

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

2. Mr Braidwood to move:

*That the Cash in Postal Packets Bill 2012 be now read a first time.*

**The President:** Item 2 – keeping Mr Braidwood busy – the Cash in Postal Packets Bill 2012 for First Reading.

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

The principal purpose of this Bill is to amend three existing Acts of Tynwald – the Customs and Excise Management Act 1986, the Post Office Act 1993, and the Proceeds of Crime Act 2008 – in order to make provisions for the treatment of cash contained in postal packets.

Madam President, firstly, the Bill amends the law contained in the Customs and Excise Management Act 1986 relating to the requirement for declarations when large amounts of cash are brought into or taken out of the Island. The Government considers it to be necessary to extend the existing requirement to make a declaration to Customs and Excise to situations where such cash is being sent by post.

The cash declaration change is a consequence of the scrutiny of the Island's regulatory and anti-money laundering controls by the International Monetary Fund (IMF), following which a recommendation to consider such a change was included in the subsequent report in 2009 from the inspection team. This recommendation was for the Island to consider extending its cash declaration regime to postal movements. This change would not only allow Island law and procedures to meet the requirements of the Financial Action Task Force, but would also close a loophole in what was seen as a potential weakness in the Island's anti-money laundering regime. Anti-money laundering controls of banks and other institutions are designed in part to make it more difficult for criminals to make off-record transfers of funds across borders. Similarly, existing requirements require disclosures where large sums of cash are carried by persons to or from the Island or sent in their baggage, vehicles or freight. Hence it would appear that the one remaining safe option available to a criminal would seem to be to use the postal system.

As for other methods of import or export, declarations would only be required for sums in excess of €10,000. It is considered to be vital for the interests of the Island that in any subsequent inspection by the IMF, MONEYVAL or any other body, the systems and controls in the Island meet the highest international standards. It is obviously in everyone's interest that it is made more difficult for criminals to operate and to move their ill-gotten gains freely.

A second function of the Bill is to extend the power of Police or Customs officers to seize cash linked to unlawful conduct, or intended for use in unlawful conduct, should this be found in the post. As I have already mentioned, the postal system currently offers a safe option for criminals to send money out of the Island, and it is believed that this option has been used to pay for some supplies of illegal drugs to the Island. The threshold for action to seize illicit cash is £1,000.

Neither of these new powers provide Police or Customs with any additional powers in respect of correspondence or other items sent in the Royal Mail. The powers are solely for dealing with any suspect cash. In any case, Police or Customs will have to have reasonable grounds to suspect that a postal packet contains cash which is either liable to declaration or liable to forfeiture before they can ask the Post Office to detain the package for examination. Even if a package is detained and opened by the Post Office for examination, the package and its contents will remain in the custody of the Post Office, which acts as agent for the addressee, and only if any cash is actually seized would it then be taken into the custody of the Police or Customs. Existing safeguards which apply to the seizure of cash, such as any cash that is seized only being detained for a short initial period before the law enforcement has to seek permission from the High Bailiff, will also apply to any cash received from the post. In addition, if it is only the case that cash has not been declared, the sender or addressee will be given time to make the necessary declaration.

The new procedures will be governed by both the code of practice under the Proceeds of Crime Act 2008 in respect of searches for cash liable to seizure, and a tripartite memorandum of understanding between the Post Office, the Police, and Customs and Excise. The Treasury feels that the provisions relating to cash declarations and seizures contained in this Bill are a reasonable and proportionate response to a set of perceived risks. The changes to the way cash in the post may be dealt with have been the subject of both a public consultation exercise and detailed discussions with the Isle of Man Post Office.

Finally, the Bill also makes amendments to section 15 of the Post Office Act 1993 for another purpose. It has been found that the ability to make the necessary subordinate legislation needed to ensure that the Island's postal law meets fully both the requirements of changes in procedures affecting the Royal Mail and compliance with the requirements of the Customs and Excise Agreement, is limited by the wording of that section. Consequently,

a minor amendment is proposed to section 15 to make it better suited to its purpose. The Treasury considers this Bill to be a sensible and proportionate one.

I beg to move the First Reading of the Cash in Postal Packets Bill 2012.

**Mr Lowey:** I beg to second and reserve my remarks.

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

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

When I first looked at this, first had a glance through this Bill, I thought, 'This is about intercepting drug money and so on.' The Hon. Member says it is primarily for money laundering.

I have not, at this stage, looked up the definition of 'postal packet' from the Post Office Act, but could the Member confirm that it does or does not include letter post – in other words, is a packet also a letter – because it is possible, and this is a concern that I have, that innocent people could be caught up in this, because many people obviously pay cheques for numerous kinds of payments – credit cards, insurance premiums, or whatever – which would obviously be in excess of £1,000 in many cases. You have here the definition of 'cash' meaning:

- (a) notes and coins in any currency;
- (b) postal orders;
- (c) cheques of any kind, including travellers' cheques;
- (d) bankers' drafts;
- (e) bearer bonds and bearer shares, found in the Island.'

It does not include... and I came across it by accident, an advert somewhere for a company selling by post, 1-inch... I would call them discs of gold. You can buy gold by post, apparently. I see that is not covered here.

I would like to know also what grounds would an officer have... Where would he get the grounds or the basis to reasonably suspect a postal packet contains cash with a value in excess of the prescribed amount? What is the process there that would be involved? Would he get information from somewhere? You cannot just reasonably suspect something by looking at it.

So I do have some concerns about this, Madam President, and I wonder, if the Member cannot answer them at this stage, we could get some answers to that at Second Reading stage.

Thank you.

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

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

The whole industry of logistics and sending packages is something that quite fascinates me, certainly when you see the programmes on television, and this, I think, is quite a complex area and I can understand why they want to do it.

I am just wondering how the Customs and Police will deal with the use of the likes of FedEx, DHL and all these other ways of sending parcels and packages? Just recently, I ordered some printed material, some leaflets, and of course they come in a package, and the leaflets are A6 size so they are a bit bigger than £20 notes, £50 notes, or whatever they are sending these amounts in.

**Mr Braidwood:** Half the size of an A5.

**Mr Turner:** Yes, that is right. I just wondered – again, like Mr Callister – how they came to suspect, because with the millions of items travelling through the system every day worldwide, how they come to deal with it and what happens if they are using the likes of the services of FedEx and other worldwide carriers, which go through numerous depots and probably do not get visited by the authorities from one year to the next.

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

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

Just continuing on from Mr Turner's comments, again the definition of 'postal packet' in the 1993 Act... Again, I have not looked it up, but I wonder does that include the items which Mr Turner mentions, the stuff from DHL and FedEx etc? This appears to be the Post Office only, (**Mr Braidwood:** Yes.) so I would like to know are there any measures to... Most of the mail that comes to my house these days is often brought by DHL or some other provider, (**Mr Braidwood:** Some carrier.) some carriers from across and local firms who do it.

Are they to be included in this, and is there any way in which the definition of 'postal packet' would include those people – DHL, FedEx etc?

As to how would the Police know that there is a suspect parcel or package, I think they have their ways. (Laughter)

**Mr Lowey:** Don't tell them!

**The President:** You *know* they have their ways!  
Mr Wild.

**Mr Wild:** My own view is that in today's modern society nobody in their right mind would send a large amount of money through the postal system. (**Mr Turner:** Absolutely.) In the same way, I think €10,000... That is a lot of money to be carrying around in cash if you were to be robbed on holiday or while travelling. So, in my view, this is a practical piece of legislation that just gives the authorities more power to challenge what is in the post. If you are sending a lot of money through the post, it could look a little bit obvious, in terms of a large package. I just think we need to clarify what 'the post' means and whether it extends to the wider packages of the (**Mr Braidwood:** Couriers.) couriers, yes.

Otherwise, I think it is a perfectly right piece of legislation, because in reality you can send money so simply now by electronic means or by cheque and there is an audit trail there. In my view, people should not be sending lots of money in cash through the postal system, so I support it.

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

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

Yes, I will support this. It is interesting what other Members have said about the competition in this area of postal packets and other carriers who need to be treated equally and put on the same basis, but as far as I can see it only refers to the Post Office.

It is interesting to see how a small change can impact on three different pieces of legislation, so it is like a cross-checking of all the legislation once you change something in one.

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

**Mr Lowey:** Just to say that there is a perceived weakness in our armoury against laundering money. It has been pointed out to us that this is in an area that is susceptible to abuse and I think it is incumbent upon us to fill that gap, put the finger in the dyke, when it has been drawn to our attention, and I think this Bill actually reflects other operations that are held in other countries. Therefore, I think it is right, as a responsible organisation, when it is drawn to your attention, that you something about it. This Bill, I think, does just that. The other points I am sure the Hon. Member will answer in due course.

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

**Mr Braidwood:** Thank you, Madam President, and I will try to answer them in due course, as the Hon. Member of Council, Mr Lowey, has said.

I do thank Mr Wild, Mr Crowe, and also the seconder, Mr Lowey, for their support.

As Mr Lowey quite rightly said, it was the perceived threat to the inspection team of the International Monetary Fund, and again I think this is just the Isle of Man closing one of the gateways, you could say, which they could be criticised for.

In regard to FedEx, which Mr Turner has mentioned, and Mr Butt, and the courier services, I believe that... I will check on this, but I think they already have to comply with the legislation over the €10,000 if it is being posted.

Mr Callister and Mr Butt said, 'What is the definition of a postal packet?' I think the Post Office has many variations on this, because you now get letters, large letters and postal packets, depending on the size. If it is a large amount of money being sent, I know one of the reasons, particularly in euros... and I know that drug barons or people who are drug suppliers were definitely using the €500 note because it was small and it could be even put in a letter. So, in actual fact, I suppose you could even say that a letter would be classified as a postal packet if there are only just so many few notes. You only need 20 €500 notes, which would only be quite thin. That could easily go into a letter.

Generally, this is more, I think, for drug suppliers and whatever, and as the Hon. Member of Council, Mr Butt said, the Police have their information. As we saw in the papers, drugs were seized at Liverpool and that was information with the Police. I think the Police already knew for some time they were coming over. So this is

when vehicles are stopped coming into our port because there is information, and it would be the same principle as well, Madam President, for packets going through the post. This is not going to affect 99.999% of postal packets going through the system. It will be information led, and as I said, the seizure of the packet and then the examination... It is still retained by the Post Office unless it goes over the 48 hours, and then the Police could take that cash, and that permission has to be given by the High Bailiff.

I will check on more of the information which has been mentioned by Mr Callister, as he said, with cheques. Normally, to proceed with cheques, it has to go through the banking system. The majority of people now... I know I pay a lot of bills and it is all online. I pay online. Very rarely would I send cash through the Post Office system, because you can transfer money, or you pay by debit card, or there are other means. Mainly I think the intention is for those people who do not want for any cheques, travellers' cheques or postal orders to go through a proper system. It is mainly cash, because to send postal orders is very expensive and really it would be cash which would be sent.

As I said, I will get more information regarding, as Mr Callister said, the purchase of gold, but if you were purchasing gold from some company, such as Jersey, which is... They will get little gold coins and they will keep them there. You would not be able to pay in cash because they would then... the company would go through their anti-money laundering legislation.

I beg to move the First Reading of the Cash in Postal Packets Bill 2012, Madam President.

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