

Moneylenders (Amendment) Bill 2012
Second Reading approved

4.1. Mr Henderson to move:

That the Moneylenders (Amendment) Bill 2012 be read the second time.

The Deputy Speaker: Hon. Members, we move now to Item 4 on our Order Paper... Bills for Third Reading. Item 5.1 Town and Country Planning –

Mr Quirk: Point of order, Mr Deputy Speaker.

I am just wondering whether – (**The Deputy Speaker:** Sorry!) There is a bit of disarray, with people wandering about and Members talking: we cannot hear.

The Deputy Speaker: Quite right. Thank you for your point made.

Item 4, Bill for Second Reading, Moneylenders (Amendment) Bill 2012. My apologies, Mr Henderson. I call upon that Member, Mr Henderson.

Mr Henderson: Gura mie eu, Lhiass-loayreyder.

This Bill is the Moneylenders (Amendment) Bill 2012. The Bill is being promoted by the Treasury on behalf of the Office of Fair Trading. In 1991, the Moneylenders Act was introduced to regulate consumer borrowing in the Isle of Man. It aims to protect consumers and unscrupulous lenders.

There is a presumption in the Act that a person who lends in the Island is carrying on a moneylending business. This arises from the wording in section 1 of the Act that requires the Office of Fair Trading to register any persons carrying on, in the Island, the business of lending money. All lending of any type has the potential to fall within this definition. The Act does not distinguish between different types of lenders and borrowers. Lending to consumers and that which takes place in the normal course of business receives the same treatment under the Act. The current position is that all persons who wish to lend must either register with the Office of Fair Trading or apply for an exemption from the requirement to register.

Lending to and from businesses is an accepted part of the normal business activity that takes place throughout the world on a daily basis. This type of lending is often referred to as corporate financing. In the Isle of Man, in order to comply with the Act, persons that engage in these types of transactions must either register or apply for exemption from registration.

Registration and exemption from registration are not mere formalities. Each exemption requires separate regulations to be made for each person or group of persons. These regulations must then all be approved by Tynwald. This is a time-consuming distraction... to remove lending that was never intended to be caught by the Act from the scope of the Act. This is seen to be unnecessary red tape. There is evidence to suggest that this can be a disincentive to doing business in and from the Island.

This Bill will widen the scope of the Office of Fair Trading's powers of exemption by regulation. The new powers will enable the Office of Fair Trading to exempt all lending within defined parameters and where it was clearly never intended to fall within the scope of the Act. This could include, for example, lending between companies within the same group. While whole classes and types of lending not meeting the criteria for consumer lending could be exempted, the Office of Fair Trading will still need Tynwald approval prior to introducing these wide-ranging classes of exemptions.

Lhiass-loayreyder, I beg to move the Second Reading.

The Deputy Speaker: Mr Teare.

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

The Deputy Speaker: Member for Douglas North, Mr Houghton.

Mr Houghton: Yes, thank you, Mr Deputy Speaker.

I fully support this Bill and commend my hon. colleague for moving it here in the House.

I am just a little bit quizzed as to why a Treasury Member is moving this and not the Chairman of the Office of Fair Trading? Is this a slant on the integrity of the Chairman? Can we find out and can the Member, perhaps answer as to why it is not being moved by the Office of Fair Trading?

In my time – and indeed in the Hon. Member's time – of being there in the Office of Fair Trading, there were always greater powers above that of the office – which is a Board, as we know – of the Office of Fair Trading, where to say the very least, sir, your integrity is sometimes slanted; the integrity of the board of the

Office by greater powers. There is a greater power here in the Treasury moving this forward, which is good legislation which I am going to support, but it should have been brought by the Office of Fair Trading, and by its Chairman here today and I would like to know the reason why.

The Deputy Speaker: Support with criticism. Member to reply, Mr Henderson.

Mr Henderson: Gura mie eu, Lhiass-loayreyder.

The answer to – I am grateful my hon. colleague is supporting the initiative. In answer to his queries, I can say that the waiver procedures and also the way the legislation for OFT is laid down, it has always been that the OFT has required a sponsoring Department to put its legislation, and indeed other procedures, through this place of Tynwald. That is how it has always been organised.

Certainly, as far as I am aware, the OFT has not got the straightforward power as a Department has, because it is a Statutory Board under Tynwald. It has to use the sponsoring process. The OFT had agreed that this was the best way forward and certainly the Board has agreed to this and were only too happy to assist in this matter, in the way that we are doing. In no way was it ever envisaged that this would be a slant to the Board of the OFT, in fact we are very happy at Treasury to assist the OFT and the Board in this important manoeuvre here, as at the end of the day, it assists local business and future business with the Island.

So I hope that reassures the Hon. Member, and with that, sir, I beg to move.

The Deputy Speaker: The motion is as on the Order Paper, that the Bill be read for the second time. All those in favour, say aye; against, no. The ayes have it. The ayes have it.