensively graduated.

A guide is currently being produced, but it is proving difficult to simplify the guidance whilst ensuring the advice is all embracing. It is hoped that this guidance will be available by the end of the summer.

**Rehabilitation of Offenders Act –
Informing Convicted Persons of
Rights Question by Mr Henderson
for Written Answer**

Question 5. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Home Affairs:

What processes do officers of your department adopt to ensure that any convicted person within the Island or relevant person who now resides on the Island is informed of their current rights under the Rehabilitation of Offenders Act 2001 in relation to spent convictions and when they no longer have to declare that conviction?

Answer

The department readily advises members of the public who seek information that the most effective means of ensuring they are in receipt of accurate data is to contact the Isle of Man Constabulary to obtain a copy of their criminal record. This ensures which offences are 'spent' under the Act and which are not.

The Isle of Man Probation Service has been approached directly and has been able to give advice on an individual case basis in relation to the facts supplied by the ex-offender.

Hon. members will be aware that the Rehabilitation of Offenders Act 2001 has certain exemptions that relate to the sentence the offender received and the nature of the work they are seeking to engage in. One purpose of the Act is to protect the vulnerable members of our society from exploitation.

Individual cases can be complicated and a practice has evolved whereby other agencies and government