



**HOUSE OF KEYS  
OFFICIAL REPORT**

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**PROCEEDINGS**

**DAALTYN**

**(HANSARD)**

**Douglas, Tuesday, 3rd May 2005**

**Present:**

The Speaker (The Hon. J A Brown) (Castletown); Hon. D M Anderson (Glenfaba);  
 Hon A R Bell and Mrs A V Craine (Ramsey); Mr W E Teare (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel);  
 Hon. S C Rodan (Garff); Mr P Karran, Mr R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle);  
 Mr J R Houghton and Hon. 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. J P Shimmin (Douglas West);  
 Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Mr P A Gawne (Rushen);  
 with Mr M Cornwell-Kelly, Secretary of the House.

**Business transacted**

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*The House adjourned at 10.37 a.m.*

## House of Keys

*The House met at 10.00 a.m.*

[MR SPEAKER *in the Chair*]

### PRAYERS

*The Chaplain of the House of Keys*

### CONGRATULATIONS TO CHAPLAIN

**The Speaker:** Now, Hon. Members, just before we proceed, just, I am sure we add our congratulations to our Chaplain, who, last weekend, went to Buckingham Palace to receive his MBE, (**Members:** Hear, hear.), presented by Prince Charles, and was accompanied by his family. So, congratulations.

**The Chaplain:** Thank you.

## Questions for Oral Answer

### TREASURY

#### PKF Report on MEA Letters to Ministers and senior civil servants re findings

1.1. The Hon. Member for Onchan (Mr Karran) to ask the Minister for the Treasury:

*With regard to the MEA –*

*(a) can you confirm whether or not any Government Ministers or senior civil servants have been sent letters by PKF detailing potential adverse findings; and  
(b) is the delay in issuing the PKF Report due to them awaiting a response from such parties?*

**The Speaker:** Hon. Members, the first Item on the Order Paper, is Questions for Oral Answer.  
Question 1, Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Question standing in my name.

**The Speaker:** I call on the Hon. Member for Ramsey, Mr Bell, Minister for the Treasury, to reply.

**The Minister for the Treasury (Mr Bell):** Mr Speaker, I can only speak for myself and the Treasury on this matter and not for other Ministers or Departments.

However, I can confirm that neither I, nor any of my

senior civil servants at the Treasury, have received any letters from PKF, detailing potential adverse findings. Therefore, the second part of this Question is not applicable.

I am aware that both myself and officers in the Treasury have been asked various Questions by PKF, as part of its information gathering, and have responded to these in a timely manner.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh tell us, have any Government Ministers or civil servants who have been given... as having Government pay, the legal advice to protect them, as far as any individuals concerned in this report?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, we have not received the final report yet, or, as far as I am aware, the draft of the final report. Therefore, to my knowledge, there have been no adverse findings and, therefore, there has been no request or need, indeed, from any civil servant or Minister, to the best of my knowledge, to need to apply for any financial assistance of that nature.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, could the Shirveishagh explain – seeing as he does not seem to know and yet there are letters flying about – what Government Ministers or civil servants have seen the written terms of reference provided to PKF? Will these be circulated to all Hon. Members of this Hon. House, as far as this scandal is concerned?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, the terms of reference for this inquiry were agreed by Tynwald Court. Indeed, the draft terms were circulated to Members for their comments, prior to them being issued to PKF, and were amended in response to some of the replies which we received from Members. Therefore, Members already have a copy of that, but, if the Hon. Member has forgotten what those are, I would be more than happy to have them recirculated.

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

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

In terms of the PKF investigation, could I ask if any Government Ministers or senior civil servants have seen a draft of the report for any comment? Also, does he have anything to help clarify the situation concerning the publication of the final report?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, I understand that a draft – an initial draft report, and I say ‘initial’, because that report had not been completed yet at the time and all the information that PKF were looking for had not been circulated to them – a copy of that report, a work in progress, in effect, was given to the MEA in the last couple of weeks. As a result of that, I understand the Chief Secretary wrote for a copy of that work in progress and that, to the best of my knowledge,

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### Congratulations to Chaplain

#### PKF Report on MEA – Letters to Ministers and senior civil servants re findings

rests in the Chief Secretary's safe at the moment and has not been circulated to any Minister.

In terms... I do not quite understand the second part of the Hon. Member's Question, as to how we are going to deal with the final report.

**Mr Quayle:** The publication of the final report.

**The Minister:** The Chief Minister has given an undertaking, Mr Speaker, that the final report will be made fully public, fully available to Members in an unedited version.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, could the Shirveishagh Tashtee just reassure this Hon. House that there have been no changes to the terms of reference, as far as what has been going on, especially in the fact it seems that everybody seems to be hearing things about this report and he does not?

Can the Shirveishagh Tashtee also explain to this Hon. House, to reassure this Hon. House, him and the Chief Minister, this way that they do not seem to know yet? There are letters flying about – that I know for a fact –

**A Member:** Ask the MEA.

**Mr Karran:** – to people involved in this Hon. House.

**Two Members:** Ask the MEA.

**Mr Karran:** Why is it that he cannot inform Hon. Members, as far as the issue is concerned, in this Hon. House?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, the terms of reference have not been changed. They are exactly the same as were agreed by Hon. Members of Tynwald some weeks ago. Treasury has deliberately kept a distance from this inquiry to ensure that it is seen to be totally impartial and no allegations of interference by Treasury could be laid at our door. So, we have deliberately kept a hands-off position on this.

As far as the letters and the information flying round that the Hon. Member refers to, it has got absolutely nothing to do with Treasury, or the central Government. I would suggest, as Hon. Members have hinted, the Hon. Member should direct his Questions at the MEA. They had the draft, or the work in progress, and it seems, from that moment onwards, that this information has got into the public arena.

**A Member:** Hear, hear.

**The Speaker:** Hon. Member, Douglas East, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker.

Can I ask the Hon. Treasury Minister whether or not he has had sight of the draft report himself and whether or not he has had any correspondence from PKF? Has he, or have they, asked him to make any comment in respect to any of the matters relating to the report, and has he made any comment?

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

**The Minister:** Mr Speaker, I have not read this report. I have had, as I have said in my Answer, a letter, along with a number of people in Treasury who have been involved with Treasury over the period, from PKF, asking for certain information about it, but that is only routine and that information was sent back to them.

## TRANSPORT

### Disabled drivers Parking time restrictions

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

*Has your Department recently imposed restrictions on the time a disabled driver may park on disabled spaces, if so –*

*(a) what is the maximum parking time; and  
(b) why has such a restriction been imposed?*

**The Speaker:** 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 Member for Douglas West, Mr Shimmin, Minister for Transport, to reply.

**The Minister for Transport (Mr Shimmin):** Thank you, Mr Speaker.

Special parking spaces for vehicles displaying valid orange or blue disabled badges have been identified throughout the Island to assist with mobility and access to commercial and shopping areas. Such spaces have a time limit specified on the sign adjacent to the parking space.

Within disk zones, disabled vehicles are permitted to stay for double the general parking period permitted in that street. For example, in a street with a two hour limit, vehicles displaying a valid disabled badge and time disk may stay for up to four hours. This rule also applies to vehicles that are parked in other permitted parking areas that are not specified disabled spaces. Providing they display a disabled parking badge and a time disk, they may park for double the time specified for that street. Disabled parking bays in off-street car parks will be subject to the individual regulations pertaining to that off-street car park and the time limit should be displayed on the sign.

Mr Speaker, whilst there is not one general rule regarding the time vehicles with disabled badges may park, my Department is not aware of any recent or general changes that have been made regarding permitted parking times for such vehicles. Therefore, Question (b) falls.

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

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

I am very grateful for the answer given by the Hon. Minister, Mr Speaker. Can he make comment, in particular,

about Regent Street in Douglas, which does appear to have a reduction in parking time for the disabled to 30 minutes? Does he not agree that 30 minutes is not an adequate period of time for somebody to get in and out of a vehicle and do their shopping and return within that period of time, sir. If he does agree with that, would he offer to do something about it, sir?

**The Speaker:** Minister to reply.

**The Minister:** Yes, Mr Speaker, whenever issues are brought to the Department's attention regarding the time allowed for vehicles to park in any particular area, the Department does revisit those Questions in order to try and find out whether or not they are adequate for the purpose.

This is the first time that the matter has been raised as a potential concern in the Regent Street area and, following the putting down of this Question, I have asked my officers to have a look and see if it is still appropriate, sir.

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

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

Once again, I am very grateful for the Hon. Member's reply. Can he also, while he is asking his officers to look into matters, note that there is a pole, a post denoting the restriction in Regent Street, right in the position where a disabled person needs to open his car door and is unable to do so. If his officers do agree that that post is in the wrong place, would he make some arrangements to have it repositioned in a place that is a bit more convenient, sir?

**The Speaker:** Minister to reply.

**The Minister:** Yes, Mr Speaker, following a conversation with the Hon. Member, we have evaluated this position and, indeed, the pole is situated on the edge of the pavement, making access and egress from the vehicle difficult.

Guidance regarding placing of these signs will be given to the Works Division and remedial action will be taken as soon as possible in this area, and if other areas are brought to our attention we will look to do the same, sir.

## TRADE AND INDUSTRY

### Manx Gas/International Energy Group Takeover by Australian company

1.3. The Hon. Member for Onchan (Mr Karran) to ask a Member for Trade and Industry:

(1) *Are you aware that the International Energy Group, the owner of Manx Gas, is currently being taken over by an unknown Australian finance company;*

(2) *are you also aware that the Australian finance company—*

(a) *has no previous experience in the gas industry;*

(b) *has no previous experience in running a European business;*

(c) *is capitalised at only about 50% more than International Energy Group;*

(d) *is funding its purchase entirely out of borrowed funds;*

(e) *is understood to be involved in Australian hedge funds;*

(3) *in the above circumstances can you advise what action you are taking to protect the interests of Manx Gas customers and employees regarding—*

(a) *excessive gas price increases to fund the purchase;*

(b) *asset stripping; and*

(c) *redundancy?*

**The Speaker:** Question 3. Hon. Member for Onchan, Mr Karran.

**Mr Karran:** I beg to ask the Question standing in my name.

**The Speaker:** I call on the Member for the Department of Trade and Industry, Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Thank you, Mr Speaker.

The Hon. Member has posed a number of Questions with reference to the fact that the International Energy Group is currently being taken over by an 'unknown Australian finance company'. I hope to be able to answer the Hon. Member's Questions on behalf of the Minister.

I can inform the Hon. Member that the Minister was aware that an offer had been made by Prime Infrastructure Management Limited for the International Energy Group (IEG) at some 273 pence per share. This offer values IEG share capital at some £202 million. The Minister has told me that he is also aware that, following discussion with a number of IEG shareholders, the board of IEG undertook a strategic review, which culminated in a confidential approach to a number of potentially interested parties. This resulted in a competitive bid process and ultimately led to Prime Infrastructure Management Limited's offer.

Further to this, the intention is that the offer will be implemented via a scheme of amalgamation of IEG and Prime Infrastructure Management Limited. This needs to be approved by IEG shareholders at an Extraordinary General Meeting to be held on Monday, 16th May 2005. Assuming the amalgamation is approved, it is expected to become effective on 25th May 2005.

Put simply, an offer has been made for IEG and the directors are putting the offer to the shareholders at this meeting. I have been asked to advise the Hon. House that the Board of Directors have unanimously recommended that the shareholders accept this offer. In commercial terms, this is a straightforward transaction.

In the second part of his Question, the Hon. Member refers directly to Prime Infrastructure Management Limited. In part (a) he says that the company has no previous experience in the gas industry. The Minister is aware of this. Prime Infrastructure Management is an investment company. It has invested in a number of energy companies. It is further understood the executives of IEG and all key officers of Manx Gas will remain in place and all of these, of course, have significant experience in the gas industry.

In part (b) he says that the company has no previous experience in running a European business. The Minister is also aware of this. Prime Infrastructure Management is

seeking to become the shareholder, not the manager. Again, the Department understands that the officers of Manx Gas will remain and will continue to direct operations here in the Island.

Mr Speaker, the hon. gentleman has raised three other issues in this part of the Question and the Minister has informed me that neither he nor the officers of the Department are aware of the points he raises in (c), (d) and (e) and has requested that the Hon. Member furnish the knowledge he has to Members, so that we can all share in that information.

In the third part of his Question, the Hon. Member asks what action the Minister is taking to protect the interests of Manx Gas customers and employees. This is highly speculative. It is understood that, at least initially, this acquisition will have little impact upon the operations of Manx Gas and thus its customers and employees. The Hon. Member will be aware that it is entirely legal for a private company to be sold in this manner. It would be in the vested interests of any owner to honour its legal commitments to customers and employees.

Speculating about price rises and asset stripping at this time is premature and could be unhelpful. I would remind the Hon. Member that the DTI is working with the Office of Fair Trading to progress primary legislation relating to energy regulations, in order to protect customers. IEG are aware of this.

Mr Speaker, we must be careful not to pre-judge the outcome of this proposal. We await the decision by the current shareholders of IEG. I would caution sending out the wrong signals to businesses who may want to invest in the Isle of Man and look forward to working with the owners and executives of IEG for the benefit of the Island for the foreseeable future.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** A supplementary. Could the Oltey – the Member for the Department – would she not agree and would she investigate that if her Department, or the Department that has complained about this Question and the damage it does to shareholders... that her Department needs to check up and get its priorities right to protect the citizens of the Isle of Man?

Would the Member also not agree that the fact is that we wanted an energy regulator back in 1990? Will this affair over this recent proposed takeover speed up the process in order to get the protection in for the consumers, as far as the Isle of Man, and will the Department look if there is a problem, as far as revenue is concerned?

Maybe you should, with the Office of Fair Trading being largely a waste of public money, maybe take the money from that in order to make sure that people are protected, as far as this vital part of infrastructure of the Island is concerned.

**The Speaker:** Member for Trade and Industry, Mrs Craine, to reply.

**Mrs Craine:** Thank you, Mr Speaker.

I think it is fair to say that DTI, along with the Office of Fair Trading, is here to try and protect the best interests of the Isle of Man, and its customers and Manx public. I do not know whether the energy regulator that was mooted

in 1990 would be speeded up, as a result of the current negotiations that are going forward, but I am sure that this is a consideration.

As for taking the revenues from... or the income, the money allotted to OFT, the Office of Fair Trading, I think this is a somewhat inflammatory remark. I believe that the –

**Mr Karran:** It is actual.

**Mrs Craine:** – Department of Trade and Industry is working quite comfortably and progressively with the Office of Fair Trading, in the best interests of the people of the Isle of Man and it is all our intentions to protect them as best we can.

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

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

Would the Hon. Member for DTI not agree with me that the best way to protect the interests of the people of the Isle of Man, over Manx Gas, is to have the Isle of Man Government take it over, like I brought the motion forward to the Court of Tynwald some 12 months ago.

Had that motion been passed, we would have been well on our way now to putting this matter right? Does she not agree, sir?

**The Speaker:** Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Thank you, Mr Speaker.

I cannot speak on behalf of the Department, obviously, but I do think that that is one option.

At the present time, it is necessary for us to await the outcome of the takeover bid that is currently going through and that suggestion will await a future day.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Member give this Hon. Court some sort of timescale, in order to make sure that if this company is successful, there is protection, as far as the consumers are concerned in this Island, instead of our usual way of letting the horse bolt before we actually do anything?

**The Speaker:** Hon. Member for Ramsey.

**Mrs Craine:** Mr Speaker, I am unclear as to what kind of timescale the Department could put forward as a measure of success on this. Perhaps the questioner could enlighten us a little further?

**The Speaker:** Hon. Member for Rushen, Mr Gill.

**Mr Gill:** Yes sir, on the point of enlightenment, would the Member speaking for DTI, join me in welcoming the opportunity to write formally to the Member for Onchan, the questioner, and seek his enlightenment and advice about how we might not, largely – in his words – be wasting money and how we might benefit from his experience and expertise in these matters, sir?

**The Speaker:** Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Thank you, Mr Speaker. I am happy that we seek the advice of the Member for Onchan.

I would say at this point, though, that it does not always do for us to be so negative about inward investment into the Isle of Man. (A Member: Hear, hear) I do think that, where we have the opportunity of receiving fresh investment, then we should give it our warmest welcome and, you know, let us have a little bit more positive attitude towards investors towards the Island.

**The Speaker:** Hon. Member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker.

Can I ask the Hon. Member, bearing in mind that the Hon. Member for Onchan's Question was correct in respect of (1) (a) and (b), does she not believe that it is incumbent upon the Minister for Trade and Industry to look into the aspects and get his officers to research those issues that are raised in (c), (d) and (e), rather than rely totally upon an Hon. Member of this House?

Is it not the Department's responsibility to ensure that, whatever happens to this company in the future, our people will be protected in respect of this utility?

**The Speaker:** Hon. Member for Ramsey, Mrs Craine to reply.

**Mrs Craine:** Thank you, Mr Speaker.

Yes, I am happy that the Department is currently looking into those issues. I merely asked that if the Hon. Member for Onchan has information that would assist us with those inquiries, that he circulate it to Members. Any information that we receive with regard to the responses for (c), (d) and (e) will, of course, be circulated to Members, Mr Speaker.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, will the Member for the Department inform the Chairman of the Office of Fair Trading that if he cannot listen to the input of the Hon. Member for Onchan, just read his *Hansard* and see how many times I have been proven right?

Will the Member also assure this Hon. House that her Department would be *proactive*, instead of reactive, about any issues of siding this off as some fast buck turnover, to cut the debt, as far as this proposed takeover company has got, and leaving the consumers of this Island, once again, the poor losers?

**The Speaker:** Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Yes, thank you, Mr Speaker.

I am quite content that the Department will be proactive in this matter. I do think that, as with in any issue of this nature, there is a degree of risk attached, but we are here to take risk, to take managed risk, and I accept that the Department will be giving serious consideration to the proposed takeover.

## LOCAL GOVERNMENT AND THE ENVIRONMENT

### Incinerator Extra fuel to ensure temperature

1.4. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Local Government and the Environment:

- (1) What amount of extra fuel was needed to keep the incinerator going at the correct temperature and what was the cost of this fuel;
- (2) what is the cost of chipped timber; and
- (3) why is your Department using diesel when such combustible materials can be taken free to save on the purchase of fuel and on the environment?

**The Speaker:** Question 4, Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Question standing in my name.

**The Speaker:** I call on the Hon. Member for Rushen, Mr Rimington, Minister for Local Government and the Environment, to reply.

**The Minister for Local Government and the Environment (Mr Rimington):** Mr Speaker, during normal operation the Energy from Waste Plant does not need to use extra or supplementary fuel to maintain combustion on the grate. However, at start up and shut down of the incineration process, supplementary fuel is required to achieve a temperature of 850° C on the grate, prior to the introduction of waste, and to maintain that temperature as long as waste is on the grate, thus ensuring complete combustion.

The primary line of the plant, which deals with household waste, notwithstanding some teething problems, has been operating satisfactorily since it was taken over in August 2004 and has been operating as I have just described. On occasion, it has been necessary to halt the delivery of waste to the grate and it is at such times that supplementary fuel will be introduced, in order to maintain the temperature of the grate whilst problems are dealt with and the waste is reintroduced.

An issue has arisen regarding the quantity of waste being received at the plant, in that it is at the lower portion of the operating window necessary for 24 hour annual operation. Whilst this is reassuring at the start of the plant's projected 25 year life, it has inevitably resulted in more stoppages than will ultimately be necessary, as waste quantities rise over the coming years. Taking into consideration the foregoing, the plant operator has estimated that, when operations have settled into their normal routine, it will be using approximately 25 per cent less oil per annum than it has been necessary during these early months of operation, following commissioning.

The secondary line, which burns animal and clinical waste, as well as waste oils, operates in a similar way, although there are two important differences. Firstly, it has always been anticipated its operations would include a weekly stoppage and, secondly, whilst fuel oil is used to start-up and shut down, the process would not be self-sustaining if not for the waste oil, which is used to maintain the high temperature required to destroy the other waste. Additionally, of course, the secondary line is required to burn at a higher temperature

than the primary stream, to ensure that the combustion process properly breaks down and destroys all potentially harmful matter. The type of supplementary fuel used has to be both clean and of a high calorific value, in order to bring the grate up to the temperature in both a satisfactory and timely manner. The plant's licence controls the type of fuel that might be used, as well as the type of waste which can be introduced when the grate is up to the required temperature. Chipped timber is categorised as a waste material and not a fuel. It cannot, therefore, be introduced to the grate until it has achieved the working temperature.

Government's contract with the operator involves the payment of a price per tonne of waste treated and, as such, the financial risk associated with burning supplementary fuel rests with the operator and not with the Government.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I thank the Shirveishagh for his informative reply.

Can the Shirveishagh tell us and categorically assure this Hon. House that extra fuel is not needed because of the lack of combustible waste going into the incinerator? Can the Shirveishagh also tell this Hon. House that, when he talks about the working temperature, is it because of the lack of calorific value materials, such as waste wood having to be charged at £100 a tonne to put it into the incinerator, that, if it was free, then there would be a cut down in the amount of diesel that is needed, because the working temperature would be extended, as far as the working of this facility is concerned?

**The Speaker:** Minister to reply.

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

I thank the Hon. Member for his supplementary. It probably gives me an opportunity to *try* and describe the necessary processes that are taking place. There is... I will not call it an issue, but it is a fact that the plant is operating slightly below its optimum and, therefore, the plant, instead of running on a 24 hour, seven days a week basis, is closing down on an estimated every six to eight weeks to allow waste levels to build up to that required amount for that continuous operation.

If there was that little bit more waste being supplied to the plant – and we are probably speaking of, on current information, 2,000, 3,000, 4,000 tonnes more per annum – then that would probably allow the more ideal situation of the 24 hour continuous operation and only closing down when it requires maintenance, or when there is a particular problem. So, therefore, in that sense, it is correct, by having to close down every six to eight weeks to allow for a small stockpiling of the waste stream, then, yes, because of that, there is extra fuel being used in the process of closing down and starting up again.

However, the solution to that, I do not think, is making waste wood, as one category of waste, free and others not free, but there is an issue to do with the charge of £100 per tonne, which is prohibitive for a number of a number of potential waste streams, particularly from the construction industry. It is an issue which the Department is very mindful of and will be addressing and putting forward proposals to try and rectify that in its forthcoming Waste Management Strategy.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh inform this Hon. House, is this problem, as far as the consistency of the temperature, is this a case of the design of the plant being too big, or is it the case of another problem, as far as not reading the small print on the contract with this service provider?

Would the Shirveishagh tell this Hon. House, surely it would be far more environmentally friendly to be waiving the charge on the likes of wood chip, instead of it being dumped out into the environment. It would be far better if it was being burned, saving diesel, which would be far better, as far as environmental qualifications are concerned. Will he review the likes of wood and the likes of cooking oil, and things like this, that I believe are making small businesses suffer quite a lot, trying to deal with different types of business?

**The Speaker:** Minister to reply.

**The Minister:** Yes, we are consciously reviewing the structure of waste charges, because we do realise that, as the structure is at the moment, it is a disincentive for businesses, certainly the smaller businesses, to dispose of their waste properly and that proper disposal is through the Energy for Waste Plant.

Chipwood, if it is clean wood – i.e. it has not been treated or painted or got nails in, whatever – can, quite legitimately, be used as a landscaping material and does not need to come to the Energy from Waste Plant. Wood that has been arising from the construction industry, that has, in any way, been contaminated with paint or any form of treatment, should be disposed of through the Energy from Waste Plant as a safe disposal route, because that is the decision of this Court, that we should use such a plant and that technology. That is in place and that is the way it should go.

I do appreciate what the Hon. Member is saying. There is a need to look very carefully at our waste arisings in the Isle of Man and what the appropriate charging levels should be to get this right balance, so that the Plant is running at an optimum level, but also to put in place, or get ourselves into the position, where we can actually start to increase our recycling of domestic waste.

It is a difficult balancing act. We are in the first year of the operation of the Plant. We are learning slowly about the issues that are arising from that and the impact it is having on waste arisings across the Island. We do need to be able to adjust and that is something we are looking most strongly at at this moment.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** A supplementary, Vainstyr Loayreyder.

Would the Shirveishagh not agree that, whilst he has inherited the problems, as far as this Plant is concerned, is it not a fact that it is a major problem at the moment, woodchip, trying to find places to put it? That is why it would be far better to put it into the incinerator.

Could I thank the Minister, the Shirveishagh, that there is going to be a review of charges. I hope he could tell this Hon. House what timescale it is going to be and will he be circulating to Hon. Members what the proposals are going to be, as far as the review is concerned?

**The Speaker:** Minister to reply.

**The Minister:** Yes, Mr Speaker.

First of all, I do not know the precise date of it, but we will be publishing our draft Waste Management Strategy for consultation this summer and that will include this whole issue of charges, as well. So there will be a period of consultation on there, prior to the issue that Waste Management Strategy coming back to this Hon. House for debate and decision.

There is not a problem with this chip waste wood... Well, there is a problem if it is just placed in the environment as a landscaping mulch, when it should not be used as a landscaping mulch. It should be going to a safe disposal route. Now, at the moment, that is the Energy from Waste Plant and that is the issue we need to address.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh see whether it can be speeded up, the timescale, because there are a lot of small businesses who are being hit, as far as the issue as far as the waste charges are concerned. I do hope that he can do it sooner rather than later.

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, if I had the financial flexibility in my budget and I had the significant resources sitting within my Department's budget, I would reduce the commercial waste charges tomorrow. I am not in that position, therefore it has to be a balanced approach going forward.

**The Speaker:** Hon. Members, that concludes Questions for Oral Answer.

Item 2 on the Order Paper is Questions for Written Answer, of which there are 12.

Hon. Members, those Answers will be put into your post boxes in the Clerk of Tynwald's Office by about 11 o'clock or 11.15 this morning, due to the numbers of Questions that have yet to be copied.

## Questions for Written Answer

### CHIEF MINISTER

#### H M regular armed forces Manx personnel redundancies

2.1. The Hon. Member for Rushen (Mr Gill) to ask the Chief Minister:

(1) *How many Manx personnel are currently serving in H M regular armed forces;*

(2) *are you aware of the British Government's intentions to impose redundancies to affect the 'balance of rank and age' within the services;*

(3) *how many Manx personnel will be made redundant as a consequence of this policy and what has the Isle of Man*

*Government done to protect Manx service personnel and their families in these circumstances; and  
(4) what actions does the Isle of Man Government now propose taking in this matter?*

**Answer:** (1) For the purposes of employment in H M Armed Forces, personnel are regarded as either British citizens or not.

The Army has a nationality field on the Armed Forces Personnel Record of Service, but the Navy and the Royal Air Force do not. Therefore, although I can give approximate figures for the Army (including trained and untrained personnel but excluding Gurkhas, full time Reserve Service personnel, the Home Service battalions of the Royal Irish Regiment and mobilised reservists), the full figures for the UK Armed Services are not available.

Currently there are approximately 60 persons who have declared themselves to be of Manx origin in Army records, but there are also a number of personnel recorded as British/mixed British and it is entirely possible that some of these could also be Manx, as could others who have simply failed to complete the relevant sections.

(2) I am aware that, over the next three years, there is to be a redundancy programme in the Armed Forces. In July 2004 the Defence Secretary announced plans for the modernisation of the Armed Forces, which were set out in the 'Future Capabilities' Command Paper. The aim was to ensure that the Armed Forces are most appropriately structured for the type of operations they are likely to face in the future.

In line with these changes, over the next three years, the force structure is to reduce by around 10,000. Around 5,000 of these posts are as a result of business process improvements in support areas, such as, for example, personnel administration and logistic areas. The remaining 5,000 are a result of policy compliant structure changes.

Overall Royal Navy manpower will reduce by some 1,500 by 2008; Royal Air Force by 7,500 and the Army by around 1,500, on normalisation in Northern Ireland. Where possible, these reductions are to be achieved by natural wastage, reduced recruitment and a programme of voluntary redundancy, although, to maintain a balance of experience and ability, a small number of targeted redundancies may be necessary.

In the Royal Air Force there is an intention to achieve some 2,750 redundancies over the next three years. Applications for the first tranche of redundancies were invited on 9th December 2004 and, as a result, around 500 personnel will leave the Service during the current financial year. On 30th March a second tranche of 1,200 redundancies was announced. Applications have been sought from eligible personnel for exit in the financial year 2006-07. Details of the remaining redundancies will be notified to Royal Air Force personnel when further work is complete.

In the Army about 400 individuals will be made redundant. The redundancy programme is split into two groups. The first group will be infantry officers. They will be notified of redundancy on 8th July 2005, to retire from the Army by 30th June 2006. The second group of infantry soldiers and Corps of Army Music officers and soldiers will be notified of redundancy on 1st May 2006, to be retired from the Army by 30th April 2007. There will be no redundancies in the Navy.

(3) The work to identify those being made redundant is still ongoing. For this reason, at this time it is not possible to determine how many Manx personnel will be affected.

(4) I do not believe it is possible at this present time for the Isle of Man Government to take any action in this matter. The Armed Forces are the responsibility of H M Government and the make up and deployment of Armed Forces personnel is a matter which falls within its responsibility.

**Constitution Bill 2004  
Progress through Legislative Council**

2.2. The Hon. Member for Michael (Mr Cannan) to ask the Chief Minister:

*Will you take the necessary action to ensure the expeditious progress of the Constitution Bill 2004 through the Legislative Council?*

**Answer:** The progress of Bills through the legislative process is a matter for parliament and not for the Chief Minister or Government.

The best I can offer is that I shall seek to ensure the administrative procedures to receive Royal Assent are conducted as efficiently as possible, if and when the Bill has completed the legislative process.

**Proceedings under Electricity Act 1996  
PKF statement**

2.3. The Hon. Member for Michael (Mr Cannan) to ask the Chief Minister:

- (1) In respect of the Electricity Act 1996 section 18, are you taking or have taken the appropriate action in asking PKF (Pannell Kerr Forster – forensic accountants) for a statement on whether there is a prima facie case for proceedings under the Act;*  
*(2) on what date did you make this request;*  
*(3) will you confirm that you have requested such a statement before 5th May 2005; and*  
*(4) have you already received a response from PKF and, if so, is there a prima facie case for proceedings under the Electricity Act 1996?*

**Answer:** Section 18 of the Electricity Act 1996 is concerned with offences under the Act committed by a body corporate and also makes provision for setting a time limit within which summary proceedings for an offence under the Act must be brought.

The offences which are created under the Act are as follows:

1. Proceedings for a breach of Regulations as to safety and supply pursuant to section 7 (as further explained by section 16).
2. Provisions relating to the restoration of supply of electricity without consent pursuant to paragraph 7 of Schedule 3 Part 2.
3. Provisions as to damage to electrical plant et cetera pursuant to paragraph 8 of Schedule 3 Part 2.
4. Provisions as to interference with works pursuant to paragraph 16 of Schedule 3 Part 2.
5. Provisions as to the use of unapproved meters pursuant

to paragraph 4 of Schedule 5.

6. Provisions as to the removal or alteration of a meter pursuant to paragraph 9 of Schedule 5.

7. Provisions as to interference with meters pursuant to paragraph 12 of Schedule 5.

8. Provisions as to the connection or disconnection of meters pursuant to paragraph 14 of Schedule 5.

In the circumstances, it is clear that section 18 has no application to the subject matter of the Pannell Kerr Forster Report and, in the circumstances, I do not consider that it is appropriate that I should approach Pannell Kerr Forster.

**TREASURY**

**Electricity Act 1996  
Powers to monitor MEA**

2.4. The Hon. Member for Michael (Mr Cannan) to ask the Minister for the Treasury:

- (1) Are you aware that the Electricity Act 1996 section 3 gives to the Treasury the power, after consultation with the Authority, to direct the Authority to take certain actions in respect of the Revenue of the Authority to cover outgoings et cetera having regard to its reserves;*  
*(2) will you state in full how the Treasury since January 2002, has used its powers to monitor the MEA activities and in particular used its powers to consult and give directions to the Authority; and*  
*(3) will you state the dates on which consultations have taken place and directions been given?*

**Answer:** (1) I am aware of the contents of Section 3 of the Electricity Act 1996, which states:

‘(1) The Authority shall perform its functions’

in connection with each of its undertakings referred to in section 3A

‘(1) so as to secure that [the] revenue [of the undertaking] is not less than sufficient to meet charges properly chargeable to revenue account, taking one year with another, and to enable the Authority to make such allocations to reserves as it considers adequate or as the Treasury may direct under subsection (2)(b).’

*[Subsequently (1) substituted by Gas and Electricity Act 2003 s 6.]*

‘(2) The Treasury may, after consultation with the authority, give to the Authority directions as to –

- (a) any matter relating to the establishment or management of reserves;*  
*(b) the sums to be allocated to those reserves; or*  
*(c) the application of those reserves;*  
 and the Authority shall comply with any such directions.

(3) A direction under subsection (2)(b) requiring the allocation of any sum to reserves may require in addition that the sum be so allocated for a particular purpose specified in the direction.

(4) A direction given by the Treasury under subsection (2) may be given to have effect from a date earlier than that on which it is given, but not so as to apply with respect to any accounting year ending more than 12 months before the latter date.’

(2) The Treasury has monitored the MEA’s activities since January 2002 by means of a quarterly review of capital expenditure, as evidenced by the returns submitted by the MEA, by participating in liaison meetings held with the MEA

and including representatives from the DTI, by participating in Task Team meetings, as part of the Corporate Planning Process, and by meetings between the MEA CEO and senior Treasury officers.

The information provided by the MEA at such meetings gave no cause for any concerns that might ultimately have resulted in the need to give directions to the MEA.

(3) Liaison meetings were held on the following dates:

13.02.2002  
17.05.2002  
08.11.2002  
14.02.2003  
07.05.2003  
10.09.2003  
14.11.2003  
18.03.2004  
19.01.2005

Task Team meetings were arranged by the Chief Officer responsible for the Task Team reviewing the MEA's future business plans. Meetings were arranged for January 2002, October 2003 and July 2004.

As stated, it has not been considered appropriate to issue any directions during this period.

#### **MEA capital works programme Treasury consultation, approval and monitoring**

2.5. The Hon. Member for Michael (Mr Cannan) to ask the Minister for the Treasury:

*In accordance with the Electricity Act 1996 section 4 –*  
(a) *on what dates did the MEA consult with the Treasury to obtain approval to settle a general programme of measures of reorganisation and works of development which involve substantial outlay on capital account;*  
(b) *what directions, if any, did the Treasury give to the MEA regarding its capital works programme;*  
(c) *did the MEA proceed with a capital works programme that had full Treasury approval;*  
(d) *did the Treasury exercise any control, supervision or monitoring of the MEA capital works programme; and, if so,*  
(e) *in what respect, or if not, why not?*

**Answer:** Section 4 of the Electricity Act 1996 states:

'The Authority shall with the approval of the Treasury settle a general programme of measures of reorganisation or works of development which involve substantial outlay on capital account, and before carrying out any such measures or works the Authority shall consult with the Treasury.'

(a) The MEA consulted with the Treasury over several months in connection with its general capital programme prior to the July 2001 sitting of Tynwald, at which the motion was tabled for the approval to the borrowing of £185 million.

(b) No directions were given by Treasury to the MEA regarding its capital works programme. However, the Authority was requested, and did agree, to keep the Capital Projects Unit of the Treasury informed with regular progress reports. A copy of the Procedure Notes for Capital Schemes was supplied to the Authority so that the execution of its capital programme could follow a consistent, clear and

co-ordinated process, as followed by all other Government Departments and Statutory Bodies. At the same time an offer was made to the MEA to review and amend the Procedure Notes so as to suit the MEA's operational and commercial requirements. Such offer was never taken up.

(c) As far as Treasury were aware, the MEA progressed the general programme of capital works, as laid down and agreed in the Tynwald motion of July 2001.

(d) Treasury received monthly reports on the progress of the CCGT project, covering the period August 2001 to November 2003, when the scheme was operational. These reports generally confirmed activity on site and contained no financial information whatsoever, excepting the reassurance that the scheme 'will complete within budget.'

(e) The lack of detail provided by the MEA was of concern to the Treasury, but there were no indicators that suggested other than the schemes were progressing to programme and within budget. Likewise, at the quarterly liaison meetings between the Department of Trade & Industry and the MEA, Treasury's concerns over the lack of compliance to the Capital Procedures were regularly conveyed to the MEA, who were of the opinion that it was up to them how their capital schemes were managed. Such responses, although unsatisfactory from Treasury's point of view, did not contradict the information given in the monthly reports, with further verbal reassurances given at the meetings about the schemes being within budget.

#### **Bord Gáis Éireann charges Cost to MEA of North Sea Gas**

2.6. The Hon. Member for Michael (Mr Cannan) to ask the Minister for the Treasury:

*In accordance with the Electricity Act 1996 section 3A –*  
(a) *has payment of an annual capacity charge to Bord Gáis Éireann been properly charged to the Revenue Account in 2002/03, 2003/04 and 2004/05 or has it been paid from borrowings;*  
(b) *did Treasury give the MEA directions in this regard;*  
(c) *did you personally satisfy yourself as Treasury Minister that the cost of bringing North Sea Gas to the Isle of Man was a sound economic proposition; and*  
(d) *will you provide Members of Tynwald with the annual average unit cost of the gas supplied to the Island in the last three financial years taking into account the annual cost of borrowings for all the relevant capital works (including capitalised interest) and the annual capacity cost charged by Bord Gáis Éireann?*

**Answer:** Section 3A states:

'(1) The Authority shall prepare separate accounts in respect of each of the following undertakings:-

- (a) the generation, distribution and supply of electricity under the provisions (other than section 15A) of this Act;
- (b) the conveyance and supply of gas under section 15A;
- (c) the conveyance and supply of gas under the Gas and Electricity Act 2003;

*[Para (c) not yet in force.]*

- (d) the provision of telecommunication services under that Act; and
- (e) the provision of consultancy and advisory services under section 2(3)(g).

(2) The Treasury may, after consultation with the Authority, give to the Authority directions as to the form and content of the said accounts, including directions as to the manner in which any revenue or expenditure of the Authority is to be credited or charged to any of those undertakings.

(3) Any regulations under section 8 of the Audit Act 1983 (accounts) shall have effect subject to any directions under subsection (2).'

(a) I understand that discussions are still ongoing between the external auditors, KPMG, and the MEA in respect of the annual capacity charge payable to Bord Gáis Éireann. During the 2002/03 year, the total charge was approximately £100,000. This cost was correctly charged to capital. In subsequent years, the cost will be apportioned between both revenue and capital accounts in a manner that is the current subject of negotiations. This formula will then be applied to the 2003-04 accounts (which have yet to be finalised) and the 2004-05 accounts.

(b) The Treasury brought the matter to the attention of the external auditors and requested advice as to the proper accounting treatment for this agreement. The auditors have since been seeking guidance from their Head Office on this subject and discussing how the matter should be presented, with the MEA.

(c) The decision to bring North Sea Gas to the Isle of Man was led by the DTI and taken prior to my appointment as Treasury Minister. It will be recalled that, during the debate on the matter in Tynwald in November 1998, only Messrs. Henderson, Singer and Karran voted against the motion. As a Member at that time, I gave the matter my support, based upon the evidence provided at that time.

(d) This is an extremely complex calculation that will require a significant amount of resource from the MEA to undertake. Such a calculation could only be commenced when all the costs attributable to the importation of gas have been finalised and definitions of the relevant assets applicable to the supply of gas identified. Once provided by the MEA, I will provide the information to Members of Tynwald.

### **Electricity Act 1996 'Illegal' borrowing of MEA**

2.7. The Hon. Member for Michael (Mr Cannan) to ask the Minister for the Treasury:

(1) *Are you aware that the Electricity Act 1996 section 5 makes it illegal for the MEA to borrow any money other than from the Government or with the consent of the Treasury, from any other person and this applies to both the MEA and subsidiaries of the MEA as set out in Clause 3C of the Act;*

(2) *when did you become aware that the MEA and subsidiaries of the MEA had borrowed money illegally;*

(3) (a) *did the Treasury inform the Attorney General that the MEA and its subsidiaries had borrowed money contrary to section 5 of the Electricity Act 1996, and if so, what was the response of the Attorney General; or*

(b) *did the Treasury decide not to formally inform the Attorney General and, if not, why not?*

**Answer:** (1) I am aware of Section 5 of the Electricity Act 1996 which states:

'(1) The Authority shall not borrow any money except in accordance

with this section.

(2) The Authority may not borrow temporarily, by way of overdraft or otherwise, either from the Government or, with the consent of the Treasury, from any other person, such sums as the Authority may require for meeting its obligations or performing its functions.

(3) The Authority may borrow, otherwise than by way of temporary loan, from the Government or, with the consent of the Treasury, from any other person such sums as the Authority may require for all or any of the following purposes –

(a) the provision of money for meeting any expenditure incurred by the Authority in connection with any works, the cost of which is properly chargeable to capital account;

(b) the provision of any working capital required by the Authority;

(c) the repayment of any sums borrowed by the Authority under this section;

(d) any other purpose for which capital money is properly applicable by the Authority, including the repayment of any sums borrowed by the Isle of Man Electricity Board under section 22 of the Isle of Man Electric Light and Power Act 1932 (either as originally enacted or as substituted by Schedule 3 to the Isle of Man Loans Act 1974);

(e) any other payment which the Authority is authorised to make and which ought, in the opinion of the Treasury, to be spread over a term of years.'

I am advised that, contrary to the assertions of the Hon. Member, section 3C of the Act does not impose a duty on a subsidiary of the MEA (as explained in section 3C(2)) to obtain the consent of the Treasury to borrow money.

(2) I was advised by a senior officer of the Treasury that a subsidiary of the MEA had borrowed money without Treasury consent on the morning of Monday, 8th November 2004. The information was discovered by the officer on Friday, 5th November 2004.

(3) (a) The Treasury informed the Attorney General of the borrowings within 24 hours of the receipt of this information. The Attorney General undertook to review the matter with particular reference to the ability of a subsidiary company of the MEA to enter into borrowings and whether the loans from such subsidiary to the MEA constituted a transgression of the Act.

The Attorney General gave his advice on 15th November 2004, the relevant part of that advice being as follows:

'The restrictions on the power to borrow money, which are imposed upon the MEA by virtue of section 5 of the Electricity Act 1996, do not extend to a company such as the Manx Cable Company, which is deemed to be a subsidiary of the MEA. Clearly, however, any borrowing from its "subsidiary" would require the Treasury's consent.'

(b) not applicable.

### **Electricity Act 1996 MEA repayment of borrowings**

2.8. The Hon. Member for Michael (Mr Cannan) to ask the Minister for the Treasury:

*How did the Treasury satisfy itself that the MEA intention not to repay large parts of its borrowings complied with the statutory requirement of the Electricity Act 1996 section 3(1)?*

**Answer:** There are currently three tranches of borrowings taken out by the MEA. They are as follows:

1. A loan of £185 million from the Treasury, repayable in 2034.

2. A loan of £50 million from Barclays Private Clients International Limited, repayable in September 2005.

3. A loan of £70 million from Barclays Private Clients International Limited, repayable in July 2008.

The Treasury is not aware of any intention of the MEA not to repay any of the above loans. The Treasury has agreed that the terms of the loan of £185 million include a repayment of the amount in full at the end of the term of the loan.

With regard to the Barclays loans, the Treasury was not able to satisfy itself with regard to the repayments, as it was not aware of the loans until after they had been taken out. Treasury is currently involved in negotiations with the MEA as to the manner in which these loans will be repaid, as part of an overall assessment of the MEA's finances.

## TOURISM AND LEISURE

### Six One-Day Cycle Trails Scheme Liaison with DoT and Police; accidents on roads involved

2.9. The Hon. Member for Rushen (Mr Gill) to ask the Minister for Tourism and Leisure:

(1) *What on-going liaison does your Department have within the Department of Transport/Police et al in relation to assessing the safety of the public roads which are part of your 'Six One-Day Cycle Trails'?*

(2) *when was the Six One-Day Trails Scheme introduced; and*

(3) *how many road traffic accidents have occurred on the public roads which are part of the Scheme since its inception?*

**Answer:** The Six One-Day Cycle Trails were devised jointly by the Department of Transport and my Department in April 1998, following a study by students from Oxford Brookes University.

The intention was, and is, to provide circular cycle routes with a start and finish in as many of the Island's towns as possible. The six routes offer a wide variety of scenery. Some routes are hilly, but others are devised on the flatter areas of the Island.

The initial recommendations were evaluated from the standpoint of road safety, and were amended accordingly by DoT staff. Wherever possible, the routes run on quiet rural roads, for reasons of road safety and for added enjoyment. However, there are inevitably stretches of busy roads and I have asked that staff in my Tourism Division meet with their colleagues in the DoT to ascertain whether there is a need for the routes, or the literature produced to publicise them, to be revisited in the light of changing road use patterns or other road safety issues.

The leaflet describing the routes gives map-based and written details, always with road safety warnings that are specific to each route. There is also general road safety advice. On the ground there are sufficient route-specific signs to ensure that cyclists should not lose their way and stray onto unsuitable roads. In evaluating the routes, DoT staff referred to their Road Safety Unit and the Police.

There have been a total of 19 recorded accidents involving cyclists on the 6 Trails, during the period between May 1998

and the present day. This is a high figure, due partly to the seven years which have elapsed, and the fact that the routes total 86 miles in all, and there are, perhaps, 10 miles of that total over busy roads. To put the figure into context, over the same period the total number of road traffic accidents Island-wide was 7,016. The number of those accidents which involved cyclists is 94, and this figure includes the 19 accidents on the 6 Trails.

It is not possible to ascertain, from the data collected by the DoT, whether the cyclists involved in these 19 road traffic accidents were visitors or residents, or whether they were using the One Day Cycle Trails or not.

However, any accident is serious, and cyclists are vulnerable road users. I have, therefore, obtained further accident information from DoT. There have been no fatal accidents involving cycles anywhere on the Island since the Trails were published, and the 19 accidents mentioned above break down by area as follows:

Route 1 (Douglas area)	1
Route 2 (Castletown area)	3
Route 3 (Port Erin area)	2
Route 4 (Peel area)	2
Route 5 (Ramsey area)	10
Route 6 (Laxey area)	1
Total	19

## TRADE AND INDUSTRY

### Electricity Act 1996 DTI's powers to direct MEA

2.10. The Hon. Member for Michael (Mr Cannan) to ask the Minister for Trade and Industry:

(1) *Are you aware that the Electricity Act 1996 section 2(8) states – 'The Department of Trade and Industry (the Department) may give to the Authority such directions regarding the exercise of its functions as the Department thinks fit'?*

(2) *will you state in full how your Department, since January 2002, has used its powers to monitor the MEA activities and in particular state what consultations have taken place and what directions have been given; and*

(3) *will you state the dates on which consultations have taken place and directions given?*

**Answer:** (1) Mr Cannan has, once again, posed a question with regard to the remit of the DTI in relation to the Manx Electricity Authority under Section 2(8) of the Electricity Act 1996, similar to that he asked in Tynwald last December. I am fully aware of Section 2(8) of the Electricity Act 1996.

To set out the context, the MEA is a Statutory Board governed by the basic framework, under which all the Statutory Boards operate, as set out in the Statutory Boards Acts of 1987 and 2001. These Acts confer no powers on the DTI in respect of the MEA.

The functions and powers of the MEA are derived from the Electricity Act 1996, as amended. This Act does confer some powers on the Department in relation to the MEA, under section 2(8), but these powers are limited and cannot be used to impinge on the legitimate discretion of the MEA to act, as conferred on the MEA by Tynwald, under statute.

The Department sought advice on the extent of the powers available under Section 2(8). Under the Electricity Act, the DTI can, for example, use its powers to give directions to the MEA in relation to standards of customer service and customer complaints procedures, economy, universality of supply, fairness to the consumer and other such examples. It cannot, however, use these powers of direction to overrule properly taken decisions of the MEA made in accordance with its statutory functions and powers.

(2) Since January 2002 the Department has not used any of its powers conferred under the Electricity Act 1996 to monitor the MEA, other than through the quarterly liaison meetings, at which representatives of the MEA and the DTI (and Treasury CPU on several occasions) were in attendance, and whenever consultation has been required for a specific reason. The Department has not issued a direction to the MEA during this period.

These liaison meetings discussed issues such as staff/ industrial relations, tariffs, operational and strategic issues, political aspects of current issues, forward planning, including business planning, legislative proposals and other general issues.

Separate consultations have been held around the following issues: appointments to the board, the MEA's 'Vision 2010' document, the proposals contained within the 'Vision 2010' document for the MEA to provide telecommunications services to the Isle of Man, and the resignation of the Chief Executive Officer.

(3) Liaison meetings were held on the following dates since January 2002:

13.02.2002  
17.05.2002  
08.11.2002  
14.02.2003  
07.05.2003  
10.09.2003  
14.11.2003  
18.03.2004  
04.10.2004  
19.01.2005

Consultations were held on the following dates:

22.09.2003 at request from CPU re costs of Pulrose Power Station.  
12.01.2004 Liaison meeting cancelled at request of MEA. – Discussed issues around MEA provision of Telecommunications services to the Island.  
20.06.2004 Liaison meeting cancelled at request of MEA. – Discussed issues around 'Vision 2010' document.  
13.10.2004 Called by MEA to discuss appointments to the Board, Telecoms business case review, tariffs and letter from Mr P. Karran MHK.  
27.10.2004 Called by DTI re comments from MEA CEO.

Additional consultations have occurred when Questions requiring input from the MEA have been asked in Keys, Legislative Council or Tynwald, or to obtain information not readily available to answer questions raised in Members' letters.

The Department has issued no directions to the MEA in this period.

### **MEA capital works programme DTI monitoring**

2.11. The Hon. Member for Michael (Mr Cannan) to ask the Minister for Trade and Industry:

- (1) *Did your Department exercise any supervision, control or monitoring of the MEA capital works programme in accordance with the general powers granted to the Department under the Electricity Act 1996 section 2(8); if so –*  
(2) *in what respect and if not, why not?*

**Answer:** Mr Cannan has posed a question with regard to the remit of the DTI in relation to the Manx Electricity Authority under Section 2(8) of the Electricity Act 1996. Before addressing each of the individual elements of this question, it is important to put into context the Department's remit in respect of the MEA and the responsibilities of the MEA, as we did in respect to the Tynwald Question in December (No. 24).

The MEA is a Statutory Board governed by the basic framework, under which all the Statutory Boards operate, as set out in the Statutory Boards Acts of 1987 and 2001. These Acts confer no powers on the DTI in respect of the MEA.

The functions and powers of the MEA are, as stated above, derived from the Electricity Act 1996, as amended. This Act does confer some powers on the Department in relation to the MEA under section 2(8), but these powers are limited and cannot be used to impinge on the legitimate discretion of the MEA to act, as conferred on the MEA by Tynwald, under statute.

Under the Electricity Act, the DTI can, for example, use its powers to give directions to the MEA in relation to standards of customer service and customer complaints procedures. It cannot, however, use these powers of direction to overrule properly taken decisions of the MEA made in accordance with its statutory functions and powers.

In answer to the first part of Mr Cannan's Question, it is confirmed that the Department did not exercise any control or supervision of the capital works programme, as the Electricity Act 1996 gives it no power to do so. The Department did monitor the information provided by the MEA to the Department through the regular Liaison meetings. However, this related directly to the Power Station and not the project as a whole.

### **WATER AUTHORITY**

#### **Douglas raw water main Environmental impact study and way-leave arrangements**

2.12. The Hon. Member for Rushen (Mr Gawne) to ask the Chairman of the Water Authority:

*With regard to the Douglas raw water main, which is planned to be constructed across country through an area officially designated as of scenic significance and high*

- landscape value, which includes the Baldwin Valley –
- (a) what steps has your Authority taken to obtain an independent environmental impact study to quantify the adverse effect of such work on such a sensitive environment and, if so, what was the cost of the study;
- (b) what steps has your Authority taken to identify the flora and fauna as well as the rare and protected species of plants and birds, which will be affected by the laying of the pipeline along this route, and, if so, what was the cost of such research;
- (c) what are the fees to date which have been paid to –
- (i) the various consultants who selected and recommended this route; and
- (ii) the various consultants who have negotiated with the farmers and other landowners the way-leave arrangements currently being offered;
- (d) is it correct that the MEA are now acting on behalf of the Authority in securing the agreement of farmers and other landowners to the way-leave arrangements required;
- (e) is it correct that the financial incentive being offered by your Authority to secure the necessary way-leave is less than half the MEA offered in respect of the natural gas pipeline constructed some time ago;
- (f) is it correct that farmers and other landowners have been threatened with compulsory purchase if they continue to refuse to accept the way-leave payment per metre, which has been unilaterally decided by your Authority without prior consultation;
- (g) what is the budgeted total capital cost of this project;
- (h) what is the total budgeted cost of the way-leave payment to be shared by the farmers and other landowners along the entire route of this project; and
- (i) what is the budgeted total cost of fees payable to the various consultants involved in this project?

**Answer:** In response to part (a) of the Question:

In deciding whether or not to carry out a formal environmental impact study (EIS) on the Douglas raw water pipeline, the Authority has been guided by the Draft Isle of Man Strategic Plan towards a sustainable Island, (prepared under the Town and Country Planning Act 1999) (November 2004 modified draft written Statement incorporating modifications proposed to the draft Plan issued in July 2001 for consideration at the Public Enquiry). Environmental impact assessments on pipelines are required only on:

‘Oil and Gas pipeline installations with a diameter of more than 800 millimetres and a length of more than 5 km, unless constructed beneath a road or installed entirely by means of tunnelling’.

Notwithstanding that a formal EIS is not legally required, consultations have been undertaken with landowners, Statutory Authorities and other interested parties to ensure that environmental good practice is followed and that a balanced approach is followed in the planning, design and construction of the pipeline.

Consultations have been undertaken with, amongst others, the Department of Agriculture, Fisheries and Forestry, the Department of Local Government and Environment, Manx National Heritage and the Manx Rivers Improvement Association. Tender documents draw attention to the environmentally sensitive nature of the Baldwin Valley and incorporate the requirements arising from the above

mentioned consultations.

The Baldwin Valley is the only route option available to transfer water by gravity pipeline from storage in the Baldwin impounding reservoir to Douglas for treatment and subsequent distribution to the general public. The factors which, 100 years ago, led to selection of the Baldwin Valley as the route for the first pipeline (12" cast iron) from the then new impounding reservoir were recognised again in 1926/27 when the second pipeline (15" cast iron) to Douglas was constructed, and remain valid today. Disruption caused by construction of the new pipeline in the upper Baldwin Valley will be minimised by following the route of an existing disused 3 km section of pvc pipeline laid in the 1970s.

In response to part (b) of the Question:

Consultation has been entered into with the Department of Agriculture, Fisheries and Forestry's Wildlife and Conservation Sections to review various route options. The more environmentally sensitive upper valley sections have been checked on the ground in the early stages of the project by a Department of Agriculture, Fisheries and Forestry's Wildlife and Conservation Officer.

The Authority worked closely with the Department of Agriculture, Fisheries and Forestry's Freshwater Fisheries Section during the course of the recently completed Sulby pipeline and procedures developed to protect the Sulby River during the course of pipeline crossings will be applied to pipeline crossings of the River Glass and its tributary streams.

Environmental considerations have yielded the following contractual requirements:

- No work to be started in woodland or gorse areas within the bird nesting season (March – July); and
- River channel work to be carried out during the period July to September.

In response to part (c) of the Question:

(i) Engineering consultant MWH (IoM) Limited was appointed in November 2001 for design and supervision of the raw water mains from West Baldwin reservoir to Douglas Water Treatment Works and Sulby reservoir to Sulby Water Treatment Works.

Fees paid, to date, to MWH (IoM) Limited in respect of Douglas raw water pipeline total £144, 897.

Fees paid, to date, in respect of Douglas raw water pipeline cover the following:

- Detailed investigation of various route options for the pipeline, including the planning and overseeing of ground investigation work and topographical survey necessary for detailed design;
- Investigation of existing services along the proposed route of the pipeline.
- Review of existing pertinent legislation;
- Liaison with landowners, Statutory Authorities and other interested parties;
- Selection of a preferred route option;
- Detailed design of the pipeline, including review of pipeline material, valve types et cetera;
- Preparation of pipeline tender/construction drawings;
- Preparation of the detailed technical specification;
- Preparation of tender documentation;
- Undertaking of all tenderer Select List procedures;
- Preparation of numerous technical and of project Stage Reports (as required).

(ii) Dalrymple Associates Limited was appointed in July 2001 to undertake negotiations with landowners across whose

land the pipeline will be installed.

Pipeline planning was placed on hold early in 2003, pending clarification on the site of the Douglas new Water Treatment Works (being the end point of the pipeline). During the course of 2003 negotiations took place, and agreement was reached with the Manx Electricity Authority (MEA) to utilise spare capacity within its dedicated wayleaves team to undertake negotiations with landowners on the route of the pipeline. The landowners were notified in May 2004 that the Water Authority had decided to proceed with pipeline design and tender documentation and were advised that MEA Wayleaves personnel would be contacting them to discuss the proposed routing of the pipeline and the preparation of easement documentation.

Fees paid to date to Dalrymple Associates and to the MEA total £22,573.

In response to part (d) of the Question:

The Water Authority's Project Sponsor is responsible for securing easements for the new pipeline and has found it cost effective to utilise available spare capacity within the MEA Wayleaves team. The MEA Wayleaves team is solely responsible to the Water Authority's Project Sponsor, who also coordinates all dealings with landowners' legal advisers.

In response to part (e) of the Question:

The Water Authority has, up to December 2004, followed United Kingdom Water Authority practice by using, as the basis of easement valuation, a Lands Tribunal (*St John's College Oxford v Thames Water*) which calculated payment for easement rights as 50 per cent of land value.

The Authority has been aware, for some time, of landowner dissatisfaction due to differences between easement payments made to landowners by the MEA in respect of its high pressure gas pipeline and easement payments being offered by the Authority in respect of pipelines in general and the Douglas raw water pipeline in particular. In parallel with this, the Authority has been aware that small parcels of so called "lifestyle land" on the Isle of Man have been changing hands at values far in excess of agricultural land valuation.

It is understood that the MEA required a 12 metre wide easement width because of the operating pressure of the gas pipeline. A decision was made to compensate landowners affected by that pipeline at a rate of £20 per linear metre which was supplemented by a further payment of £5 per linear metre as an incentive for early signing of the easement.

In December 2004 the Authority resolved to adopt, with immediate effect, the same easement and early signing incentive payment structure as that used by the MEA. The Douglas Raw Water Main only requires a 6 metre wide easement width and payments of £10 per linear metre were offered, with an incentive payment of £2.50 for early signing. This was a significant increase from the Water Authority's previous usual payments to landowners of £1.50 per linear metre for a 6 metre wide easement strip.

In addition to the payment made by the Water Authority for the easement, compensation would also be paid to the landowner for any loss of crops or damage to his/her property caused by the works.

In response to part (f) of the Question:

No landowner has been threatened with compulsory purchase of their land, neither does the Authority have the powers to compulsorily purchase land in order to lay mains. Within the Water Act 1991, Tynwald has provided powers

to gain access onto land in order to lay mains without the need to obtain an easement. Those powers are provided in order to ensure that schemes in the national interest are not delayed unnecessarily, but it does require the Authority to subsequently ensure that proper compensation payments are made to affected landowners, based upon the requirements laid down in the Land Acquisition Act. The Authority always attempts to negotiate with landowners and achieve a mutually acceptable outcome without resorting to the use of the powers within the Water Act.

We have made every effort to make landowners aware that:

- The pipeline is a key element of the Authority's ongoing water augmentation project and specifically that it is required for commissioning and testing of the new water treatment works in Douglas.
- The Authority prefers, and uses its best endeavours, to obtain easements for passage of the pipeline across all land.
- The Authority subscribes to the Manx National Farmers Union Water Pipelines Code of Practice (March 2000).
- The Authority is obliged to ensure that vital pipelines are not delayed and, to this end, has been afforded Statutory Powers within the Water Act 1991. In the event that Statutory Powers have to be invoked, the Authority will pay compensation in accordance with Part III of the Acquisition of Land Act 1984.

It is pleasing to note that the majority of the landowners who have been consulted with respect to the provision of this main have signed easements to facilitate the essential works. The Authority is grateful to those landowners for their cooperation and hopes that a similar outcome with others affected by this scheme may be achieved.

In response to part (g) of the Question:

Whilst acknowledging the Hon. Member for Rushen's interest in this scheme and its likely capital cost, the Authority is currently preparing to issue tender documents for this scheme to selected contractors. It is not, therefore, considered timely to be placing information in the public domain which might assist those tendering for the works. The tendering process will be managed to achieve best value for money and no works will be authorised until the Water Authority's board is satisfied that this has been achieved and Treasury concurrence to proceed has been obtained.

In response to part (h) of the Question:

The budgeted total cost of easement payments plus early signing incentive is £85,200.

In response to part (i) of the Question:

The budgeted total cost of professional fees payable to various consultants (including a Planning Supervisor to accord with current Statutory requirements) is £323,000.

### Procedural

**The Speaker:** Hon. Members, that concludes the business before the House. The House will now stand adjourned until Tuesday, 10th May at 10 a.m. here in our own House. Thank you, Hon. Members.

*The House adjourned at 10.37 a.m.*