

Cash in Postal Packets Bill 2012 **Third Reading approved**

3.1. Mr Teare to move:

That the Cash in Postal Packets Bill be read a third time.

The Speaker: We turn now to Item 3, Bills for Third Reading.

The first of those is the Cash in Postal Packets Bill 2012, and I call on the mover, the Hon. Member for Ayre, Mr Teare.

Mr Teare: Thank you, Mr Speaker.

This Bill has, as its main purpose, the amendment of three existing Acts of Tynwald to provide for cash sent by post to be subject to similar restrictions as that sent or carried by other means.

The Bill amends the Customs and Excise Management Act 1986 to extend the cash declaration requirements to that sent to or from the Island by mail, the Proceeds of Crime Act 2008 to extend the power to seize cash linked to unlawful conduct to that which is sent by mail, and the Post Office Act 1993 to allow for the exercise of the powers contained in the aforementioned Acts.

Under the provisions of part VA of the Customs and Excise Management Act, cash which is brought into or taken out of the Island and which is in excess of €10,000 is subject to a requirement to declare it to Customs and Excise. Following the visit of the International Monetary Fund inspection team in 2008, the subsequent report recommended that the Island extend its cash declaration requirements to cash sent by post. Such controls are, in essence, an extension of the anti-money-laundering (AML) requirements, and are designed to help deal with movements of cash that avoid methods which may be subject to scrutiny. By changing the law in this area, the Island is not only meeting a recommendation of the Financial Action Task Force, but is also closing a potential loophole in its AML framework.

Extending the provisions of the Proceeds of Crime Act 2008 to cash sent in the post means that, should illicit cash be detected, it can be seized by a police or customs officer. As with the declaration requirements, the power to seize cash suspected of being linked to unlawful conduct already exists where a police or customs officer is lawfully present or if such cash is detected entering or leaving the Island.

The amendments made to the Post Office Act 1993 remove the general inviolability protection for the mail to the extent needed to deal with cash which should be declared or may be liable to seizure. Some exceptions are already provided for other forms of contraband. However, it should be made clear that none of the changes provide the Police or Customs and Excise with any additional powers in respect of correspondence, or other items sent by the Royal Mail. The new provisions are concerned solely with undeclared cash or suspect cash.

Any post or packets involved in the custody and control of the Post Office in law enforcement will have to have reasonable grounds that the packet contains cash either requiring declaration or being liable to forfeiture before the Post Office may be asked to detain and open the packet for examination. Even if detained and opened by the Post Office, the packet and its contents remain in the custody of the Post Office, which acts as agent for the sender or addressee, and only if any cash is subsequently seized will it then be taken into the custody of the Police or Customs and Excise.

Safeguards are included, and even if seized, law enforcement can only detain the cash for a short initial period of 48 hours, excluding weekends and public holidays, before having to seek permission from the High Bailiff for continued detention. The new procedures will be governed by both the Code of Practice made under the Proceeds of Crime Act and the tripartite Memorandum of Understanding between the Post Office, Police and Customs and Excise on when and how packets may be detained and searched.

As I have already stated, no new powers are being provided to law enforcement to interfere with correspondence or other items sent in the mail, and even if any cash is detained or seized, the rest of the packet and its contents will normally be allowed to proceed. Furthermore, should any cash is found by Customs and Excise, which lacks only the necessary declaration, the sender or the addressee, as appropriate, will be given an opportunity to make a declaration before any further action is taken.

The Treasury feels that these provisions are a reasonable compromise and a proportionate response to both the recommendation of the IMF inspectors and the perceived risk from a loop-hole in cash declaration and anti-money-laundering controls.

This Bill also amends section 15 of the Post Office Act 1993 for another purpose. It has been found that a minor amendment is required to allow the making of suitable and necessary subordinate legislation, which is needed to ensure that the Island's postal law can adapt in the light of changes to procedures of the Royal Mail in the United Kingdom, and so comply with the requirements of the Customs and Excise Agreement. Section 15 allows the application to postal traffic of Customs law in the same way as it applies to other goods imported, exported or removed into or from the Island. The section is amended so that a reference to statutory provisions

in Customs law applied to postal traffic includes reference to any relevant Community Instruments: thus any such Instruments can be regarded as Customs law for the purpose of this section.

The Treasury considers that this Bill is both a sensible and proportionate one and I commend it to the House. Mr Speaker, I move that the Third Reading of this Bill be made.

The Speaker: Mr Houghton.

Mr Houghton: I beg to second.

The Speaker: Hon. Members, I put the question that the Cash in Postal Packets Bill be read for the third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.