

**Sunbeds Bill 2012**  
**Second Reading approved**

3. Mr Turner to move:

*That the Sunbeds Bill be now read a second time.*

**The President:** We move to Item 3 and I call upon Mr Turner to take the Second Reading of the Sunbeds Bill 2012.

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

I would like to thank Members for their support at the First Reading of this Bill. As previously stated, this Bill is a stand-alone Bill, the provisions originally started life in the Public Health (Amendment) Bill, which has been on the legislative programme for some time. This Bill is the work of the Department of Environment, Food and Agriculture, which is the Department now, which would regulate the provisions in this, should this go through all the stages.

The Bill makes provisions for the control of sunbeds, particularly for the under 18s. The Bill amongst other things imposes requirements on sunbed operators to make every effort to ensure that clients are over 18 years of age and enables the Department to investigate offences and to impose fixed penalties where breaches occur. The Bill is intended to protect the future health of young people on the Island by regulating the use of sunbeds and ensuring that detailed guidelines are in place.

Madam President, I beg to move the Bill be read a second time.

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

**Mr Braidwood:** I beg to second, Madam President.

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

**Sunbeds Bill 2012**  
**Clauses considered**

**The President:** We move then to clauses. Perhaps we can take the first three clauses together.

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

Clause 1 will give the Act resulting from the Bill its short title.

Clause 2 provides that the Act will come into force on a particular day or days provided for in an order. The Appointed Day Order may contain provisions which are incidental, transitional or transitory, where appropriate.

Clause 3 sets out the definition of terms used in the Bill.

I beg to move that clauses 1, 2 and 3 stand part of the Bill.

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

**The President:** The motion is that clauses 1, 2 and 3 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 4 and 5, dealing with prohibitions for under-18s.

**Mr Turner:** Clause 4 makes it an offence for an operator of a sunbed salon to allow a person under the age of 18 to use a sunbed on their premises. Defences are provided if the operator can show that he or she believed that the person was over 18. The onus is on the operator to take reasonable steps to establish the age of the person using the sunbed.

Clause 5 requires persons who sell or hire sunbeds to take reasonable steps to ensure that a person who intends to buy or hire a sunbed is 18 years or over. An operator of premises which sells or hires sunbeds will be considered as having taken reasonable steps if they were shown specific documents and those documents would have convinced a reasonable person that the user was over 18.

I beg to move that clauses 4 and 5 stand part of the Bill.

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

**The President:** The motion is that clauses 4 and 5 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 6 and 7.

**Mr Turner:** Clause 6 makes provision in respect of the remote sale or hire of a sunbed in instances where the premises where the order for a sunbed is taken is not the same as the premises from which the sunbed is dispatched for delivery. The sale or hire of that sunbed is treated as taking place on the premises where the order was taken. If, however, the order was taken outside the Island and the premises from which the sunbed is dispatched is in the Island, then the sale or hire is treated as having taken place on the premises from which the sunbed is dispatched.

Clause 7 makes it an offence for an operator of sunbed premises to allow persons to use a sunbed without supervision.

I beg to move clause 6 and clause 7 stand part of the Bill.

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

**The President:** The motion is that clauses 6 and 7 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 8.

**Mr Turner:** Clause 8 enables the Department, following consultation with the Department of Health, to make provision for the maximum wattage of sunbeds through regulation. These regulations may concern individual fluorescent lighting tubes or all of the tubes in a sunbed.

I beg to move that clause 8 stand part of the Bill.

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

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

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

The whole tenor of this Bill is education with some legislation to help people with the... the operators to make sure the under 18s are not doing it. I think, surely, there must be some sort of timing device that would allow these sunbeds to switch off after so many minutes or whatever it is.

So, I think wattage is one thing; and are the sunbeds properly controlled, British Standards, or whatever it is these days – European standard? So, you would not be able to buy anything unless it had proper technical specifications.

But I think it comes down again to education, and I think Mr Butt mentioned this last week about the Health Department and Public Health, making sure that people are made aware of it in the schools and in the general public.

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

**Mr Lowey:** Wattage seems to be alright, but the trouble is we are dealing with people and we all have different what I would call resistances. I remember a group of us going on holiday to Benidorm and of the nine, two came back as an advert for a summer holiday in Benidorm and the rest of us came back in various stages of burn, blotches and we all enjoyed the same amount of natural wattage. The same would apply on a sunbed, would it not?

There are some redheads would not and fair-haired people and what is safe for one is not necessarily safe for another, so the wattage seems to me to be a... is it a fig leaf? (*Laughter*) (*Interjection by Mr Braidwood*)

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

**Mr Butt:** I think one of the main elements of this Bill is the fact that no longer will sunbed premises be unsupervised, which they are at the moment. There will be somebody actually on the premises and maybe if there are any overuse or abuses of the system, they should be responsible enough to make sure that does not happen. That is not likely to happen when it is not supervised. With a supervisor in clause 7, it is more likely to be used properly.

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

**Mr Downie:** I think what we are trying to do is very laudable, but there are other devices which seem to have been omitted from this legislation. For example, I understand there are devices now that go round the face and the wearer uses a type of protective goggles and these are used for quite intensive tanning and so on. The definition in here just seems to me to lead to sunbeds.

I just want to float this in case somebody else wants to pick it up: would we be better having a clause in this particular piece of legislation which allows the Department which is going to oversee this to include any other device by regulation which might come onto the market? Some of these devices now actually are so sophisticated that they take a layer of skin off and they tan the layer of skin underneath and some of these things will be available for hire just now and a person can take them in.

I think, if we are going this far to introduce proper legislation and standards for sunbeds, we should try and look to the future and cover some of the other things that are coming onto the market and have been available for some time.

I am going to give a throwaway line here and I think this is relevant, because although it does not mention it in this legislation, we actually brought legislation in a few years ago to try and protect the unwary and young from tattoos. When I go around the town and I see young people who are marked in such a way, which will affect them later on life, I just wonder, should we not have been a bit more aggressive at the time? I will leave you with that thought.

**The President:** Perhaps you would like to move an amendment sometime.  
Lord Bishop.

**The Lord Bishop:** Thank you, Madam President.

When we read this the first time, clause 8 was the one that concerned me particularly, because of the way in which these sorts of devices change in their nature so easily. Would it not have been a lot easier to put in a more general clause saying something like no sunbeds or no tanning devices can be used that do not meet minimum international standards?

**The President:** Mover to reply – oh, sorry, the Hon. Member, Mr Braidwood.

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

It was just a point, of course, which was raised by Hon. Member of Council, Mr Butt. He is quite right, this was to close down those unsupervised tanning establishments, and I think I mentioned at First Reading, there was one used to be down at the Nook, there was one in, I think, Windsor Road, which were coin-in-the-slot machines and this was the whole point, where you could circumvent timing mechanisms, because if you had young people going in, they would do so long and then they would put another coin in because they think, ‘The longer I am under, the quicker I will get tanned’. It is to protect those vulnerable people, particularly the 18-year-olds who want a very quick tan. I think particularly for the female species, it is not good for the face and it is better to use a tanning cream in actual fact. That is one way (*Interjection and laughter*) they can go through, because all it does, all that tanning the skin to protect itself tends to thicken anyway, which can cause ageing and I know a lot of women do not like that to happen, Madam President. (*Laughter*)

**The President:** Right, the Hon. Member, Mr Crowe, wanted to come back, I think.

**Mr Crowe:** Thank you. Perhaps the hon. mover could check this point out, but on clause 3 the definition of ‘sunbed’ says:

‘means an electrically-powered device designed to produce tanning of the skin by the emission of artificial ultraviolet radiation;’

You could read that narrowly, when we all think of a bed that is something you lie on, but if you think of a wider definition, it could cover any electrical power device, so I think, whether by accident or design, the draftsman or draftswoman has put in a clause which might cover those concerns that we have. So I would like to think that we would accept the wider definition.

**The President:** Lord Bishop.

**The Lord Bishop:** But the problem then is that you refer to fluorescent lighting tubes and there would be other ways of tanning skin than with fluorescent lighting tubes. So what has happened is that this clause has narrowed the definition, in clause 3, I think.

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

**Mr Wild:** I was tending to agree with my hon. colleague, Mr Crowe, that, hopefully, there is enough flexibility in the interpretation to achieve what the Bill is trying to bring in, but perhaps we do need that clarification, or perhaps an amendment to the wording to make it a little bit tighter.

**The President:** It is down to Members to bring forward amendments.

**Mr Downie:** Already on the case, Madam President.

**The President:** I think you can now reply.

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

I think it is important we read what it says in the interpretation and that the officers behind this in the health area are concerned that the real cause of the problem is the ultraviolet radiation and the source of ultraviolet radiation. That is what will do the damage to the skin, if you have excessive doses. So, 'sunbed' is defined as meaning an electrically powered device designed to produce the tanning of the skin by the emission of artificial ultraviolet radiation and that is the real crux of it.

Other methods of tanning the skin may not be as hazardous and really this is designed specifically to regulate these devices. I think it is important that we allow this legislation to get through, or we may be in danger of widening it out and losing sight of what it is designed to tackle and that is the exposure of the skin to the ultraviolet radiation, which has known effects, so I think it is covered. 'Sunbed' is not just the device that you will lie on. It does mean an electrically powered device which could be a lamp on a stand that you could stand in front of, for example, if it is emitting the ultraviolet radiation, then that will be covered by this Bill.

Mr Butt is quite right that this is about the supervision and clause 7 brought in the provision for it to be an offence to have these premises operated without a person on site and that brings me over to the subject of the wattage, which started off the debate. It may be that, without regulations prescribing the maximum wattage, people could be ordering higher wattage cheap lamps. They may be not to certain standards and the regulations will be able to prescribe exactly the criteria as to what those lamps may or may not be. Obviously then, if there is a breach of those regulations, then the offence is committed.

I must point out a case that happened in Wales, where a 14-year-old girl suffered 70% burns after using an unmanned salon and the problem was that 'Kirsty put £1 into the coin-operated sunbed at the walk-in salon, but after four minutes felt she was not tanned enough.' I am quoting this from a newspaper article after a court case. So she then paid another £3 for another 15 minutes. She is 14 years of age and they do not have, possibly, the same appreciation, they think it is a quick tan at that age. Young girls are very conscious about their appearance and they read all these magazines of models looking tanned and they want to be the same and, of course, an unsupervised salon and a very serious case. Certainly the medical professionals said she was lucky to get away with the injuries she had and lucky it was not a lot worse, but 70% burns is horrendous enough, considering she ended up in hospital, required to be on a drip, given oxygen and doctors had to rehydrate her and administer painkillers. That is just one example of what can happen in an unmanned, unsupervised situation. The judge in the case has recommended that local authorities all over, in this case, Wales bring in regulations because this is what can happen.

Mr Crowe says it is about education as well and that is right and there are further provisions in this to ensure that there are appropriate warning signs and pamphlets given to people who come into the salons, in addition to having a member of staff on the premises, who can stop somebody going in for another blast of the light. So I hope I have answered all the queries.

As I say, clause 8 does specifically relate to the regulation of the maximum wattage, because obviously, if you have got a high wattage, it is a bit like your microwave oven, if you select the high wattage, then you do not need as much time for the effects to be known.

I hope Members will support clause 8 and I beg to move it stand part of the Bill.

**The President:** The motion is that clause 8 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

**Mr Turner:** Clause 9 empowers the Department of Health to make specific regulations in relation to the use of sunbeds for medical purposes.

I beg to move that clause 9 stand part of the Bill.

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

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

**Mr Downie:** I am a little confused by this section: perhaps the Hon. Member may be able to tell me, but from time to time I suffer from my back and I go and visit my chiropractor and the first thing he does is puts me down onto a bed, he puts a device over the top of my back, which has a lot of fluorescent tubes and so forth in it, which provide heat. I am left under there for about 10 minutes and then he comes back to massage my back.

Under the definition of what we have been through today and medical use or whatever, is he caught up in this, or is she caught up in this, or are we going to have guidelines, which the Department of Health will apply to either licensed chiropractors or other people in that field, people dealing with sports injuries and so on. I do not know whether this is still the case, but from time to time, various Government agencies provide sunbeds. I do not know what the situation is at the National Sports Centre, perhaps one Member might be able to advise me, but some years ago, when we were operating Summerland, we did operate sunbeds.

So it would be an interesting thing to see how this particular clause applies to Government and professionals who use heat lamps and forms of sunbeds, in part of their day-to-day operation.

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

**Mr Braidwood:** I think Mr Downie going to his chiropractor practitioner would be slightly different from such as the sunbed, because in the interpretation it means 'an electrically powered device designed to produce tanning of the skin by the emission of artificial ultraviolet radiation'. It might be where the chiropractitioner is not using that type of UV lamp (**The President:** Infrared.) like an infrared lamp for the warming. So that would be slightly different from that.

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

**Mr Wild:** I only make the comment that to be with the medical practitioner, it is supervised, which is the... this underpins the Bill. I would have thought that would get round that particular problem and I also agree with my hon. colleague, Mr Braidwood, that I think it is a different type of light.

**Mr Butt:** And I think Mr Downie is over 18. (*Laughter*)

**Mr Callister:** Very good point!

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

**Mr Lowey:** I think this one here, it says, 'the Department of Health may by regulation', so it is a question of what I would call horses for courses. The only time I ever went to a... they slapped ice on me, which had the opposite effect, I can assure you, but I am always the awkward cuss! I do not know how you put that in parliamentary terms, but anyway that is the only time I ever had that.

Could I assure him that, up at the NSC they do not have sunbeds now, but it was accepted at that particular time over in Summerland, as an aid for wellbeing and making people feel good, look good and what is wrong with that? As we have seen, the excess of this has resulted and we have to control it. I think it is right that doctors should be able to prescribe various treatments and it is under control.

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

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

I think Mr Butt probably, as a more recent Member of Health than I am, and as you as Minister, Madam President, of Health some years ago... I think ultraviolet light is used for the treatment of certain skin complaints like psoriasis and I think it is done under medical conditions. Whether this would need to cover it for private hospitals to allow for that sort of treatment, I am not sure, but it is all embracing and it is a 'may' not a 'must', is it not?

**The President:** Mover to reply.

**Mr Turner:** Thank you, Madam President and I thank Members for the interesting comments and debate that this is generating today.

I think it is important we take things in perspective as well that, these are not necessarily bad for the skin, but what they are in excess they can be dangerous. I think that is the problem, it is a balance to ensure that the devices are used in proportion and clearly for younger skin there is a risk. There are cases where, for medical skin issues certain levels of dose of this are obviously used for medical purposes because it has a positive effect. The primary purpose is, of course, to regulate the general public having free access to devices which could potentially seriously injure them. What the Bill would do without this clause would possibly cause problems for the medical use, so I think this is a sensible clause to have in here, where the Department of Health may put in some regulations to ensure that those kind of activities can continue unhindered and also so there are some guidelines to define what is and what is not. I think it is an important clause, so that it catches and we do not end up with a situation where we unwittingly outlaw something, which is quite important and needed.

I hope that Members will support clause 9 and I beg to move it stand part of the Bill.

**The President:** The motion is that clause 9 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We move to duties, clauses 10 and 11.

**Mr Turner:** Madam President, I think this brings us on to what Mr Crowe was saying earlier about education and information. Clause 10 requires the operators of sunbed premises to provide prescribed information to a person each time the person proposes to use the sunbed.

Clause 11 requires the operators of sunbed premises to display a prescribed information notice in a position where it is readily visible to persons proposing to use a sunbed on the premises. This, of course, could be, for example, the attendant could be giving the information, it could be leaflets, and clause 11 will have the requirement to display notices on the wall. It is a bit like when you go to the chemist and ask to buy certain medicines, they ask you a series of questions: are you taking paracetamol, are you doing this, that and the other. It is similar sort of provisions to ensure that the person purchasing the session on the product is fully aware.

I think these are sensible clauses as well. I beg to move clause 10 and clause 11 stand part of the Bill.

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

**The President:** The motion is that clauses 10 and 11 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12, powers.

**Mr Turner:** Clause 12 empowers authorised officers to enter premises in order to ascertain if an offence is being committed. An authorised officer is required to produce documentation showing his or her authority to enter those premises. Provision is made for an authorised officer to inspect or take copies of any records, where necessary in the exercise of their powers.

I move that clause 12 stand part of the Bill.

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

**The President:** The motion is that clause 12 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 13.

**Mr Turner:** Clause 13 makes provision for an authorised officer to seek a warrant to enter private dwellings to investigate an offence.

I beg to move that clause 13 stand part of the Bill.

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

**Mr Braidwood:** Madam President, I presume if this is a private dwelling, it is where somebody has set up trading with a sunbed and is just allowing people to come in and they would be paying for that treatment?

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

**Mr Lowey:** Or could it be that the private individual has a sunbed and he allows his neighbours' juveniles, children to come and partake? He does not have to be running a business, surely? I think the whole idea is the protection of the individual for commercial reasons, or what I would call well-intentioned neighbourliness, but the individual should be protected.

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

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

This is primarily to deal with the potential operation of a business in a private dwelling, where it may be that they are hiding behind the fact it is a private dwelling. I, like other Members, do get concerned when we have legislation introduced that authorises entry into private dwellings and I think it is a power that should be very carefully used. In this case, the Department feels that there could be cases and certainly it has happened across the water, where, like with all regulated businesses, where there is an opportunity to make cash – this is a cash business – people will set up in back rooms and annexes and suddenly the youngsters in the area who are no longer allowed to access the local tanning salon will go up, because they know somebody has got a bit of a business running and for a couple of quid can have a go and this is designed for that.

There are, of course, provisions in there to protect this, that the Department has to be confident, or suspicious that an offence is taking place and will make... will have to make an application to the whichever – I think it is a Justice of the Peace – to get the warrant to enter the premises. The provisions are there where the Justice may issue the warrant only if satisfied by evidence on oath, that there are reasonable grounds for suspecting that an offence under the Act has been or is being committed and they are convinced that evidence of the commission of that offence may be found in the dwelling house, they do have the power to look for records that could be, for example, looking to see if there are any cash deposits going into the bank account. It depends how serious the allegations are or maybe, yes in the postal packets. I think that is what clause 13 is about.

As I said, I am always nervous about any provisions which seek powers to enter private dwellings, but I think in this case, the Department has made the case. There are safeguards in place as well.

I beg to move clause 13 stand part of the Bill.

**Mr Butt:** I beg to second and reserve my remarks. Oh, we have already done that! (*Laughter*)

**The President:** Yes.

**Mr Braidwood:** It is the early start!

**The President:** The motion is that clause 13 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

**Mr Turner:** Clause 14 makes it mandatory, where there is reason to believe that an offence is being committed, for any person on the premises to give the name and address of the operator of those premises. It is necessary to make it clear that failure to do so may be an offence under the Bill.

I beg to move that clause 14 stand part of the Bill.

**Mr Butt:** Madam President, for the first and only time, I beg to second and reserve my remarks.

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

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

Under (1) here:

‘If an authorised officer has reason to believe that an operator of sunbed premises is committing...’

Could I ask if there is any system for these operators of sunbeds at the present time to either have them registered – are they registered somewhere? Is there a licensing system for them? Otherwise, how do we ever know where they are operating from anyway? They might be doing it on the quiet, as it were!

**The President:** Mover to reply.

**Mr Turner:** There are a lot of businesses which are bound by regulations and laws that are not registered with the necessary authority. That possibly would be bureaucratic. Mr Lowey has just mentioned coffee shops. Again, a lot of these facilities will be regulated by the Public Health people, Environmental Health and they will not necessarily be all registered entities. Some of them may, obviously, have certificates and things.

I think what this deals with is that the onus is on the operators to comply with the law. I think we are fortunate enough in the Isle of Man that there will be a small number of these. To set up a registration system

would probably be a waste of money, and it would require heavier regulation. I think this is a sensible level of regulation. The powers are there and the officers are already in place within the Department looking at other things. The additional numbers of sunbed salons are not likely to increase their workload to the stage where they are going to need extra staff, so I think it is a sensible piece of legislation, which will hopefully do what it is required to do.

I beg to move clause 14.

**The President:** Sorry – we are on powers, are we not? Clause 14. Right.  
Do we have a seconder? We have had a seconder. You were replying to Mr Callister.

**Mr Turner:** I was, yes.

**The President:** We are all getting... (*Interjections and laughter*) The motion is that clause 14 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Penalties, clause 15.

**Mr Turner:** Clause 15 makes provision where an offence has been committed, for a fixed penalty notice to be given to the operator of sunbed premises. This clause stipulates what must be contained in a fixed penalty notice and how much that fixed penalty will be in specific instances. A set time of 28 days is provided, in which a fixed penalty is to be paid, though this may be extended, if the Department considers it appropriate to do so. This clause also provides for the circumstances in which a fixed penalty may be given and the form which it takes.

I beg to move that clause 15 stand part of the Bill.

**Mr Butt:** I beg to second, Madam President and I would like to say also that I am not a fan of fixed penalties in offences like this. The point of having regulations and then some form of punishment or sanction is to actually deter other people from doing the same. When you have a fixed penalty, it does not become public in any way, so other operators would not know that there had been a breach of an offence.

I personally prefer, if something like this does happen, that a prosecution is taken and then the public know and other operators get to know an offence has been committed and there are sanctions out there, which could be used against them. Fixed penalties do not provide that publicity or that reassurance.

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

**Mr Lowey:** I agree wholeheartedly with my colleague, Mr Butt. It seems strange, does it not, if I park – it is all about parking – my car in a disabled place, I will be fined £120, but if I park myself under one of these sunbeds to disable myself potentially, the fine is £100. It says it all, really, does it not?

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

**Mr Downie:** I think we are not doing the right thing for a person who may be affected by this, because the instance I am going to quote now is, Hon. Members might be aware that, in the UK in recent years, there have been a lot of claims being made about people who have developed emphysema and died as a result of being exposed to asbestos and over the years, because offences were committed, they have been able to work back and identify areas where people actually were exposed.

We are dealing with an issue here and the message that we want to get out is not just that overexposure on sunbeds or using unsupervised sunbeds for young people might cause problems with their skin, but if you look at what goes on in countries like Australia, there is a huge amount of evidence to show there now that exposure to fair-haired people, red-haired people will result in future years in a significant increase in melanoma. I think we owe it to people to get this message out and I do not think a fixed penalty, which is just paid up and nothing else goes on the record, is the proper way to go about this. If an offence has been committed, let's deal with it in a proper way and in years to come, that person develops a form of cancer, there is an opportunity there for them to come back and look for some redress.

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

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

On reflection, I am not against fixed penalties, I just wonder if you take the example of the young lady who had 70% burns, whether £100 is enough, to pick up the comments of my hon. colleagues, in terms of relating it to parking offences. I would have thought that, if a young individual had been so severely damaged in those

circumstances that the penalties should be somewhere much higher, when you look at the costs to the health services of helping that person recover.

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

**Mr Braidwood:** Looking at this clause, it says:

‘the authorised officer may give the operator a notice (a “fixed penalty notice”)

but who – is it just the officer who determines if it is a fixed penalty notice, or if it goes to summary court? Later on, he can go to summary court and there can be a fine not exceeding £2,500. Is it up to the officer, if he thinks that the offence is only minor, then he puts a fixed penalty notice, or if it is a major offence, such as allowing an 18-year-old, or under 18 to go on a sunbed for too long?

So the example of the young girl in Wales comes to the fore, is it then, ‘Oh, you are going to go to court?’ So, it leaves it on the officer to determine if it is a fixed penalty notice or not.

I have to say as well, I do believe that the amount of the fixed penalty is rather low for this type of offence, compared to other fixed penalty notices, which Mr Lowey alluded to, where a child can have 70% burns – I can see that going to court, but a fixed penalty of £100 or £50, which it can be, seems quite minor.

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

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

The present fine for a first parking offence is £60 and if that is unpaid by a certain time, it increases to £120. There are thousands upon thousands of them, unpaid and no intention of the offenders to pay them. These cases are not being taken to court. If a company that is operating sunbeds is making sufficient money from it, they will not regard a fine of £100 or £50 as anything really to worry about.

I think from the medical point of view, how is an officer going to know if it is a minor offence or not a minor offence, if there are subsequent problems later on, as Mr Downie has referred to?

It seems to me that this is not the way to deal with this through fixed penalties, (a) because they are not terribly effective and (b) because it downgrades the offence that would be – the potential offence that would be committed here. How one gets over this, at this stage, I do not know, but the only way that we could probably deal with this, I presume, is by seeking an amendment to this particular clause. After all, it is a fairly straightforward clause saying it is a fixed penalty and the terms and conditions behind it.

The next clause coming up is about withdrawal of penalty notices and that could be for a number of reasons as well, but I am not happy to see this down as a fixed penalty.

**The President:** Mr Lowey.

**Mr Lowey:** Could I, Madam President, through you, suggest... looking at ways to... I agree, obviously with the general tenor, but I do not think fixed penalties are appropriate, but if we omitted clauses 15 and 16 from this Bill, clause 17 would come into play. Could I draw your attention, it says:

‘An offence under this Act is triable summarily and punishable with a fine not exceeding £2,500.’

We all know that not many maximum fines are used anyway, it is a ceiling, so that there is a thing there and it has got to go to a court and all of the things that went in. So if we omitted those two, would it actually damage the rest of the Bill? I think not.

Clause 17 is quite clear, ‘An offence under this Act is...’ and there it is, bang, and I think that would be the right message. So I would suggest the way forward, if there is a way forward, is to vote out 15 and 16, because 16 is the appeals and all the rest that go with it if you accept the fixed penalty. So perhaps, that is my view of the situation.

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

**Mr Butt:** If we did as Mr Lowey suggests, that would mean the Bill would have to go back to the Keys for –

**Mr Braidwood:** Yes, it has to go back. Any amendment would have to.

**Mr Butt:** It would delay things. I just point out that actually the fixed penalties say they *may* issue them, they do not have to. So, I would hope for the authorised officers, who would be Members of the Department of

Health or DEFA as well, perhaps from this conversation that is being said today, the message will come back that fixed penalties are not the way to deal with these types of offences, even though it is in the Bill.

**Mr Lowey:** Don't give them the temptation.

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

**Mr Callister:** Yes, I think that Mr Lowey is right. I would ask the Member who is moving this Bill, if he feels that these two clauses could be removed, 15 and 16, he may have to refer to the private Member who brought this Bill forward –

**Mr Braidwood:** It is a Department Bill.

**Mr Callister:** – at this stage. Sorry, it is a Department Bill? It is a Department Bill, that is fine. Therefore we are free to amend it in that way and I would recommend that as well.

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

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

I agree entirely about the fixed penalties, but I also agree with Mr Butt and I think I would rather send a message out to the Department that sponsored the Bill and the officers and I would not want to delay it. *(Interjections)*

**The President:** One at a time, please.  
The Hon. Member, Mr Crowe.

**Mr Crowe:** I think we ought to give the mover an opportunity to explain more on the fixed penalty and how it would be established and what we could do, if the Council would agree, is to adjourn at this point –

**Mr Braidwood:** No, we do not need to.

**Mr Crowe:** – and come back –

**Mr Downie:** We have got Third Reading next week.

**Mr Crowe:** – and finish the clauses and the Third Reading on the 18th, so that it would give the hon. mover an opportunity to go back to the Department. I am always reluctant to do legislation on the hoof and to remove two clauses on a whim, shall we say, is a bit draconian and drastic and I think –

**Mr Lowey:** This deals specifically with fixed penalties, as opposed to anything else and I am very surprised that, if it is a serious problem – and it is, I think we are all agreed on that, there is a need for this, then we downgrade it by saying there is a fixed penalty. That seems to me to be contradictory.

I am very mindful; I am the person who actually introduced traffic wardens (**Mr Callister:** Disgraceful!) I admit it! At that particular time my argument was it was to be used for serious parking offences near crossings etc. It is now a money-earning machine – and I say that in spite of all my protestations at the time to get through, which I was able to do.

I do not see this as a money-making thing, but it does downgrade it and for the points made by Mr Butt, it does not publicise the thing. The thing that will stop this from happening is publicity (**Mr Butt:** Prosecution.) and prosecution and I do not think you do that with fixed penalties.

**The President:** We have a proposal from the Hon. Member –

**Mr Crowe:** Yes, I move that we adjourn –

**The President:** – that we adjourn the remaining clauses until the next sitting.

**Mr Crowe:** Then take it with the Third Reading, so it would not hold up the Bill, but it would give the mover a chance to go back to the Department without us taking action to delete those clauses.

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

**Mr Braidwood:** I would oppose an adjournment. I feel that, in actual fact, we could support the clauses 15 and 16 and I have listened to Mr Lowey. This would give the opportunity if the Bill goes through Second Reading and clauses stage for the Member to have a discussion with the Department and at the Third Reading on the 18th it can be amended – the Bill can be amended at the clauses stage –

**The President:** The Third Reading.

**Mr Braidwood:** Yes, did I say...? At the Third Reading stage. I think that would be more appropriate to do it that way, because then at least we have gone through the Second Reading and the clauses and at the Third Reading the Bill can be amended after the Hon. Member has had discussions.

**The President:** You are speaking to an adjournment. Mr Downie.

**Mr Downie:** Madam President, I would not support an adjournment. I have already highlighted that, under clause 3, I want a much wider definition and if we agree today to progress to the Third Reading, it will actually give me some time to have some dialogue with the Department, to do some research through our Clerk and make sure that this area, which just refers to sunbeds is absolutely nailed down quite tightly, so that the Department then would have the ability to introduce new provisions, possibly under secondary legislation which would need to be approved by Tynwald, but it would give an opportunity to deal with all of these new things that have come along and make sure that, if there were new facilities introduced for facial and so on, that they could be properly approved by the Department and the legislation, in actual fact, could be kept up to date as and when things happen. That, I would be intending to do at the Third Reading stage, but I agree that there is no problem revisiting this when we meet again on the 18th and I will do my level best to get all the areas that I want covering with the definition out of the way before then.

**The President:** Lord Bishop.

**The Lord Bishop:** Madam President, can I be clear, if we were to pass... if we were to go through the remainder of the clauses and pass the Second Reading at this point and then move on to the Third Reading, if the possible amendments that have been suggested at Third Reading were to fail, the whole Bill would fail? Am I right?

**Several Members:** No.

**The Lord Bishop:** Okay.

**The President:** Just the amendments would fail.

**Mr Lowey:** But I believe and I may be wrong, Madam President – and I should know; I am on the Standing Orders Committee – but I think an amendment on a Third Reading requires not just a majority; it needs, I think, a two thirds majority? I look to my learned Clerk to help me out on that one, but I have got a feeling that it needs a bigger majority, so while it is an option, but amendments on the Third Reading, I believe – or used to be – had to have a two thirds majority. Tell me I am wrong?

**The Clerk:** Six votes.

**Mr Downie:** Two thirds then.

**Mr Lowey:** It requires six.

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

**Mr Butt:** It is clear, I think, there is a consensus that fixed penalties are not the way to deal with this, so if there was an amendment to that effect, it would be very likely to go through.

**Mr Braidwood:** Yes.

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

**Mr Callister:** I presume the mover is able to speak to the adjournment motion as well and I am speaking to the adjournment motion and in my opinion is that, if we remove 15 and 16 as we go through now, it will go down to the House of Keys as a changed Bill, they will have to look at it, either agree with it or not agree with it. If they disagree with it, they would have to get their 17 votes to have it put into law. If they agree with it, we are in a happier position all round. I do not see why we should stop at this stage.

**The President:** Do you want to speak to the adjournment?

**Mr Turner:** Thank you, Madam President, I would like to speak to the adjournment.

I see little point in adjourning this today. There are two ways of dealing with it. As Mr Callister said, I could move the clauses and if the opinion of Council is that these provisions are sufficiently serious that a fixed penalty is almost dumbing down the seriousness of the legislation, when you consider the same Department will take somebody to court for dangling a fishing rod into a river, they do not get a fixed penalty option for that, where they are not really doing any damage to third parties and children under the age of 18, yet for this offence the same Department is bringing forward a fixed-penalty regime.

So there are a number of ways we could deal with it. The removal of these – or if the vote was against the provision for the fixed penalties – would not damage the Bill. As we have said, it would go back... the opinion would be that we do not think it is the appropriate way of dealing with it. It would go back to the Keys for their consideration. If they agree with us, they would pass the Bill as amended; if they do not, then they would obviously reject Council's amendments and it would go forward in that process.

So I think the options are sensible. I do not think it is moving legislation on the hoof, because we have debated in detail the principles behind what this legislation is to do and what we are looking at now is merely whether fixed penalties are appropriate and the consensus of opinion appears to be that we do not feel it is appropriate. So I would certainly, speaking to the adjournment, oppose the adjournment proposal before us, Madam President.

Do I also get the opportunity to reply?

**The President:** Let us deal with the adjournment first and then we will come back to the debate. No, you do not need to reply if we are adjourning. Right, those in favour of adjournment to the 18th, our next sitting, please say aye...

I thought we had a seconder? I am sorry.

**Mr Crowe:** No, I do not think we did. *(Laughter)*

**The President:** Right, well, I am sorry. Let us continue the debate with no adjournment.

Does any other Member wish to comment on the clause, which was clause 15? If not, I call on the mover to reply.

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

I have to confess that I am not sure why the Department has put in the provision for fixed penalties. Again, as I have just said in response to the adjournment debate, I feel that, if Hon. Members do feel that fixed penalties are not appropriate for this, then the option is to vote the clauses out relating to fixed penalties, which will allow the Department to consider that.

Again, I do not think it will really harm the Bill. I think it will strengthen the Bill and certainly show that this is a serious piece of legislation, designed to prevent some serious accidents from taking place and maybe a £100 fixed penalty is not appropriate.

I will leave Members to decide on this vote, Madam President, so I beg to move clause 15.

**The President:** The motion is that clause 15 do stand part of the Bill. Those in favour, say aye; against, no. The noes have it.

*A division was called for and voting resulted as follows:*

**FOR**

Mr Turner  
Mr Braidwood  
Mr Crowe

**AGAINST**

The Lord Bishop  
Mr Lowey  
Mr Butt  
Mr Callister  
Mr Wild

**The President:** With 3 votes for and 5 against, the motion therefore fails to carry.

We move to clause 16. Well, we still have to deal with it. *(Laughter)*

**Mr Turner:** Madam President, with clause 15 failing, clause 16 obviously deals with ongoing the fixed penalty side. I will just simply move clause 16.

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

**The President:** The motion is, Hon. Members, that clause 16 do stand part of the Bill. Those in favour, please say aye; against, no. The noes have it. The noes have it.  
Clauses 17 and 18.

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

Clause 17 provides for a maximum fine of up to £2,500 where an offence goes to trial. I move that clause 17 stand part of the Bill.

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

**The President:** The motion is that clause 17 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Finally, clause 18.

**Mr Turner:** Clause 18 requires that any regulations made under the Bill are to be approved by Tynwald before coming into operation. I beg to move that clause 18 stand part of the Bill.

**Mr Butt:** I beg to second, Madam President.

**The President:** The motion is that clause 18 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.