

**Moneylenders (Amendment) Bill 2012**  
**Third Reading approved**

2. Mr Lowey to move:

*That the Moneylenders (Amendment) Bill 2012 be read a third time.*

**The President:** We turn now to the Moneylenders (Amendment) Bill 2012 for the Third Reading. Mr Lowey.

**Mr Lowey:** Thank you, Madam President.

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 and its main aim was to protect consumers from unscrupulous lenders. The scope of the legislation as enacted is far wider than was originally intended. All lending of any type has the potential to fall within the definition of carrying on in the Island the business of lending money. 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 receive the same treatment under the Act. That was not the intention of the original 1991 Act.

Currently, all persons who wish to lend must either (1) register with the Office of Fair Trading or (2) 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.

In the Isle of Man, in order to comply with the Act, persons now who engage in moneylending of *any* description *must* either register or apply for exemption. Registration and an exemption from registration are not mere formalities. Regulations must be made on a case-by-case basis for each person or group of persons wishing to be exempted from the requirement. 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. There is, as I said earlier, *prima facie* evidence to suggest that this is deemed unnecessary red tape and is 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 in the first place. The regulations to achieve this will still require the approval of Tynwald.

Madam President, I beg to move the Third Reading of the Moneylenders (Amendment) Bill 2012.

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

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President.

Yes, obviously as with the Second Reading, the clauses I support in this Bill and I think it will help businesses with groups who do inter-company lending. I think, from the explanatory note, there the three things that jumped out at me were 'unintended consequences', 'red tape' and 'business-friendly legislation' which shows that we can always change legislation to improve a situation.

The query I would just have for the hon. mover is that the secondary legislation will presumably be in the course of drafting and will come before Tynwald in the fairly near future, I would hope, Madam President?

**The President:** The Hon. Member, Mr Downie.

**Mr Downie:** Thank you, Madam President.

I would just like to say that I think that the original Moneylenders Act 1991 has actually stood the Isle of Man in very good stead and at the time it was introduced, no doubt it has regulated a whole course of activities that we have seen at our peril in other jurisdictions where moneylenders have been able to rule. There was no protection for parts of the community and the unwary and the legislation that we are amending today has actually done its job.

That being said, the existing legislation is cast far too tightly. It does not have a commercial aspect to it. It does interfere with commercial business on the Island and I think what we have got before us now, we are still retaining our ancient rights as they were under the 1991 Act, but we are opening the streams of commerce up so that borrowings between one company and another, or the same company in some instances, do not need to be caught up in the Moneylenders Act.

The discussions that we have had on the back of this and in other places indicate that there is going to be more of this type of legislation coming along and I think this is probably going to be the main plank of the legislation which is going to deal with this specific area.

But I have no problem whatsoever in supporting the Bill and wish it well in the future.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

I must actually echo the remarks of Mr Downie that 1991 was a very different time. In those days, there were a very few individuals who were lending money to the disadvantaged – one person in particular – and some of those moneylending enterprises were backed up by violence occasionally, and this Bill was partly in response to deal with that situation at the time where the most disadvantaged members of society were actually being placed under huge threats and financial threats because of these people operating.

The Bill has succeeded in dealing with that. Hopefully those times will not come back again and we will not need to exercise those original provisions very much in the future, but of course there were unintended consequences where the business world were caught up as well.

So it is a sensible measure to bring this Bill forward and I do support the Third Reading.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

Just to echo the comments made by my hon. colleague on the left. I think it is a practical piece of legislation which brings a commercial realism to this important part of our economy and it has my full support.

**The President:** The mover to reply.

**Mr Lowey:** Thank you, Madam President.

I thank Hon. Members for the interest shown in this particular piece of legislation.

May I, before I start, just place on public record my thanks to Gill Prestwich who has been the officer who has been advising me and it has been her baby that she has brought forward. I would like to thank her publicly for the thorough, meticulous and professional way in which she has assisted me in the preparation of these notes on this particular piece of legislation.

If I can use Mr Wild's last contribution to the debate, it is a practical piece of legislation, and it also illustrates the fact that we do *listen* to industry when they put a case forward to eliminate, what I would call, unnecessary red tape. This is quite clearly one of those instances where the Bill was absolutely required – as Mr Butt and Mr Downie said – in 1991, and I was around, too, at the time, and there were a lot of vulnerable people being exploited by door-to-door. You are quite right, Hon. Member, when you say there was recorded violence because people could not pay or would not pay and there was no control of interest rates and it was the worst of all worlds.

This piece of legislation, the 1991 Act, actually did lance the boil and has controlled that element. The point now is then, of course, when you look at it the legislation has implications which were not intended by removing them.

The Office of Fair Trading, coming back to the point that my good friend, Mr Crowe, mentioned, when will the powers be... As soon as the Act gets Royal Assent, it will be up to the Office of Fair Trading to implement the new Act and the powers that are contained for them into the Act will be brought in quickly because this Bill is at their request, that they want to operate it in, what I would call, the best interests of the Isle of Man.

So with those remarks, I would like to thank Members for the interest shown in this particular piece of legislation. I beg to move that the Bill be read a third time and do pass.

**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 consideration of our agenda for today. Council will now adjourn to the sitting of Tynwald Court on 20th November.