

Legal Aid (Amendment) Bill 2012
Third Reading approved

3. Mr Lowey to move:

That the Legal Aid (Amendment) Bill 2012 be now read a third time.

The President: Item 3, the Legal Aid (Amendment) Bill 2012. Mr Lowey to take the Third Reading, please.

Mr Lowey: Thank you, Madam President.

I previously outlined that 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 Committees of Tynwald on Legal Aid in Family Matters to be progressed and implemented.

The primary objectives of the Bill are: to allow Legal Aid to be made available for mediation at the earliest possible stage of a dispute; the second is to provide for greater recovery of Legal Aid costs by way of contributions from the assisted persons; the third is to create a Legal Aid Appeals Tribunal; and the fourth is 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.

I think that is the key to many of the queries that were raised at the First Reading stage about criminal Legal Aid. That will permit them to look at it and to bring up to date and improve criminal Legal Aid. I think it is right that the First Deemster, the Chairman of the Magistrates, Her Majesty's Attorney General and the President of the Isle of Man Law Society should not predominate on the thing. It is self-regulation and does offend international law, and so we are going for a majority of lay members on that Committee.

Madam President, following the introduction of this Bill, the General Registry will have discussions with such bodies as they consider relevant, will provide the Appointments Commission with persons specified. That is the point I was making in the earlier remarks about the independence of the selection procedures.

Madam President, having outlined the primary aims of the Bill and clarified the issues at the clauses stage and the issues previously raised during stage one, I beg to move that the Legal Aid (Amendment) Bill be read for a third time and do pass.

Mr Braidwood: I beg to second, Madam President and reserve my remarks.

The President: Mr Crowe.

Mr Crowe: Thank you, Madam President.

I think, as with all legislation, it must always be kept under review, and not to have change just for change's sake, but to bring in improvements, which help administration, because justice or family disputes or civil Legal Aid involves sometimes warring factions, shall we say, and I think, if this brings improvements to the process, and I think mediation is one example of bringing in Legal Aid for mediation practices. I think it should help the administration of civil Legal Aid and also help those people in dispute to help them resolve situations better. I think if the Bill, which is seeking to improve the situation, does that, we will have managed to achieve something worthwhile.

The President: Mr Lowey to respond, please.

Mr Lowey: Yes, can I thank the Hon. Member for his comments and he is absolutely right. I think we should always try, in passing legislation, to make it easier to adapt to changing needs and that is where primary legislation sometimes becomes a bit cumbersome, but under this particular Bill, I believe we have got enough. We can alter it by secondary legislation, by regulation, always subject to the approval of Tynwald, so there is proper scrutiny, but I think the framework has got to be right, but we can act quickly.

Can I also say the history elsewhere, especially on mediation, shows that it does work, that it is better for, much more importantly, the people who are using it, to try and resolve their problems and not wait – what was the Shakespearean play where the... was it *The Merchant of Venice* where they had a pound of flesh? (**Mr Braidwood:** Yes.) I think we have moved away from that and the mediation is so much better. It has been proven in the United Kingdom and throughout the British Isles that it does work and I think we are catching up with that now. I believe this piece of legislation is going to be effective, and that is what it is about. It has been a long time coming, I appreciate that, but having said that, it was worth waiting. If it is worth having, it is worth waiting for.

I beg to move.

The President: The motion is that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes our business, Hon. Members. Council will now adjourn to the sitting of Tynwald on 15th May and 22nd May, and thereafter to our own Chamber on 22nd May.