

**Moneylenders (Amendment) Bill 2012**  
**Clauses considered**

5.1. Mr Henderson to move.

**The Speaker:** We turn to Item 5: the clauses stage of the Moneylenders (Amendment) Bill and to move clause 1, I call Mr Henderson.

**Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Vainstyr Loayreyder, this is the Moneylenders (Amendment) Bill. The Bill seeks to address the scope of the Moneylenders Act, which has been, since the Act was brought into operation in 1991, far wider than was originally intended. This is being brought forward on behalf of the Office of Fair Trading with their full Board agreement.

The Act was intended to ensure that those who engage in the business of lending money to consumers were required to register with the Office of Fair Trading as moneylenders. The Act currently presumes that any person who lends money in the Island is carrying on the business of lending money.

The drafting of the relevant provisions in the Act is all inclusive. This means that lending that occurs in the course of normal business activities is currently within the scope of the legislation. Those transactions that, for example, occur during the normal course of corporate financing and lending between companies within the same group are also caught within the scope of the Act. This was never the intention of the Act.

The Act currently does allow some persons to apply for exemption from the requirement to register under the Act. This must currently be done on a case-by-case basis. This is achieved under the power in the Act and the regulations. These regulations require the approval of Tynwald. This is resource intensive and has been identified as a factor that may act as a disincentive to doing business in and on the Isle of Man. It is seen as unnecessary red tape.

The Moneylenders (Amendment) Bill widens the scope of the definition of persons who can apply for exemption. This would enable whole classes of persons who were never intended to be caught under the Act to be exempted under a single set of regulations.

The Bill contains three clauses. Should the branches of Tynwald support this Bill, the Bill will come into operation by order made by the Treasury.

Vainstyr Loayreyder, turning to the Bill, clause 1 provides the short title of the Bill.

I beg to move that clause 1 stand part of the Bill.

**The Speaker:** Mr Teare.

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

**The Speaker:** I put the motion that clause 1 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2, Mr Henderson, please.

**Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Clause 2 provides for the Bill to come into operation on one or more days appointed by the Treasury. Provision is made to allow the Treasury to make saving and transitional provisions by order.

I beg to move that clause 2 stand part of the Bill.

**The Speaker:** Mr Teare.

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

**The Speaker:** I put the motion that clause 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3, please.

**Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Vainstyr Loayreyder, clause 3(2)(a) replaces the existing subsection (4) of section 1 of the Act. New subsection (4) widens the scope of those persons eligible to apply for exemption from persons to include transactions.

New subsection (4A) replicates and renumbers the existing offences and penalties for failure to register as a moneylender when required to do so.

Clause 3(2)(b) inserts the definition of 'exempt transaction'.

Clause 3(3) widens the power to make regulations under section 17 of the Act.

New subsections (1A) to (1F) are inserted in the Bill.

New subsections (1B) and (1C) clarify that exemptions from the requirement to register under the Act now include certain types and classes of persons, persons who conduct certain definable activities and certain definable transactions or whole classes of transactions of a particular type.

New subsections (1D) and (1E) introduce a new power that will enable exemptions to be granted under subsections (1B) and (1C) including for a limited or unlimited period of time, unlimited or limited in the scope of application, application only to certain types of moneylending, and in respect of certain transactions for those carried out on certain types of person.

New subsection (1F) updates the Act by inserting additional powers that provide for a degree of flexibility in respect of unforeseen circumstances. The legislation that has been enacted more recently contains equivalent provisions as standard.

Clause 3(4) replaces an outdated reference to legislation that has been superseded. While the Interpretation Act 1976 ensured that this outdated reference did not render the provision ineffective, it seemed logical to take advantage of the opportunity to do a little housekeeping.

Vainstyr Loayreyder, I beg to move that clause 3 stand part of the Bill.

**The Speaker:** Mr Teare.

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

**The Speaker:** Mrs Cannell.

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

Can I just ask the mover of the Bill if he can give us an idea of the persons who will be regarded as being 'exempt persons', because the mover did say at the onset of his contribution that there were all sorts of people that had been brought into this legislation really, which was not appropriate? So if he can give us an idea of the sorts of persons who might be exempt from the legislation and also the type of lending which is regarded as an 'exempt transaction' in the legislation. So if he could just give us just a little bit of an overview of what sort of categories, people and transactions will be exempt under this type of legislation, please.

**The Speaker:** Mr Henderson to reply to the debate.

**Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Vainstyr Loayreyder, as I have outlined in the previous Readings of the legislation proposed, the terminology used for the Act when you talk about persons exempt, as I have tried to explain the Act catches everything, which includes companies, corporate lending activities, a company who has groups within that company, groups lending between groups within that company. So we are looking at corporate financing, corporate lending and it has been flagged up to us.

I can certainly give one example from working with OFT, whereby this kind of activity was seen by one particular group wishing to register over here as distinctly red tape getting in the way and it caused quite a lot of red tape to try and unravel it so that the group could operate here, but it is not, as we see, aimed at single person moneylenders who are actually lending money to individuals on the high street, as it were.

The Moneylenders Act was introduced to regulate consumer borrowing in the Isle of Man. It aimed to protect consumers from unscrupulous lenders. There is a presumption, as I say, Vainstyr Loayreyder, that a person who lends in the Island is carrying on a moneylending business and that arises from the wording of the Act and it requires the Office of Fair Trading to register any persons. All lending of any type has the potential to fall in with that definition and it does not distinguish between the type of different lenders and borrowers, as I have said, Vainstyr Loayreyder. It encompasses lending to consumers and that which takes place in the normal course of business services. So it tries to put a little flexibility into the situation for corporate financing and lending, but keeps the consumer protection for the ordinary people within the scope of which it was intended. I think in trying to elucidate that fact, Vainstyr Loayreyder, I have also answered the Member's question on the type of lending and what this means, as already indicated in the clauses and the preceding Reading.

Thank you, Vainstyr Loayreyder.

**The Speaker:** Hon. Members, I put the Question that clause 3 of the Moneylenders (Amendment) Bill stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes our consideration of the Bill's clauses stage. Hon. Members, that also concludes business of the House today. I look forward to you joining me for the annual Speaker's Lunch.

The House will now stand adjourned until our next sitting, which will take place on 5th July in St John's on Tynwald Day.