

**Legal Aid (Amendment) Bill 2012**  
**Third Reading approved**

5.1. Mr Teare to move:

*That the Legal Aid (Amendment) Bill 2012 be read the third time and be sent to the Council.*

**The Speaker:** Item 5, Bills for Third Reading: Legal Aid (Amendment) Bill. Again, I call the mover, Mr Teare.

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

As previously outlined, the Legal Aid (Amendment) Bill will amend the Legal Aid Act 1986 by introducing statutory solutions which will enable the recommendations of the Legal Services Commission and the more recent recommendations of the Select Committee of Tynwald on Legal Aid in Family Matters to be progressed and implemented.

The primary objectives of the Bill are (1) to allow Legal Aid to be made available for mediation at the earliest possible stage of a dispute. This will provide a number of benefits, which will include the provision of a less costly process for all involved, a reduction of conflict between parties, which will be of benefit to all concerned and affected by the dispute and an increased likelihood that the parties will accept and adhere to an agreed solution, therefore reducing the likelihood of the parties having to return to court in the future. It is anticipated that this, in turn, will lead to a reduction in the cases being progressed before a court. Also, it will enable those areas of agreement to be identified so that the court proceedings can focus on those items which are in dispute.

(2) To provide for a greater recovery of Legal Aid costs by way of contributions from the assisted persons. The Bill will potentially allow for regulations to be introduced or amended in relation to Legal Aid contributions. Mr Speaker, you will recall during the clauses reading, I mentioned that a subcommittee of the Council of Ministers is reviewing and considering the options in relation to increasing the level of contributions payable under a Legal Aid certificate, and when they have concluded their investigations they will be reporting back to Council with their findings and recommendations. Any recommendations or proposals will be subject to approval by Council of Ministers before being referred to the newly constituted Legal Aid Committee for consideration. The proposed regulations will then be subject to a period of public consultation and will, of course, be subject to the final approval of Tynwald. The Bill also enables the introduction of a statutory charge in furtherance to the recommendations of both the Legal Services Commission and the Select Committee.

(3) To create a Legal Aid Appeals Tribunal: clause 14 of the Bill establishes a new Legal Aid Appeals Tribunal which will replace the Legal Aid Committee as the body responsible for the consideration and determination of appeals which arise from decisions to refuse to grant Legal Aid or a refusal to amend or extend the scope or limitations of a Legal Aid certificate.

(4) To reconstitute the existing Legal Aid Committee, so that its membership is predominantly made up of non-lawyers and to extend its functions to include oversight of the Legal Aid Certifying Officer and Legal Aid administration. The existing Legal Aid Committee consists of four members, and they are: the First Deemster and Clerk of the Rolls; the Chairperson of the Magistrates' Association; Her Majesty's Attorney General; the President of the Isle of Man Law Society. The existing members are appointed to the Legal Aid Committee by virtue of the posts they hold, and there is no limitation or term of office in relation to the duration of their appointment to the Committee, except where a fixed term of office applies to the post which requires them to sit on the Committee.

The current Legal Aid Committee is a body which has both regulatory-making powers and the powers to hear appeals in relation to refusal to grant Legal Aid or a refusal to amend or extend the scope or limitation of a Legal Aid certificate. Clause 13 of the Bill provides for the reconstitution of the Legal Aid Committee and is in line with the recommendations put forward by the Select Committee. The new Legal Aid Committee will consist of between five and seven members and will be made up of a majority of non-lawyers. The Committee will retain the power to consider the provision of Legal Aid and to determine general policy. However, the powers of the Committee will be extended to include oversight of the Legal Aid Certifying Officer and Legal Aid administration, and the adjudication of complaints which are outside the remit of the Legal Aid Tribunal.

Mr Speaker, during the clauses reading of the Bill, an issue as to the appointment of members to the Legal Aid Committee and Legal Aid Tribunal was raised. I would like to take this opportunity to provide further clarity in relation to that issue.

Members of both the Legal Aid Committee and the Legal Aid Tribunal will be appointed by the Appointments Commission. The Appointments Commission is a body which has been established as an independent body by the Council of Ministers, under the auspices of the Tribunals Act 2006. The principal function of the Appointments Commission is to make appointments in accordance with relevant legislation to

various tribunals and other bodies. The Appointments Commission is currently made up of five members who are individually appointed by the Council of Ministers, following consideration of an application and interview process.

Following the introduction of this Bill, the General Registry, following discussions with such bodies as they consider relevant, will provide the Appointments Commission with a person specification, which will detail the appropriate skills and experience required of members to be appointed to the Legal Aid Committee and the Legal Aid Tribunal. Mr Speaker, I respectfully suggest that, taking this into account, I trust that I have eased my fellow Members' concerns in relation to the appointment of members to the Legal Aid Committee and the Legal Aid Tribunal.

Mr Speaker, now having outlined the primary aims of the Bill and clarified the issue previously raised during the clauses stage, I beg to move that the Legal Aid (Amendment) Bill be read for a third time.

**The Speaker:** Mr Henderson.

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

**The Speaker:** If Members wish to resume their seats...

I put the motion that the Legal Aid (Amendment) Bill be read for the third time. Those in favour, please say aye; against no. The ayes have it. The ayes have it.