

## **Regulation of Care Bill 2012**

### **Clauses considered**

4.1. Mr Robertshaw to move.

**The Speaker:** We turn now to Item 4, Bill for consideration of clauses. The first is the Regulation of Care Bill 2012. Hon. Members, this is a large Bill and Mr Robertshaw, the mover, has already indicated he wishes to take clauses in groups, as set out in his Paper circulated to Hon. Members in advance, which you should have a copy of.

I call Mr Robertshaw to move clause 1.

**Mr Robertshaw:** Thank you, Mr Speaker.

First I would like to thank Members who contributed to the debate during the Second Reading. It was pleasing to hear so much support for the Bill. I am also grateful to those who came to the briefing last week, which detailed some of the changes to the Bill, following consultation and provided some further background to the important changes the current regulation contained in this Bill.

Turning to clause 1, which gives the Bill its short title, Mr Speaker, I beg to move that clause 1 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

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

Clause 2.

**Mr Robertshaw:** Clause 2 provides for the commencement of the Act, the majority of which comes into effect on Royal Assent, but three clauses commence by Appointed Day Order. These are:

Clause 52, offence to carry on or manage without registration – this clause starts the process of the registration of care services under this Bill. Bringing this clause in by Appointed Day Order allows the Department to structure the registration process to a more exact timescale.

Part 5 – this part starts the process of the registration of specified social care staff. Again, this is being brought in under an Appointed Day Order to allow for a staged approach and engagement with the professional body undertaking the registration.

Clause 184 – this clause launches the registration of existing unregistered social care staff.

Mr Speaker, I beg to move that clause 2 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

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

Clause 3 please.

**Mr Robertshaw:** This clause states the purpose of the Bill. I beg to move that clause 3 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

**Mr Robertshaw:** This clause states how the purposes are achieved by the Bill. This provision is included to make the Bill more user friendly to the average reader, allowing a reader to quickly find out what the Bill is generally about.

I beg to move that clause 4 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 4 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

**Mr Robertshaw:** This clause gives a clear definition of ‘social care’ for the purposes of this Bill. This is not defined elsewhere in Manx legislation.

The focus here is providing personal care, practical assistance, or personal support, for example, bathing and dressing, or assistance with these tasks.

Mr Speaker, I beg to move that clause 5 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the motion that clause 5 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

**Mr Robertshaw:** This clause explains that the definition of care services means an agency, establishment or childminding for the purposes of this Bill. Regulations may provide for subcategories, for which a care service can be registered. For example, if the category registered is ‘adult care home’ the subcategory may be ‘mental illness’. This would allow a care home to take on service users with mental health needs.

Care services can have more than one subcategory, but will need to demonstrate in each case that their staff have the confidence and skill to care for such service users. For example, having qualified nurses, if a service is registered with ‘nursing’ as a subcategory. This is a change to the current legislation, whereby care homes have to register more than once, if they provide different types of care.

Mr Speaker, I beg to move that clause 6 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 7 and 8, Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr Speaker.

These clauses define what care services are ‘agencies’ and which are ‘establishments’. ‘Agencies’ means that inspection will be of the agency’s premises and records and not individual arrangements. However, in inspecting an agency, interviews and surveys will be conducted with service users and/or their families to assess the service being inspected. ‘Establishments’ mean that an inspection will be of the specific premises and the staff working there.

Please note, the full definitions of each of these services are contained in subdivision 2.

In both clauses the Department has added new provisions to be able to add an agency or establishment via secondary legislation. This provision has been included to ensure that we can quickly adapt to the changing care service market. For example, even five years ago you could not have predicted the number of domiciliary care agencies that would be operating on the Island.

I beg to move that clauses 7 and 8 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Hon. Member, Mr Quirk.

**Mr Quirk:** Thank you, Mr Speaker.

Can I just ask the Minister regarding that in the explanatory notes there. It does indicate that a person can arrive from a private dwelling and I am wondering whether the Minister could, or maybe later on, if he has not got information to provide us when this actual... who takes preference? Is it his own Department that registers the dwelling, or that planning has the main criteria for the particular dwelling? And when there is a conflict, where will that be resolved?

**The Speaker:** Mover to reply, Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr Speaker.

I do not see that there is a preference issue here. They are two separate matters entirely. I am not quite sure now where there would be a conflict in the matter at all. Registration of a property is a matter that identifies the service being provided and the establishment it sits in. Planning has a different set of criteria altogether.

**The Speaker:** Hon. Members, I put the question that clause 7 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

I put the question that clause 8 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

**Mr Robertshaw:** This clause defines the Department care service for the purposes of this Bill. This includes a Department of Social Care service carried on by another Department under another Act. This is to capture services such as offender accommodation.

Mr Speaker, I beg to move that clause 9 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 9 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

**Mr Robertshaw:** Mr Speaker, subsection (1) defines an 'independent care service' for the purpose of this Bill.

Subsection (2) clarifies that if a care service is jointly carried out by a Government Department and the independent sector, then the independent sector care service will be registered and regulated. This means the independent sector will require registration under part 3. However, if the Department is undertaking some tasks, as opposed to merely providing finance or acting as an agent, then the Department's part will be monitored and inspected as any other full Department care service would be under this Bill

Mr Speaker, I beg move that clause 10 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 10 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

**Mr Robertshaw:** This clause defines 'non-NHS health care service' for the purposes of this Bill. It only includes an independent clinic, an independent hospital, an independent medical agency and a nurses' agency.

Mr Speaker, I beg to move that clause 11 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 11 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 12.

**Mr Robertshaw:** This clause defines 'child-related' care services for the purposes of this Bill. This is required to allow specific disqualifications for people providing care services for children.  
Mr Speaker, I beg to move that clause 12 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 12 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 13.

**Mr Robertshaw:** This clause takes the owner of the business as the person who 'carries on' the care service. If a care service is run jointly between the Department and the independent sector, then the independent sector is the owner of the business.

Mr Speaker, I beg to move that clause 13 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 13 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 14.

**Mr Robertshaw:** This clause defines the person who 'manages' a care service, i.e. a person directly or indirectly responsible for the day-to-day operation. This can either be the same person who owns the business, or can be a separate person.

It is a matter for registrations and inspections to decide whether or not the person carrying on the service can also be the manager of the service. This depends on two criteria: firstly, the qualifications and experience of the person; and secondly, whether the person carrying on the service has any other services and premises he/she is responsible for.

Mr Speaker, I beg to move that clause 14 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** Can I ask the Minister, when there are multiple businesses, the person who is responsible... does the person who is responsible have to reside at one particular place, when there are two separate ones? What are the criteria on that?

**The Speaker:** Reply, sir.

**Mr Robertshaw:** Mr Speaker, we actually do deal with that matter later in the clauses and if the Member would be patient, I would be grateful.

**The Speaker:** I put the question that clause 14 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 15.

**Mr Robertshaw:** This clause is required to clarify the use of the term 'care service' in parts of the Bill without requiring a specific care service to be detailed.

Mr Speaker, I beg to move that clause 15 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 15 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 16.

**Mr Robertshaw:** This clause defines an ‘adult care home’ as providing certain care-based criteria, such as illness. The definition excludes certain establishments from the definition and allows for further exclusions to be prescribed by regulations. Adult care homes are currently regulated under the Nursing and Residential Home Act. The reason why a new definition has to be included is to bring nursing and residential care under the term ‘adult care home’.

Mr Speaker, I beg to move that clause 16 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second and reserve my remarks.

**The Speaker:** I put the question that clause 16 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it  
Clause 17.

**Mr Robertshaw:** This clause defines an ‘adult day care centre’ as providing certain care, because of the same criteria set out in clause 16. The definition states that these must be provided for more than four hours a day. The definition excludes certain establishments from the definition and allows for further exclusions to be prescribed by regulations.

Adult day care centres are a new addition to regulation. The definition covers day centres for adults who are providing care services, such as Praxis and Age Isle of Man. This does not include centres that provide things like lunch clubs. The definition seeks to capture those providing personal care.

Mr Speaker, I beg to move that clause 17 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 17 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 18.

**Mr Robertshaw:** Mr Speaker, this clause defines an ‘adult placement agency’, but a business can be excluded by regulations. Adult placement agencies are a new addition to regulation. Adult placement agencies are usually operated by a local authority and operate in a similar way to fostering for children.

The Department is looking at developing an adult placement agency to potentially reduce reliance on community homes and residential homes by providing care for vulnerable adults within a family setting.

Mr Speaker, I beg to move that clause 18 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second, Mr Speaker, and reserve my remarks.

**The Speaker:** I put the question that clause 18 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 19.

**Mr Robertshaw:** This clause defines a ‘child care agency’, but a business can be excluded by regulations. Child care agencies are a new addition to regulation.

This is not about the people caring for the children; it is about the agency supplying, or introducing them to the parents. They are similar to a domiciliary care agency, but for children, generally, an agency organising care

for children in their own home, or transport to and from day centres. The regulation is of the agency itself and their procedures.

Mr Speaker, I beg to move that clause 19 do stand part of the Bill.

**The Speaker:** Mr Singer.

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

**The Speaker:** I put the question that clause 19 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

**Mr Robertshaw:** Mr Speaker, this clause defines a ‘child day care centre’. The clause only applies to day care for children under eight years old. Child day care centres are currently regulated under the Children and Young Persons Act 2001. There is no change to the definition. This definition covers nurseries, playgroups, after-school groups and creches.

I beg to move that clause 20 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 20 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 21.

**Mr Robertshaw:** This clause defines ‘childminding’ and excludes certain persons from the definition, including nannies, as spelt out in subsection (2)(b) and (c). The clause only applies to childminding for children under eight years old.

Childminders are currently regulated under the Children and Young Persons Act 2001. The only significant change to the definition is that ‘relative’ has been expanded from the previous legal definition to:

‘a person connected to the child or children by whole blood, half blood or by marriage, civil partnership or some [other] affinity...’.

This is to capture the different relationships that now exist within families, for example, step parents.

Mr Speaker, I beg to move that clause 21 do stand part of the Bill.

**The Speaker:** Mr Singer.

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

**The Speaker:** I put the question that clause 21 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 22.

**Mr Robertshaw:** This clause defines a ‘children’s home’ and excludes certain establishments from the definition. The definition excludes certain establishments from the definition, including boarding schools and allows for further exclusions to be prescribed by regulations. Children’s homes are currently regulated under the Children and Young Persons Act. The only change is that this will now include the regulation of any size of children’s home, whereas currently, regulation is only for those with three or more children.

Mr Speaker, I beg to move that clause 22 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** Mr Quirk.

**Mr Quirk:** Mr Speaker, just a question on when it is three or more children into a private dwelling, I am wondering if a person was to apply to mind kids and had a criterion, what would the criterion be if the person

then had a home with two kids and then wanted to increase it to three, to four, to five, what would be the criteria then? Would they make an application? I am just wondering what the relationship would be, if it was in a residential area. How would the neighbours know, or the local authority know?

**Mr Houghton:** Oh! The local authority.

**The Speaker:** Reply, sir.

**Mr Robertshaw:** Mr Speaker, I could perhaps give a bit of background to what is actually happening here. The move within my Department is to see children... instead of being in larger children's homes of four, five and so on, to move them, as you would expect, much more into family environments that are not necessarily fostered or adopted. So the idea is that those areas are registered, where you have got one and two children.

As far as knowing that the child is in the area, it is a family home environment, but registered because it is not adopted or fostered. I hope that clears the matter up, Mr Speaker.

**The Speaker:** I put the question that clause 22 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 23.

**Mr Robertshaw:** This clause defines a 'child (secure accommodation) establishment'. This is not a new addition. It covers a secure unit, which is already regulated under the Children and Young Persons Act 2001 as a children's home.

I beg to move that clause 23 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 23 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 24.

**Mr Robertshaw:** This clause defines a domiciliary care agency, but a business can be excluded by regulations. This is a new addition to regulation. We currently have 23 known as domiciliary care agencies operating on the Island. This is again about providing personal care and does not include cleaners. It does not include one person independently employing another person to care for them through personal arrangements.

Mr Speaker I beg to move that clause 24 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 24 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 25.

**Mr Robertshaw:** This clause defines a 'fostering agency'. This is a new addition, as fostering services are not currently regulated. There is one agency on the Island, Fostering First, operated by the Children's Centre.

Mr Speaker, I beg to move that clause 25 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Thank you, Mr Speaker, I beg to second.

**The Speaker:** I put the question clause 25 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 26.

**Mr Robertshaw:** This clause defines an 'independent clinic' and excludes certain services from the definition. Because independent clinics can cover a large number and variety of services, it was decided to make

this a gateway clause. Regulations will specify which services will be included. Consultation will take place with the relevant parties before a service is included.

This is not a new addition. We currently regulate those clinics that provide treatment using class 4 and class 3B lasers. This is commonly hair removal. These services come under the existing Nursing and Residential Homes Act 1988. There are two clinics currently operating that will come under this new definition.

Mr Speaker, I beg to move that clause 26 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 26 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 27.

**Mr Robertshaw:** Mr Speaker, this clause defines an ‘independent hospital’. The definition excludes certain establishments from the definition and allows for further exclusions to be prescribed by regulations. As a result of the consultation, a file definition of an independent hospital has been simplified. This allows the Department to expand the definition by regulation. Consultation will take place with relevant parties before another type of service is included in the definition.

Some services that are liable to be registered as a nursing home or mental nursing home under current legislation will be transferred to this category. The only one on the Island at the moment is the Hospice. This clause could potentially cover in the future any private hospital or establishment providing an overnight non-NHS healthcare service in the future. Also, any service taking patients detained under parts 2 and 3 of the Mental Health Act for assessment and treatment would have to be registered as an independent hospital.

I beg to move that clause 27 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 27 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 28.

**Mr Robertshaw:** This clause defines an ‘independent medical agency’. The definition excludes certain establishments from the definition and allows further exclusions to be prescribed by regulations. An example of this would be an agency providing private medical practitioners or medical advice to private clients. There is currently no independent medical agency on the Island. However, as a number are in operation in neighbouring jurisdictions, this clause has been included.

Mr Speaker, I beg to move that clause 28 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 28 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 29.

**Mr Robertshaw:** This clause defines a ‘nurses’ agency’, but an agency or business can be excluded by regulations. There are two types of nurses’ agencies. Those that only provide an introductory service and simply keep a list and those who offer a more in-depth service, for example, placing nurses in a person’s own home, equivalent to a domiciliary care agency. This is not a new addition. Nurses’ agencies are currently regulated under the Nurses and Midwives Act. There is currently one nurses’ agency operating on the Island.

Mr Speaker, I beg to move that clause 29 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 29 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 30.

**Mr Robertshaw:** This clause defines an ‘offender accommodation service’, but an establishment can be excluded by regulations. This is not a new addition. Offender accommodation services are already located under the Nurses and Residential Homes Act. There is currently one on the Island.  
Mr Speaker, I beg to move that clause 30 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 30 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 31.

**Mr Robertshaw:** This clause defines a ‘residential family centre’, but an establishment can be excluded by regulations. This is a new addition to regulation.

The Children’s Centre currently run family centres, but they only operate during the day. There are no residential family centres on the Island at the moment and no immediate plans for any. There are too few cases coming through for this to be viable at this time.

Where there has been need, off-Island places are utilised and they will be regulated by that jurisdiction. However, including this definition in the Bill allows for the creation of an on-Island service in the future.

Mr Speaker I beg to move that clause 31 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Thank you, Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 31 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 32.

**Mr Robertshaw:** Thank you, Mr Speaker.

This clause defines a ‘voluntary adoption agency’. This is a new addition to regulation. There is currently one adoption agency on the Island: the Isle of Man Adoption Service.

I beg to move that clause 32 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 32 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 33.

**Mr Robertshaw:** This clause explains that the schedule defines words, except those used in part 9. It also explains the various uses of the word ‘function’ and the use of examples or notes. Importantly, it states that the use of an example of the operation of a provision may extend the meaning of a provision.

Mr Speaker, I beg to move that clause 33 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 33 and the schedule stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 34.

**Mr Robertshaw:** Part 2 of the Bill states the Department's specific functions, including the regulation of care services and the making of minimum standards for care services.

Clause 34, general functions: subsection (1) states the key Department functions in relation to care services.

Subsection (2) states the Department's monitoring function.

Subsection (3) states the Department also has the function of promoting high standards for social care workers and their training.

Mr Speaker, I beg to move that clause 34 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 34 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 35, 36 and 37.

**Mr Robertshaw:** Clause 35, power to make minimum standards; clause 36, access to minimum standards; clause 37, effect of minimum standards. These clauses state that the Department may make minimum standards for each care service listed above after consultation. Standards are public documents and must be accessible to the public. The Department must consider the standards when performing its functions.

Mr Speaker, I beg to move that clauses 35, 36 and 37 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** Thank you, Mr Speaker.

When the Minister says 'public access', I wonder if the Minister could confirm that these would be available then, if the assessments are done on the web, or his Department's site?

**The Speaker:** Mrs Cannell.

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

It is a very simple enquiry, really. In what way will the minimum standards be established? Will that be by way of regulation and will that go out to public consultation?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** Thank you, Mr Speaker, turning to the Hon. Member for Onchan's point first, the whole essence of this Bill, effectively, is to bring into the public arena the process of regulation and the inspection process. It is something of a fair parallel to say in some respects it reflects grading and classification in tourism, where once an inspection takes place, the user, the potential user, the general public, become aware of the standards of that operation through the publication of the reports, which we will come to later in the Bill and yes, my clear recollection is that they will appear on the website for public inspection.

Turning to my friend, my colleague, fellow Member for Douglas East, if the Hon. Member could reiterate her question, I would be most grateful.

**Mrs Cannell:** To be helpful to the Minister, I asked him in terms of the minimum standards, how will they manifest? Will they be provided in regulation and will the regulations be subject to public consultation?

**The Speaker:** Mr Robertshaw.

**Mr Robertshaw:** The minimum standards: the standards will be public documents and readily accessible to stakeholders and the public. The Department will be required to work to the same standards.

I need a note on whether or not there needs to be consultation on the development of those minimum standards, if...

**The Speaker:** If you do not have the information to hand, you can advise –

**Mr Robertshaw:** I will have in a second, Mr Speaker.

**The Speaker:** If you do, you may answer now.

**Mr Robertshaw:** I am advised that this is not a statutory document and will not therefore be consulted on with providers, Mr Speaker, if that is a satisfactory answer to –

**The Speaker:** I put the question that clause 35 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 36, those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 37, those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 38, please.

**Mr Robertshaw:** Part 3 of the Bill requires persons who provide or manage a care service to be registered, states disqualification criteria, states conditions of registration and the procedures for changing registration. This clause defines the terms in the title, Mr Speaker.

I beg to move that clause 38 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 38 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 39.

**Mr Robertshaw:** This clause defines the terms in the title. Guidance notes will state when separate registrations will be required for the provider and the manager.

Mr Speaker, I beg to move that clause 39 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** I am just wondering whether the Minister could give an indication if the provider could also be the manager, or the manager be the provider. Or is that two different identities or two different people?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** Mr Speaker, the manager registration and the registered manager are different in the sense of the noun sits in a different place. So in the case of the second one, the manager is the noun and is defined by being registered and in the first case the registration is the noun and is defined by manager. So a manager registration concerns itself with the registration as it relates to the manager and the manager registration relates to... the manager relates to the register, so it sounds a little bit – pardon? (*Interjection by Mr Quirk*) (**A Member:** No.) It is not –

**The Speaker:** Through the Chair, please.

**Mr Robertshaw:** Mr Speaker, the registered manager is a person. The manager registration is a list. It is a registration of individuals. So, one refers to a person and the other refers to the registration of that person. But I am advised that they can be the same person in the sense that the manager can be the provider as well.

I beg to move.

**The Speaker:** I put the question that clause 39 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 40.

**Mr Robertshaw:** This clause defines the term in the title. It should be clear that the references to a 'registered person' throughout the Bill means either a registered manager or a registered provider. A registered provider can be an individual or a partnership or a company or a committee. Mr Speaker, I beg to move that clause 40 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 40 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 41.

**Mr Robertshaw:** This clause defines 'childminder registration', 'registered childminder' and 'child-related' registration.

Mr Speaker, I beg to move that clause 41 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 41 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 42.

**Mr Robertshaw:** Subsection (1) states that the term 'registration' on its own means any active provider registration or manager registration.

Subsection (2) states a reference to a person's registration includes the registration conditions and any details of the registration.

Mr Speaker, I beg to move that clause 42 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 42 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 43.

**Mr Robertshaw:** This is an establishing clause for clauses 44 to 46 which I will detail in a moment.

Subsection (1) details the types of disqualification. Please note that (d) does not relate to childminders. They could still operate if they have been made insolvent, as they do not work in the same way as other care service businesses. They work from home and normally charge on a weekly or a monthly basis.

Subsection (2) states that the above disqualifications apply unless the person has been exempted under clause 47 and exemption has not been withdrawn under clause 48.

Mr Speaker, I beg to move that clause 43 do stand part of the Bill.

**The Speaker:** Mr Ronan.

**Mr Ronan:** I beg to second and reserve my remarks

**The Speaker:** I put the question that clause 43 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 44.

**Mr Robertshaw:** Subsection (1) lists the disqualification circumstances for total disqualification.

Subsection (2) states that, for a body corporate, the disqualifying circumstance is that a member or officer of the body is totally disqualified.

Subsection (3) provides definition for this clause. Total disqualification is required for the most serious offences, whereby it would be unsuitable for an individual to work with vulnerable care service users.

Mr Speaker, I beg to move that clause 44 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question – Mrs Cannell, I beg your pardon.

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

Could I just ask the Minister, this is to do with total disqualification and it lists the types of disqualification that a person might be disbarred from. It only refers to the British Islands legislation and I am just wondering, if someone was to seek employment working with children in this area, in this field and they came from outside of the British Isles, what sort of rigour would we have in place then to be able to check that (a) they had not been disqualified and (b) they were appropriate to be working in that particular area with vulnerable children?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** Mr Speaker, in the first instance, the registration process is very rigorous indeed and I will be pleased to provide the Hon. Member with a sample of the form of registration to satisfy herself – and I am satisfied – that people could not slip through a gap in the registration process.

I beg to move.

**The Speaker:** I put the question that clause 44 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 45.

**Mr Robertshaw:** Subsection (1) states that the following subsections provide for the disqualification circumstances for disqualification for children.

Subsection (2) lists all the disqualifying circumstances.

Subsection (3) states it is also a disqualifying circumstance for an individual, if the individual lives in the same private dwelling as a person disqualified for children or any part of the premises at which a person disqualified for children is employed or engaged.

Subsection (4) explains that, for a body corporate, the disqualifying circumstance is that a member or officer of the body is disqualified for children.

Subsection (5) provides a definition for this clause. This clause has been included because of the particular vulnerability of children and the requirement to have a higher level of protection.

Mr Speaker, I beg to move that clause 45 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk, Hon. Member.

**Mr Quirk:** I am just wondering whether if a particular person or residential unit was registered and the person resides as their domestic dwelling as well, would therefore the business cease operation, if that was their residence as well as their providing site?

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** Mr Speaker, just following on from the previous clause, because it is related and referred to in this one.

Where a definition is given for children's law and it gives a series of what the definitions are, again it refers to Scottish legislation, British legislation, Northern Irish legislation and the Minister did go on to say that it is fairly rigorous, the tests are fairly rigorous to ensure that somebody does not slip through the net. Can he advise the House whether the same tests conducted in his Department are similar to those that are conducted in the Department of Health, bearing in mind we have had surgeons appointed in the Isle of Man, who have had criminal offences outside of the Isle of Man in their own country abroad and this was not detected?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** Turning to the Hon. Member for Onchan first, it would not be acceptable for somebody of the type and nature he described to reside in premises used for child purposes. It would not be acceptable.

With regard to my hon. friend's question, I again repeat that I am happy to provide her with copies of the registration process to satisfy herself that the process that they will go through is rigorous.

I beg to move, Mr Speaker.

**The Speaker:** I put the question that clause 45 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 46.

**Mr Robertshaw:** Subsection (1) states that the following subsections provide for the disqualifying circumstances for specific disqualification for a category of care service, for example, an adult care home.

Subsection (2) lists the disqualifying circumstances for a category of care service.

Subsection (3) states the recipient of a disqualification notice as an unregistered childminder is disqualified from childminding, until either one year after the notice is given, or the notice is earlier withdrawn. Further detail on this matter is contained in clause 138.

Subsection (4) explains for a body that for a body corporate the disqualifying circumstance is that a member or officer of the body is specifically disqualified for the category.

Subsection (5) provides definition for this clause. This clause is to allow for more specific disqualifications, rather than overall disqualification.

I beg to move that clause 46 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 46 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 47.

**Mr Robertshaw:** Subsection (1) explains that a person who is disqualified under subsection 43(1) may apply for an exemption from that disqualification.

Subsection (2) explains that, if an exemption application has been refused, they can only re-apply under the specific circumstances.

Subsection (3) explains the application requirements.

Subsection (4) and (5) state the criteria for the Department in considering the application for exemption.

Subsection (6) states that, if the Department refuses an exemption application, it must give the applicant an appeal notice for the decision. An example of when a disqualification might be lifted is if a childminder is disqualified by virtue of someone in the household being unsuitable to be in the proximity of children. If that person leaves the household, or the childminder goes to work in another child care setting, for example, at a child day care centre, the disqualification could be lifted.

Mr Speaker, I beg to move that clause 47 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** Under the disqualification, I wondered if the Minister could give us an indication of where or how long the appeals would take place? If a person appealed against the decision of the Department, is there a separate appeals panel? Would that appeal be within seven days?

**The Speaker:** Mr Robertshaw.

**Mr Robertshaw:** Mr Speaker, may I ask for the kind patience of the Hon. Member, as these matters are dealt with later in clauses.

I beg to move.

**The Speaker:** I put the question that clause 47 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 48.

**Mr Robertshaw:** Subsection (1) states the criteria for the Department to withdraw a disqualification exemption.

Subsection (2) states that if the Department withdraws the disqualification exemption, it must give the applicant an appeal notice for the decision.

Mr Speaker, I beg to move that clause 47 stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 48 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 49, 50 and 51.

**Mr Robertshaw:** Clause 49, who is a 'suitable manager' or 'suitable supervisor'; clause 50, criteria for suitability to manage or supervise; clause 51, who is 'suitable for childminding'. These clauses set out who is suitable to manage or supervise a care service and what criteria are taken into account.

For example, someone may be suitable to manage a small residential unit for physically frail elderly, but may not have the knowledge and skills to manage a large unit, accommodating service users with multiple needs, including dementia. Please note that suitability to be a childminder is a separate definition, as a childminder plays all roles: provider, manager and supervisor.

Mr Speaker, I beg to move that clauses 49, 50 and 51 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** Can I ask the Minister, other than being physically fit, mentally fit, have skills and experience, have integrity and have a good character, are there any qualifications required for this and if not, why not?

**The Speaker:** Mr Quirk.

**Mr Quirk:** Just a similar sort of thing. Just on the definition of when a manager's suitability to manage a small unit, to a large unit, or a supervisor to take over a user, to manage a small unit, to a large unit: is there a suitable grading for a supervisor? So supervisor 'A' could not do a manager 'B' or whatever.

**The Speaker:** Mover to reply.

**Mr Robertshaw:** In answer to both Hon. Members' questions, as they are very similar, effectively the qualifications will need to be appropriate for the size of the establishment that is under scrutiny at that particular moment and will differ from level to level.

I beg to move.

**The Speaker:** I put the question that clause 49 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 50: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 51: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 52, Mr Robertshaw.

**Mr Robertshaw:** Subsections (1), (3) and (4) state it is an offence to carry on or manage an independent care service, or carry on as a childminder, unless the person has appropriate registration and the registration is not suspended.

Subsection (2) states that the maximum penalty for the offence is £20,000, but if the offence was committed in circumstances of aggravation, the maximum penalty is six months' custody or a fine.

Subsection (5) provides definition for the clause.

Mr Speaker, I beg to move that clause 52 do stand part of the Bill.

**The Speaker:** Mr Singer.

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

**The Speaker:** I put the question that clause 52 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 53, 54 and 55.

**Mr Robertshaw:** Clause 53 is personal representatives; clause 54, child day care at certain establishments; clause 55, occasional child day care centres.

These clauses deal with the exemptions from registration, which include a personal representative carrying on a care service after a sole provider's death, as specified in clause 102; specified child day care establishments, such as hospital or chapel school; and occasional child daycare, if the day care centre operates for five days or less a year. In this instance, a notice will need to be given to the Department to confirm the situation.

I beg to move that clauses 53, 54 and 55 do stand part of the Bill.

**The Speaker:** Mr Singer.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** Just on the issue there, where there is an operational centre takes for five days or less, it just seems quite bizarre, really, that a person would want to work just five days in a particular year. I wonder where they get their clients from?

Could I ask the Minister regarding those checks on those particular premises, if they are only operating five days in a year. It does say it will give them notice, I think. I am just wondering how that check would take place, if they were only saying five days in a particular year?

**The Speaker:** Minister to reply.

**Mr Robertshaw:** The point of these clauses is to exclude them from registration and those establishments do exist. My grandchildren were over from Singapore this summer, went on a sailing course for four days in a child care environment. That would not be subject to this form of registration.

Mr Speaker, I beg to move.

**The Speaker:** I put the question that clause 53 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 54: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 55: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 56, please.

**Mr Robertshaw:** And clause 57, Mr Speaker.

**Mr Singer:** Clause 56.

**Mr Robertshaw:** Clauses 56 and 57 together.

**The Speaker:** Clauses 56 and 57 together.

**Mr Robertshaw:** Clause 56: who can apply for registration; clause 57, how to apply.

Clause 56 details who can apply for registration apart from the exemptions, as listed and specify that an individual can be both a provider and a registered manager, but the childminders only need to apply as a provider as they fulfil both roles.

Clause 57 clearly states the requirements for a registration application to avoid situations where the Department has to chase for information, or where the Department has no specific point of contact for the body.

Mr Speaker, I beg to move that clauses 56 and 57 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clauses 56 and 57 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 58, Mr Robertshaw.

**Mr Robertshaw:** This clause states the specific criteria for registration. Some criteria vary, depending on the application. It also details that the applicant must comply with the mandatory conditions set out in the Bill and other prescribed criteria and that the premises are suitable for the service being provided.

Mr Speaker, I beg to move that clause 58 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 58 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 59.

**Mr Robertshaw:** This clause states that the Department must consider and decide each registration application and in doing so, meet the procedural fairness requirements, but that the Department may only grant an application if it is satisfied that specific criteria have been met. I beg to move that clause 59 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 59 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 60.

**Mr Robertshaw:** This clause gives the Department the power to set registration conditions, in addition to mandatory conditions. These are called decided conditions. Before any decided condition is imposed, the Department must have complied with the procedural fairness requirements, unless the conditions have been agreed with the registered person. It will be rare, but an example could be in a childminding situation if the outside area is not suitable for children, registration inspections may still be registered, subject to a condition that states children must not have access to the outside area until it is made safe and free from hazards.

I beg to move that clause 60 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** Following on from the Minister's explanation of this particular clause, does that mean, therefore, that the clause provides for the registration to actually go ahead and be approved and for operation to commence, despite there being not sufficient outside space, for example, for the children to gain access?

That is the first question, and secondly, if it is, is the Department going to have to keep a watching brief, as to when that condition is going to be fulfilled? Is it time sensitive? I would be surprised, actually – perhaps I

misheard him – that a licence or registration would be granted to someone to open up premises, start to mind children, if they have not provided a suitable play area, being outside and if that is just going to be conditional, how long is that condition going to hang around there for, and is the provision, if they do not comply, to be able to withdraw the registration?

**The Speaker:** Mr Quirk.

**Mr Quirk:** It is a similar question. The only addition I would make to that would be on parking. I would say it would be better if application would be approved on its merits, before a licence was actually granted, because of the difficulties that can happen. I am just wondering what the Minister's thoughts were.

**The Speaker:** Mr Robertshaw to reply.

**Mr Robertshaw:** If I could describe the background essence of this Bill, it is to not be confrontational or dogmatic about registration, but allow an engagement between the registers and the providers, so that both parties are working together towards an ultimate aim and later on we do talk about introducing this Bill over a period of time. There will be time strictures on decided conditions, which registration and inspections we will keep a close eye on and in close co-operation with the Department and if the provider fails to meet, in due course, the decided conditions then of course, that would put their registration under strict reconsideration.

I would think that parking could not really normally fall within decided conditions. It may do, but I doubt it, as that might be something outside of the reasonable control of the provider and therefore would not be a decided condition in the first instance, because the provider and the registration inspectors will be working together to construct decided conditions.

I beg to move.

**Mr Quirk:** Mr Speaker, for clarification, if I could ask the Minister regarding – I can see his issue to do with existing providers, but would he not take a different view if they were brand-new providers?

**The Speaker:** Minister, clarification.

**Mr Robertshaw:** If we are talking... are we talking about parking still, here?

**Mr Quirk:** The facilities.

**Mr Robertshaw:** Here, you are getting mixed up between planning and this process here –

**The Speaker:** This is not a committee, Hon. Members. (**Members:** Hear, hear!) All discussion must be channelled through the Chair. I have given a bit of leeway for clarification, but you are seeking to embellish a point, (**A Member:** Embellish!) (*Interjection by Mr Houghton*) and really, we cannot debate like this.

Minister, you may finish the point if you have not finished.

**Mr Robertshaw:** I think I have finished it, Mr Speaker.

**The Speaker:** Thank you. In that case I will put the question that clause 60 do stand part of the Bill. Those in favour, say aye; against, no. (**Mr Quirk:** No.) (**A Member:** Oh!) The ayes have it. The ayes have it.  
Clause 61.

**Mr Robertshaw:** This clause confirms the arrangements for when the Department of Social Care grants a registration in relation to who receives a notice of the decision. The notice must include any decided conditions, as detailed in clause 60 and the circumstances in which an appeal notice is required.

Mr Speaker, I beg to move that clause 61 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 61 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 62.

**Mr Robertshaw:** This clause details when a decision to grant a registration application takes effect. I beg to move that clause 62 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 82 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 63.

**Mr Robertshaw:** Mr Speaker, this clause states the Department's obligations when a decision to grant a registration is made, including recording, registration and the responsible person, where applicable and giving a registration certificate.

I beg to move that clause 63 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 63 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 64.

**Mr Robertshaw:** This clause states the registration continues until it is surrendered, suspended, or cancelled under this part, or, if the sole registered person is an individual, the person dies.

I beg to move that clause 64 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second, Mr Speaker.

**The Speaker:** I put the question that clause 64 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 65.

**Mr Robertshaw:** This clause states that, as well as any decided conditions, a person's registration is subject to mandatory conditions contained in this division or prescribed by the Department.

I beg to move that clause 65 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 65 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 66, Mr Robertshaw.

**Mr Robertshaw:** And 67, Mr Speaker.

**The Speaker:** There is an amendment, I see, to 67. I would rather take 66 on its own.

**Mr Robertshaw:** Thank you, Mr Speaker.

Clause 66, supervision and management duties general: this clause deals with the registered provider's responsibilities in ensuring their care service has a registered manager who continues to manage it. If the registered provider is a body corporate, then the care service's responsible person must continue to supervise its management – the 'supervision condition'; and if the responsible person dies or otherwise ceases to supervise, the body corporate must make an amendment application as soon as possible. While a person continues to be a registered manager, that person must, unless the Department otherwise agrees, continue to

manage the care service, the management condition. However, these conditions do not affect a leave entitlement of the responsible person or registered manager.

Mr Speaker I beg to move that clause 66 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 66 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 67.

**Mr Robertshaw:** Clause 67, supervision and management duties: exception.

Clause 67 further clarifies that these conditions do not apply during a period of leave. If the total leavetaking is no more than the maximum leave prescribed and the registered provider has made arrangements to ensure the care service is suitably supervised and managed when they are on leave, the maximum leave can be prescribed, even if it is less than an entitlement of the Employment Act, any other relevant Act, or a contract of employment.

This clause is not about reducing the leave, but prescribing conditions in regulations of where certain extended periods of leave may mean that having appropriate arrangements in place is not adequate and the provider may have to have a new registered manager or responsible person. Examples of this may be during a period of long-term sick leave, or maternity, paternity leave, or a secondment to another post.

Mr Speaker, I beg to move that clause 67 do stand part of the Bill.

**The Speaker:** Mr Singer.

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

**The Speaker:** I call on Mr Ronan to move the amendment.

**Mr Ronan:** Thank you, Mr Speaker.

This insertion clarifies what the Department felt on reflection could potentially have been a loophole in this clause. As the Minister has stated, clause 67(2) states that maximum leave can be prescribed, if it is less than the entitlement under the Employment Act, any other relevant Act, or a contract of employment. As stated, this clause is not about reducing leave, but prescribing conditions through regulations of when certain extended periods of leave may mean that having a temporary cover in place is not adequate and the provider may have to have a registered or new manager, or nominate a responsible person.

However, in some cases, where extended leave is granted, it may be done so under an informal arrangement not specified in a contract or the Employment Act and therefore the Department wanted to assure that in no circumstances the maximum leave is prescribed, it would have to be adhered to.

Mr Speaker, I beg to move the amendment to clause 67 standing in my name:

*Clause 67*

*1. On page 43 at the end of line 3 insert –*

*‘(3) Nothing in subsection (2) limits the scope of subsection (1).’*

**The Speaker:** Mr Anderson.

**Mr Anderson:** I beg to second.

**The Speaker:** Mover to reply.

**Mr Robertshaw:** Thank you, Mr Speaker.

In the view of the Department, this amendment satisfactorily closes a loophole we had identified at a very late stage and I am pleased to see the amendment.

**The Speaker:** I put the amendment first. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

Clause 67 as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 68.

**Mr Robertshaw:** This clause sets out requirements about the necessary skills and training required to be a suitable supervisor and manager.

Subsection (1) states a registered provider that is a body corporate must ensure the care services' responsible person continues to be a suitable supervisor and has appropriate training. The specifics of suitability will be set out in the minimum standards applicable to each service. Examples of these would include taking steps to maintain knowledge of developments in child care; continue to be physically and mentally fit.

Mr Speaker, I beg to move that clause 68 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 68 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 69.

**Mr Robertshaw:** This clause deals with ensuring a registered person supervises, manages, or carries out a care service with sufficient care, competence and skill. Guidance on care, competence and skill will be included in the minimum standards, specific to each care service. Examples would include not leaving children alone and ensuring that risks and hazards are eliminated; maintaining continuous professional development to ensure competence and skills are up to date.

Mr Speaker, I beg to move that clause 69 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question clause 69 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 70.

**Mr Robertshaw:** This clause states the continuing requirement in relation to the care services premises and equipment. Guidance on continuing suitability of premises and its equipment will be included in the minimum standards. Examples would be meeting electrical safety standards; maintaining passenger lifts; general maintenance of the building; personal electrical appliance testing.

Mr Speaker, I beg to move that clause 70 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** Just to mention equipment, there are other bits of equipment, there is playground equipment. I am just wondering where those... or apparatus for climbing and so forth. These facilities, would they be checked by his Department or somebody else?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** I simply gave a few examples of areas where there would be a requirement to maintain high standards of care on equipment. Of course, they extend much further than that and would impact upon anything, where an individual or child might, from a Health and Safety point of view, be concerned, but registration and inspections will require the provider under these terms to meet the appropriate standards and if they do not, action will be taken.

I beg to move.

**The Speaker:** I put the question that clause 70 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 71.

**Mr Robertshaw:** This clause states the requirement to pay annual fees and specifies that a recipient of a cost recovery notice must pay the required amount within 14 days.

Mr Speaker, I beg to move that clause 71 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 71 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 72.

**Mr Robertshaw:** This clause specifies that a registered person must allow an inspector to enter and inspect the premises at which the care service is provided if the inspector meets specified criteria.

Mr Speaker, I beg to move that clause 72 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mrs Cannell.

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

This is a very important provision, actually, in clause 72 in terms of inspected-related matters. What I would ask the Minister is what the procedure is for inspections. Does the proprietor get notified beforehand that there is going to be an inspection, as has always been the case, particularly with elderly persons' accommodation – which I believe is not sufficiently robust – or can an inspection just be made?

In other words, can it just be made *ad hoc* without the proprietor's former notice? If there is going to be anything worth inspecting, truthfully, then it needs to be without notice, in my opinion. There is nothing in this particular clause that says whether an inspection must be an inspector... You cannot block the inspector from coming in, but there is nothing to say how much notice that inspector is going to be giving, if any.

I notice also further on there is a clause in terms of making reports about inspections etc, but I cannot find anywhere within legislation that specifies whether notice is given. So if the Minister could clarify that, please.

**The Speaker:** Mr Quirk.

**Mr Quirk:** Mr Speaker, the same as Mrs Cannell from West Douglas there (**A Member:** East.) on unannounced visits. I wonder if the Minister could maybe give us some more explanation of 'the inspector meets the specific criteria', what that actually means. He is a qualified person, is he?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** In the matter of announced and unannounced inspections, the Hon. Member, Mrs Cannell, from Douglas East does make an important point. It is actually dealt with in significant detail in later clauses. Again, I would beg patience on that matter.

With regard to the Hon. Member for Onchan's comment, where he asks does the inspector meet specified criteria: again I ask for patience, because how the inspector is met at the premises is tied up again in further clauses and describes what and how an inspector must present credentials and the like.

Again, Mr Speaker, I beg to move.

**The Speaker:** I put the question clause 72 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 73.

**Mr Robertshaw:** This clause takes the recipient of an improvement notice must comply with the notice. Members should note that the details of improvement notice are in clauses 132, 133 and 134. The offence is contained in clause 105.

Mr Speaker, I beg to move that clause 73 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 73 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 74, 75, 76, 77.

**Mr Robertshaw:** Clause 74 deals with when a registered person, provider, or manager may apply to amend an application and what they can and cannot amend.

Clause 75 details how to apply.

Clause 76 states that the Department must consider and decide each application.

Clause 77 details what the Department must do if it grants an amendment application, including issuing a new certificate, or issuing an appeal notice if the amendment is denied.

Mr Speaker, I beg to move that clauses 74, 75, 76, 77 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** Just clarification on when additional amendments are made. I am just wondering where, how and when people or the clients of that particular establishment with no... Say they are increasing the number of children from 20 to 40, or they are doubling the size of the particular unit. Is that the sort of thing that the amendments would come into?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** I could not possibly encapsulate all the possible areas that amendments to registrations may apply. It is beyond this clause, in a sense. These clauses here are determined about the procedure relating to the applications for an amendment to a registration.

I beg to move, Mr Speaker.

**The Speaker:** I put the question that clauses 74 to 77 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 78.

**Mr Robertshaw:** This clause states that a registered manager or registered childminder may surrender their registration by notice to the Department. However, this can only take place if no cancellation notice has been issued by the Department. This is to avoid any surrender of a registration before any proceedings have taken place.

Mr Speaker, I beg to move that clause 78 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 78 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 79 to 84 inclusive.

**Mr Robertshaw:** Clause 79, application of Subdivision; clause 80, surrender only by application; clause 81, restriction on making surrender application; clause 82, how to apply; clause 83, deciding application; clause 84, notice and taking effect of decision.

These clauses deal with the criteria and process for a surrender of an application by a registered provider. The provisions here are stronger, because when it is a provider who wishes to surrender registration, this usually means that they want to close down the service and in these circumstances, they must meet certain conditions specified in clause 83, for example, having discussions with service users, their families, social workers and any other interested parties to ensure that individuals are moved to another service that meets their needs and that all are given sufficient time to prepare for the move and be involved in the decision.

Again, there are restrictions to avoid any surrender of a registration before any proceedings have taken place.

Mr Speaker, I beg to move that clauses 79, 80, 81, 82, 83 and 84 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clauses 79 to 84 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 85 and 86.

**Mr Robertshaw:** I am grouping these clauses 85 and 86, as they both deal with amendments that the Department may make to a registration.

Clause 85 states that the Department may make minor corrections to a registration, as long as it does not adversely affect the interests of the person or anyone else and they are given notice of the change. This is included to ensure that any administrative errors could be easily rectified.

Clause 86 allows four more general amendments and therefore the Department must ensure it complies with procedural fairness requirements.

Mr Speaker, I beg to move that clauses 85 and 86 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question clauses 85 and 86 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 87.

**Mr Robertshaw:** This clause details the criteria when the Department can suspend a registration. This is a new and important power under the Bill. Under the current law, when there are significant concerns about how a service operates, or something comes to light about a registered person, there are frequently further investigations to be done, sometimes by the Police. Until such time as these are complete the Department is unable to either serve a cancellation or legally require a person to absent themselves from the service.

It has been common experience for people to remain registered for up to two years, before the whole process is gone through and a person's registration cancelled. The only other course of action open to the Department in these circumstances is to apply for an urgent cancellation order and for this to be approved, there has to be evidence of serious risk to life, health and wellbeing. Urgent cancellation is the action of last resort.

An additional power to allow for suspension of registration would be used when serious concerns come to the attention of the regulatory authority. It is sometimes preferable to cancellation of registration, although it is possible that cancellation may eventually follow. A good example is if there are concerns about a registered manager, or a childminder who works alone. Registration can be suspended until further investigations have arrived at a resolution.

Mr Speaker, I beg to move that clause 87 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question clause 87 stand part of the Bill, Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 88.

**Mr Robertshaw:** This clause states that the Department may cancel a registration under specific grounds. Cancellation is only ever a last resort and the Department will need to comply with procedural fairness requirements. The specified grounds include a care service that has not operated for three years or more. This is to allow cancellation for, say, childminders, who have not operated for some time, as we are still required to inspect them.

I beg to move that clause 88 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 88 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 89.

**Mr Robertshaw:** This clause states what the Department can do in relation to an urgent amendment, urgent suspension, or an urgent cancellation of a person's registration, if there is an exposure to risk. For an urgent amendment or suspension there has to be a risk of harm. For urgent cancellation there needs to be a serious risk to life, health or wellbeing. Procedural fairness requirements do not apply in this instance.

The Department can give the registered person a notice verbally, but this does need to be also given in writing as soon as possible and contain action taken, reasons for the notice for urgent suspension, suspension period and appeal notice. This power would only be used in particular grave circumstances and is an important addition to legislation.

Mr Speaker, I beg to move that clause 89 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 89 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 90.

**Mr Robertshaw:** This clause clarifies the effect of a suspension or cancellation, subject to the tribunal's powers on appeal.

Mr Speaker, I beg to move that clause 90 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question... Mr Quirk.

**Mr Quirk:** I just wondered who the tribunal would be? And what the make up of the tribunal would be?

**The Speaker:** Mr Robertshaw.

**Mr Robertshaw:** I refer to my previous answers where I have asked the Hon. Member to be patient, because these matters are dealt with in further clauses.

I beg to move.

**The Speaker:** I put the question, clause 90. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 91.

**Mr Robertshaw:** This clause states the Department must give notice of a decision to the stated person for an amendment, except in minor correction, a suspension or a cancellation. It states it must be accompanied by an appeal notice and clarifies when the decision notice takes effect.

Subsection (5) states that if the suspension or cancellation is due to a care offence, it does not take effect until the period to appeal against the conviction ends, or if convicted and an appeal is made, the appeal is finally ended. If the conviction is quashed on appeal, the suspension or cancellation has no effect.

Mr Speaker, I beg to move that clause 91 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question clause 91 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 92.

**Mr Robertshaw:** This clause determines the circumstances in which the Department may decide to give the person a cost recovery notice due to their non-compliance with the Act. If the person does not comply, then the amount may be recovered summarily as a debt.

Mr Speaker, I beg to move that clause 92 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 92 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 93, 94, 95.

**Mr Robertshaw:** I will be grouping these clauses 93, 94, 95 together, as they all relate to common provisions for applications.

These clauses give the Department power to refuse non-compliant applications, request additional information and refuse an application if that requested information is not received, or still fails to meet requirements. There is currently no express power in the Interpretation Act 1976 to reject non-compliant applications that do not substantially comply with a form. This results in additional administrative work that is not required. There will always be continued engagement with applicants, but where there are continuing issues, it does give the Department additional powers to ensure scarce resources are appropriately targeted.

Mr Speaker, I beg to move that clauses 93, 94 and 95 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Ronan is exhausted, so I will second.

**The Speaker:** I put the question that clauses 93, 94 and 95 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 96 to 99.

**Mr Robertshaw:** I will be grouping clauses 96, 97, 98 and 99 as they all relate to the procedural fairness requirements which apply under part 3 of the Bill.

The clauses specify when decisions are required to comply with the procedural fairness requirements, details of notice that the Department must give to an interested person, or duty to consider written submissions and to issue a withdrawal notice, if we do not proceed with a proposal.

Mr Speaker, I beg to move that clauses 96, 97, 98 and 99 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clauses 96 to 99 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 100, 101 and 102, Minister.

**Mr Robertshaw:** I will be grouping clauses 100, 101, 102 together as they all deal with the requirements following the death of a registered provider. These clauses only apply if a registered provider, other than a childminder for a care service, is an individual and they die. Specified persons have a responsibility to notify the Department and state what their intention is regarding the future of the service. If they fail to do so, it is an offence. In these circumstances a personal representative may carry on the care service for a limited time, without holding provider registration, but they must comply with the registration conditions, which apply to the deceased's provider and the other conditions stated in this Bill, or it is an offence.

Mr Speaker, I beg to move that clauses 100, 101 and 102 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question clauses 100, 101 and 102 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 103 to 106.

**Mr Robertshaw:** I will be grouping clauses 103, 104, 105 and 106 as they all deal with registration-related offences.

These clauses detail offences under this part in relation to registration offences. These include making false statements, failing to display a registration certificate, breaking a registration condition and falsely describing the scope of registration conditions.

The first three offences apply only to the applicant or registered person, but the last applies even if the person is not a registered person for the care service. This is because there may be occasions when senior staff or administrators will be responsible for talking to prospective clients, or producing advertising material. An example of a false description could be that the service purports to be able to provide care for people of a specific category, such as dementia, but are not registered for that category, or do not have the skilled staff to provide that service.

Mr Speaker, I beg to move that clauses 103, 104, 105 and 106 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clauses 103 to 106 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 107 and 108.

**Mr Robertshaw:** I will be grouping clauses 107 and 108 together, because they deal with the register of details about registered and responsible persons for care services.

These clauses state the Department's requirements to keep a register and the role regarding the access to and fees in relation to information from the register. Please note that there are restrictions that may be placed on certain information in the register, for example, addresses of children's homes, and that the restrictions can be for everyone or certain persons only.

I beg to move that clauses 107 and 108 do stand part of the Bill.

**The Speaker:** Mr Singer.

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

**The Speaker:** Mrs Cannell.

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

In respect of clause 107(1), it says the details must include the prescribed information and may include any other information the Department of Social Care considers appropriate. My question to the Minister is, is the Department protected under data protection and is it compliant with data protection in terms of keeping such information that it considers appropriate?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** The whole of this Bill is compliant with data regulations.  
I beg to move.

**The Speaker:** I put the question that clause 107 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 108: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 109.

**Mr Robertshaw:** This clause states that if the Department gives a registered person a notice or other document then their usual last-known place of abode or business is taken to be the address of the care service. An example of why this is required is a provider living most of the time away from the Island not providing their address and not collecting their mail from their recognised business address. When it comes to action being

taken, it needs to be done promptly. It is therefore prudent to serve notice on the known business address, rather than attempt to find the current whereabouts of the person.

Mr Speaker, I beg to move that clause 109 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 109 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 110.

**Mr Robertshaw:** Thank you, Mr Speaker.

This clause details the circumstances in which a disclosure notice can be given and to whom. This includes an authority under a corresponding Act with similar functions to the Department of Social Care, for example, the Department of Health in England.

I beg to move that clause 110 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second, Mr Speaker.

**The Speaker:** I put the question that clause 110 –

**Mrs Cannell:** Mr Speaker.

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** Thank you. Can I just ask, clause 110, it is the first time I have actually noticed the Data Protection Act 2002 is in fact specified. Can I ask the Minister, whether or not he... when he says that the Bill is compliant with data protection legislation, has the Data Protection Supervisor had input into the wording of this legislation or the provisions that it empowers the Department to have in law?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** I cannot specifically answer that, other than that I have been advised that it is compliant, but I am happy to give an answer to that question at the next Reading.

I beg to move.

**The Speaker:** In that case I put the question, clause 110 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 111, 112 and 113, Minister.

**Mr Robertshaw:** I will be grouping clauses 111, 112, 113 as they all relate to the general provisions for inspectors.

I would emphasise that considerable work was undertaken to ensure that the Bill does not give inspectors unnecessary powers. The Bill contains a number of safeguards and qualifications which were included to address the concerns in this area and ensure powers are only used when warranted. The powers are expressed in more detail in this Bill than in other less recent pre-Manx Human Rights Act legislation. This is because, in this Bill, they have much more human interface going into childminders' homes meeting vulnerable people etc. These clauses state the criteria for the Department to appoint appropriately qualified persons to help it perform its monitoring and regulatory functions. Inspectors must be issued with an identity card which contains specific information and must be shown before or displayed during the exercise of the inspector's monitoring and regulatory powers.

Mr Speaker, I beg to move that clauses 111, 112 and 113 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clauses 111, 112 and 113 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 114.

**Mr Robertshaw:** This clause explains the inspector's rights of entry.  
Mr Speaker, I beg to move that clause 114 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** Mrs Cannell.

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

I thought the Minister might have brought to the attention of the House that this was in fact to be dealt with: the question that was raised earlier in the legislation. Am I correct in understanding that the general entry powers, where it states in subsection (a), premises:

‘An inspector may enter –  
(a) premises if its occupier consents to the entry or the entry is authorised under a warrant...’

I know that further clauses relate to the warrant and the emergency procedure and having the ability to be able to go in without even showing ID. But am I to understand in terms of 114 that, as I raised earlier, the inspector has to have the agreement of the care providers' consent, before a general annual inspection is carried out? That was the question I asked at the very beginning and it seems to state in fact that is the case.

So my question, therefore, if that is the case, then, is on what sort of ideal situation might an inspector not seek permission to enter, but have to go in under a warrant? Would he be following intelligence? Is that what we are looking at here? Basically, clause 114 does seem to suggest that a general annual inspection by a supervisor has to have the occupiers' consent, unless a warrant for entry is issued. Can the Minister confirm.

**The Speaker:** Mover to reply.

**Mr Robertshaw:** Mr Speaker, there are two issues being dealt with at the same time there.

In terms of announced or unannounced, the general process is that an inspection would not be announced. I think the Hon. Member made good argument as to why that should be the case, so I will not regurgitate that element of it. Unannounced and announced – and they can be either, but normally they would be unannounced – is a separate process to the entry to the premises.

An entry process is determined under the various clauses here, where the inspector must provide evidence that, effectively, he is who he states he is, but once the entry is required, there are various requirements under different clauses, as to how that process goes ahead, as to whether a warrant is or is not required. I think it is – if again the Member is patient – articulated progressively as the clauses unfold.

I beg to move.

**The Speaker:** I put the question that clause 114 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 115.

**Mr Robertshaw:** This clause states the Department may make guidelines for inspections to enter and inspect care premises. An example of what would be contained in these guidelines is the frequency and details of which will be announced or unannounced inspections. The guidelines do not take effect until they have been laid before Tynwald. They are a public document and each registered provider will have access to a copy. The clause also specifies that there are certain circumstances where inspectors have no right of entry. This is a restriction designed to meet the requirements of the Human Rights Act 2001. Examples of this would be attending a childminder's house at times other than when the childminding is being carried out, or is reasonably suspected of being carried out. Other occupiers of the house, such as a childminder's husband can legitimately deny entry. Another example might be in a nursery where part of the premises is privately occupied as domestic premises, such as the provider's own accommodation or a tenanted arrangement.

Mr Speaker, I beg to move that clause 115 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker.  
Can I ask the Minister to clarify then, in subsection (3) it states:

‘The guidelines do not take effect until they have been laid for information before Tynwald’,

– not for approval by Tynwald, as said by the Minister when he moved the clause and the subsection, so can he clarify the position? Is it just for information or do they need to be approved?

**The Speaker:** Minister to reply.

**Mr Robertshaw:** I will have to take advice on that, Mr Speaker. I will answer that at Third Reading.  
I beg to move.

**The Speaker:** Third Reading.

I put the question clause 115 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it.  
The ayes have it.  
Clause 116.

**Mr Robertshaw:** This clause is subject to clause 117, but allows the inspector to enter premises if the inspector reasonably suspects the entry is necessary for the performance of the Department’s monitoring function. This clause only relates to premises where an inspector reasonably suspects, or has been given information that a care service is being provided without registration.

Mr Speaker, I beg to move that clause 116 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question clause 116 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 117.

**Mr Robertshaw:** This clause gives details on entry without consent or a warrant. This clause only relates to scheduled inspections made under inspection guidelines. Such premises are already registered and therefore have an obligation to facilitate inspections. Therefore, the inspector does not formally have to either request permission to enter or seek a warrant to do so. However, this does not negate the requirement for an inspector to properly identify himself by having the required ID clearly displayed.

There may be times, for example, if there was a complaint that staffing is low during the evening period, an inspection would take place at a time when there are staff in charge, who do not know the inspector and are not familiar with the process. This would be the sort of scenario where the inspector might have to explain to the person in charge that the law gives the power, as described under section 117. A warrant would only be applied for if, after explaining the powers conferred by the Act, the occupier refuses the entry.

Mr Speaker, I beg to move that clause 117 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I am just wondering, if the Minister could explain, on the inspection announced or unannounced, the operation hours of the business would be displayed prominently, so the inspector would know the operation on that particular building – or anybody else.

**Mr Robertshaw:** The inspectors would know that, because that information is captured in the original registration.

I beg to move.

**The Speaker:** I put the motion that clause 117 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 118.

**Mr Robertshaw:** Mr Speaker, this is an establishing clause that states that this subdivision applies only if, under subdivision 2 or a warrant, an inspector has entered particular premises.

I beg to move that clause 118 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 119.

**Mr Robertshaw:** This clause lists who has a role for the premises, which is important as the inspector can require anyone with a role to give access to information or documents under clause 122.

Mr Speaker, I beg to move that clause 119 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question clause 119 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 120.

**Mr Robertshaw:** This clause states the inspector's powers on entry. These are not new, but are more clearly stated in relation to being able to take photos and copy information.

Mr Speaker, I beg to move that clause 120 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question clause 120 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 121.

**Mr Robertshaw:** This clause states the criteria for an inspector requesting a medical practitioner or nurse to medically examine a service recipient, if the inspector reasonably believes the person is not receiving proper care. This must be done with the consent of the person, unless they do not have the capacity to make the decision, in which case the examination must be in the person's best interest. As the Island currently has no capacity legislation, 'best interest' will be set out in guidelines which will be available to the public.

I beg to move that clause 121 do stand part of the Bill.

**The Speaker:** Mr Singer.

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

**The Speaker:** I put the question clause 121 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 122.

**Mr Robertshaw:** This clause states when the inspector can request documents or information from the person who has a role for the premises, which was detailed in clause 119. Before making a request the inspector must confirm that failure to meet a request may be an offence under clause 123.

Mr Speaker, I beg to move that clause 122 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 122 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 123.

**Mr Robertshaw:** This clause states the inspector may require a person with a role for the premises to give the inspector reasonable help to perform their functions, unless the person has a reasonable excuse and failure to provide reasonable help is an offence and can result in a maximum penalty of £2,500 on summary conviction.

Mr Speaker, I beg to move that clause 123 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question clause 123 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 124.

**Mr Robertshaw:** This is the standard clause relating to procedure for warrants in relation to this Bill.

I beg to move clause 124 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question clause 124 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 125.

**Mr Robertshaw:** This clause details that it is an offence to intentionally obstruct an inspector from exercising a power under this division. The meaning of 'obstruct' is defined in the clause.

Mr Speaker, I beg to move that clause 125 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question clause 125 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 126.

**Mr Robertshaw:** This clause gives the inspector the power to request within a stated, reasonable period information that is necessary for the inspector to perform the monitoring function. This can include medical records, but they can only be considered by a medical practitioner or nurse.

In making the requirement, the inspector must state that it is an offence for the registered person not to comply.

Mr Speaker, I beg to move that clause 126 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** I just wonder what the Minister's thing of a reasonable period is?

**The Speaker:** Minister.

**Mr Robertshaw:** I have not got a specific definition of 'reasonable', but I am sure it will be reasonable, once identified.

Thank you, Mr Speaker.

**The Speaker:** I put the question clause 126 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 127.

**Mr Robertshaw:** This clause states if the information required under clause 126 is on a computer, then the person must reproduce the material for the inspector to take away or supply it electronically.

Mr Speaker, I beg to move that clause 127 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** I just wonder in the removal of data from a computer, does that mean the hardware itself, or is the officer entitled to have a stick, a memory stick and whether that data then is protected?

**Mr Robertshaw:** In our deliberations over this Bill, we were very careful not to permit a situation where there could be a significant removal of data from premises in such a way that it would deny that proprietor or operator or provider to continue with their business. So we have built into the clauses an opportunity for the inspector to bring in the appropriate equipment to allow him to take photographs, to make copies, he or she to make copies, in an inappropriate way, so that we do not remove information that would inhibit the good running of the business.

Mr Speaker, I beg to move.

**The Speaker:** Clause 127. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 128.

**Mr Robertshaw:** This clause takes the person to whom a production requirement is made, must comply with the requirement unless the person has a reasonable excuse, or it is an offence.

Mr Speaker, I beg to move that clause 128 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 128 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 129.

**Mr Robertshaw:** This clause addresses when an inspector requires a document in order to carry out their functions and specifies it is not a defence that it cannot be supplied, because in doing so, you would incriminate yourself. The clause specifies that the only crimes you can be prosecuted by incriminating yourself are for ill-treatment or neglect. However, if the document itself is false or misleading, then you can be prosecuted, even if it is not for an ill-treatment or neglect offence.

This clause then defines the term 'incriminating evidence'.

I beg to move that clause 129 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question clause 129 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 130.

**Mr Robertshaw:** This is an important clause, which states the Department's power to prepare and publish inspection reports. This is a change, as under current legislation, the Department cannot publish its inspection reports of services. It is up to individual providers, if they wish to publicise the report.

This clause specifies the information which may not be published. Information that may not be published is personal details, i.e. addresses of certain establishments, for example, children's homes.

Mr Speaker, I beg to move that clause 130 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** Thank you, Mr Speaker.

Would the Minister clarify, under (c) there, 'making the report available to public inspection', the way that the Department of Social Care would consider appropriate? I just wonder what that is.

**The Speaker:** Mrs Cannell.

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

It was actually a similar concern. It is rather unusual wording to find in legislation of this nature, 'to make available for public inspection in a way the Department considers appropriate'. The Minister has touched on it very briefly, when he said that if there was any sensitive information in there to do with children or their addresses or whatever, clearly that would be redacted, but I am wondering if there will be a set of regulations determining what cannot be published in a document that is going to be available to the public?

My second question is, I take it the reports and the inspection by the... and the obligation for the inspector to produce a report in a particular timeframe and circulating amongst those he has inspected, then it automatically goes for publication to the public, I find a little odd. Is there not an appeal mechanism built in prior to the publication of the actual document, bearing in mind that the wording, or the findings, or the interpretation may be challenged by the people who have been inspected. They may challenge what is actually written in the report and wish to appeal it.

I am just rather surprised that subsection (c) follows on so swiftly, without referring at least, if it is in another clause further on in the legislation, it should have at least been inserted at this point, I would have thought. If the Minister can clarify please.

**Mr Robertshaw:** I am happy to collect the two questions together, as they are very closely related, if that is acceptable. During the consultation process there was support for the concept of publication – and if I can step out of this role for a second and talk about my role before. It is a very important aspect of delivering a personal-care business to an individual, that one is able to publish and publicise how well you conduct yourselves. In fact, that is good for the proprietor, for the providers, it is good for the potential customer, it is good for the customer itself. So we should not shy away from the concept of publicity.

Incidentally, this applies just as much to my Department's functions, as it does to the private sector. It is not a question of two sets of rules, one for the public sector, one for the private sector, built into this.

What we do, as care providers in the Department, will be very much in the limelight, just in the same way as it would be in the private sector. As far as an appeal process is concerned, again there is a process that one would go through. Once the report was provided, there would be an opportunity for the provider concerned to comment on and engage in dialogue with the inspection service to establish fairness, but ultimately there is a duty of care on the part of the registration and inspections section to produce an accurate and fair report. The only time there would be redactions, are areas of sensitivity and they will be self-advising.

Mr Speaker, I beg to move.

**The Speaker:** I put the question clause 130 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 131.

**Mr Robertshaw:** This clause clarifies the law of defamation in relation to the production of inspection reports under clause 130. All inspection reports must be made on evidence, not hearsay or the opinion of the inspector.

Mr Speaker, I beg to move that clause 131 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question clause 131 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 132 to 134.

**Mr Robertshaw:** I will be grouping clauses 132, 133 and 134 together, as they are all dealing with improvement notices.

These clauses allow an inspector to give the registered provider an improvement notice requiring the provider to make the improvement within a stated reasonable period. They specify the contents of the improvement notice and to whom copies of the notice must be given. An improvement notice must include an appeal notice. An example of an improvement notice could be improvements of premises and equipment, for example, renewal and replacement of broken or worn items of furniture, redecoration, toys, equipment in child daycare service.

Mr Speaker, I beg to move that clauses 132, 133 and 134 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clauses 132 to 134 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 135 to 137.

**Mr Robertshaw:** Thank you, Mr Speaker.

I will be grouping clauses 135, 136 and 137 as they deal with compliance for registered persons. An inspector may give the registered person a compliance notice requiring a person to, within a stated reasonable period, take stated steps to remedy an offence against this Bill, or an Adoptions Society offence, or prevent it from happening, or happening again. The contents of the compliance notice are detailed, including an explanation that, under section 137 it is an offence to not meet the notice and an appeal notice. The recipient of a compliance notice must comply with the notice and if they do not, it is an offence.

Mr Speaker, I beg to move that clauses 135, 136 and 137 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the motion clauses 135 to 137 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 138.

**Mr Robertshaw:** This clause applies to a childminder who is not registered and has therefore contravened the registration requirement. In these circumstances, the inspector may give the person a disqualification notice, which states they must stop childminding, that because they have been operating without registration they are disqualified from childminding registration for a year, or until the disqualification is lifted. During this time they cannot apply for registration. If, after the year, they commence childminding without registration, they are again committing an offence.

Every other service we register is either an establishment or an agency and it is highly improbable that this type of service could operate under cover. However, registration inspections are frequently called out to suspected illegal childminding. The clause only says *may* give a disqualification notice. The usual scenario is that, either the person is not childminding within a definition, or agrees to register as a childminder. In the latter case, the process of registration begins and the childminder is asked to cease childminding until registered. A

disqualifying notice would only be given in circumstances where it is discovered that the person has continued to childmind after being asked to cease.

Mr Speaker, I beg to move that clause 138 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Clause 138: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 139.

**Mr Robertshaw:** This clause defines ‘social care work’ and ‘social care worker’. This is about personal care, for example, helping or giving advice or support with bodily functions like dressing and washing. It also covers personal support, for example, counselling, emotional support, as part of a planned programme of care. This can be combined with other tasks offering practical assistance, such as shopping and laundering.

Mr Speaker, I beg to move that clause 139 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the motion that clause 139 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 140.

**Mr Robertshaw:** This clause defines ‘social work’ and a ‘social worker’. I beg to move that clause 140 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Clause 140: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 141.

**Mr Robertshaw:** This clause states that a person other than a registered social worker must not, with intent to deceive, use the title ‘social worker’. If they do, it is an offence.

‘Registered social worker’ means under a UK care Act or regulations made under this Bill, to perform social work.

‘Use’ means implying or stating that you are a social worker.

‘Registration’ means with the appropriate professional council. The Department has negotiated a memorandum of understanding with the newly merged Health Care Professions Council, the UK professional body, to continue registering Isle of Man social workers. This section will have a separate Appointed Day Order to ensure the necessary agreements are in place, both in relation to department staff and social workers operating in the private and third sectors.

I beg to move that clause 141 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** Mr Speaker, just on the terms, loosely, ‘social worker’ as compared to the Bill there, where it says ‘registered social worker’: lots of people are called social workers and I just wonder whether it is slightly misleading, because people will call themselves social workers, but I think the intent is to be registered social worker.

**The Speaker:** Minister to reply.

**Mr Robertshaw:** Mr Speaker, the whole point of this clause is to ensure that we are dealing with social workers registered with the Health Care Professions Council, the UK body and that ensures that, in future we will, as he suggests, be able to separate between those properly registered and identified and those using improperly the term 'social worker'.

I beg to move.

**The Speaker:** I put the question that clause 141 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 142.

**Mr Robertshaw:** Hon. Members will know this clause is worded slightly differently from the above offence for social workers. This is because currently the Healthcare Professions Council is just registering social workers, though they have set out that social care workers may be added in the future. Having an offence for social care workers allows us to follow the UK in any rolling programme for registration of social care workers. Therefore the second offence has been added, but will only come into operation after three months have passed since the UK have brought in any new regulations to give social care workers time to register.

Mr Speaker, I beg to move clause 141 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 142 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 143 to 147.

**Mr Robertshaw:** I am grouping clauses 143, 144, 145, 146 and 147 as they deal with the establishment of the Care Services Tribunal for appeals and provide for its procedures. The Bill states that the composition of the tribunal is set out under the Tribunals Act 2006 and the rules may be made under section 8 of that Act for appeals under this Bill.

A further appeal can only be made on a question of law from a decision of the tribunal. This is a further development, as appeals are currently heard by the High Bailiff, whereas under this part an independent tribunal will be set up to hear appeals about registration and inspection decisions.

Mr Speaker, I beg to move that clauses 143, 144, 145, 146 and 147 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** I am just wondering whether... on a tribunal, what its cost is estimated to be? And where would the funding be coming from?

**The Speaker:** Reply, sir.

**Mr Robertshaw:** Mr Speaker, I do not have those sorts of finer details available to me at this time.

I beg to move.

**The Speaker:** I put the question that clauses 143 to 147 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 148.

**Mr Robertshaw:** This clause states the offences, if you are involved with a care service and fall under any of the different categories of disqualification.

Mr Speaker, I beg to move clause 148 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Clause 148: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 149.

**Mr Robertshaw:** This clause states the offence and defence for a person who carries on or manages a care service and employs or engages a specified disqualified person at the care service.

Mr Speaker, I beg to move that clause 149 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Clause 149: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 150.

**Mr Robertshaw:** This clause confirms the persons to whom this division applies. Because the clause is about disqualifications, they do not have to be registered for the offence to apply.

Mr Speaker, I beg to move that clause 150 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Clause 150: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 151.

**Mr Robertshaw:** This clause specifies that it is an offence: to state that a business is registered or a departmental care service, if it is not; to state that premises have a registered provider or manager, if they do not.

Mr Speaker, I beg to move that clause 151 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Clause 151: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 152.

**Mr Robertshaw:** This is an important offence in relation to ill-treatment or neglect of anyone receiving care from a social care provider, i.e. anyone who provides care services, a registered provider or manager, a responsible person, anyone supervising anyone else, subject to a registration requirement. This includes the manager, officer, or employee of any of the above. This list is extensive, because this is an extremely serious offence and anyone involved in the offence should be able to be prosecuted.

Mr Speaker, I beg to move that clause 152 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** Clause 152: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 153.

**Mr Robertshaw:** This clause explains that, if a registration-related offence or care offence is committed by a body corporate, and it is proved that an officer of the body authorised, permitted, participated in, or failed to take all reasonable steps to prevent the offence, then the officer, as well as the body, commits the offence. Again, this is an important addition, giving the powers to ensure officers of a body corporate can be held properly responsible for offences.

Mr Speaker, I beg to move that clause 153 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** The question is that clause 152 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 153

**Mr Robertshaw:** Mr Speaker, this clause states that the registered provider of an independent care service, other than childminding is taken to be exercising a function of a public nature in carrying out the care service.

The consequence of this clause is that a contravention of convention rights within the meaning of the Human Rights Act 2001 by the registered provider will be unlawful and proceedings and remedies under that Act will be available.

I beg to move that clause 154 do stand part of the Bill.

**The Speaker:** Mr Ronan.

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

**The Speaker:** I put the question that clause 154 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 155 to 157. Mr Robertshaw to move.

**Mr Robertshaw:** I will be grouping clauses 155, 156 and 157, as they deal with matters for proceedings. This includes the requirement for the Attorney General's consent for specified prosecutions, the meaning of maximum penalty, as used in the Bill and details the time limit for proceedings for a summary offence under this Bill.

Mr Speaker, I beg to move that clauses 155, 156 and 157 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** Clauses 155 to 157: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 158 and 159.

**Mr Robertshaw:** I will be grouping clauses 158 and 159, as they deal with evidentiary matters. These detail that, in proceedings under or relating to this Bill, a person's appointment as an inspector and the Department's or an inspector's powers to do anything under this Bill must be presumed, unless proof is required. They also state the general evidentiary provisions applying to a proceeding under or relating to this Bill.

Mr Speaker, I beg to move that clauses 158 and 159 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second, Mr Speaker.

**The Speaker:** I put the question clauses 158 and 159 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 160, 161 and 162.

**Mr Robertshaw:** I will be grouping clauses 160, 161 and 162, as they deal with general provisions.

Under these clauses, the Department has the power to make forms for use under this Bill and regulations for the purpose of this Bill. The topics on which regulations can be made are detailed and include the registration of social care workers; consequential, incidental or supplemental matters; applying, adopting or incorporating provisions of a UK Care Act with or without change, where relevant; imposing fees; creating offences with a maximum penalty of £5,000. However, these are not exhaustive and do not limit the general powers in making regulations. All regulations must be approved by Tynwald.

Mr Speaker, I beg to move that clauses 160, 161 and 162 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question clauses 160, 161 and 162 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 163.

**Mr Robertshaw:** This clause states the Acts that will be repealed, namely the Nurses and Midwives Act 1947 and the Nursing and Residential Homes Act 1988.

Mr Speaker, I beg to move that clause 163 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 164.

**Mr Robertshaw:** This clause states the definitions for this division. Importantly it contains the definition of the registration grace period. A period of grace is given to our registration inspections and service providers the time to register. Until that time, they are required to meet certain basic regulatory provisions, so that they are not unregulated. A period of grace only starts when clause 52, which imposes the general registration requirement, begins under an Appointed Day Order. For childminding, care homes, child daycare centres and nurses' agencies, the period of grace ends six months after the registration requirement commences, or longer if prescribed by regulations. For other care services, the period of grace does not end until a prescribed day under regulations. This is to ensure that registration inspections can handle the registration process with current resources and still continue to undertake inspections.

Mr Speaker, I beg to move that clause 164 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clauses 165 to 170.

**Mr Robertshaw:** I will be grouping clauses 165, 166, 167, 168, 169 and 170, as they all deal with the conversion to this Act of existing care services.

These clauses determine the existing care services that are carried across and translated to the new Act. Converting existing registrations significantly reduces cost, as a full registration, as done in the UK, is not required. Furthermore, it allows existing providers to continue to operate, as long as they meet the conditions specified in the subsequent clauses.

Mr Speaker, I beg to move that clauses 165, 166, 167, 168, 169 and 170 do stand part of the Bill.

**Mr Singer:** Mr Speaker, I beg to second all those clauses.

**The Speaker:** I put the question clauses 165 to 170 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 171

**Mr Robertshaw:** This clause sets out how the Act applies to converted registrations. A converted registered provider or registered manager registration is subject to this Bill, including the mandatory conditions. A care service need not have a registered manager or a responsible person if a manager was not required for it under the relevant repeal care law. That is only during the registration grace period. The condition of the registration under the repealed care law for which the person became a registered provider become decided conditions of the provider registration. However, if any of the conditions conflict with the mandatory condition, the mandatory condition prevails to the extent of the inconsistency.

Mr Speaker, I beg to move that clause 171 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 172.

**Mr Robertshaw:** This clause states that, until the end of the registration grace period, the Department may continue to keep registers under a repealed care law to record the registration under this Bill of converted registrants. Until the Department gives a converted registrant or a registration certificate under this Bill for the provider registration, any certificate issued under a repealed care law continues in force for the registration under this Bill.

Mr Speaker, I beg to move that clause 172 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 173.

**Mr Robertshaw:** This clause states that this subdivision applies to a provider or manager of a care service who is not a converted registrant for the care service. This section is for newly regulated care services that will come under the new Act and states what they must do during the registration grace period.

Mr Speaker, I beg to move that clause 173 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 174.

**Mr Robertshaw:** Mr Speaker, this clause requires the provider and manager, after the registration grace period for the care service begins, to give the Department a care service notice as soon as practicable. The care service notice provides the Department with the necessary information about what the service provides, what registration category they wish to register for, and in respect of that category, that the service meets mandatory conditions and minimum standards, as specified in clause 178. If a care service does not give a care service notice, it is an offence.

I beg to move that clause 174 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 175.

**Mr Robertshaw:** This clause details that a provider's or manager's registration can be deferred during the registration grace period, as long as a care service notice has been given. Therefore they can operate whilst waiting for registration inspectors to come and register them. However, as detailed previously, they must still meet the provider and manager requirements under the Bill. This clause ceases to apply, if the person becomes registered for the care service, or is refused registration for the care service.

Mr Speaker, I beg to move clause 175 do stand part of the Bill

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question, clause 175. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 176.

**Mr Robertshaw:** This clause clarifies that, during the registration grace period for the care service, the provider and manager must comply with the mandatory conditions and the minimum standards, as if they were the registered provider or manager. If they do not, it is an offence. This offence ceases to apply once the person becomes registered.

Mr Speaker, I beg to move that clause 176 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 177.

**Mr Robertshaw:** Mr Speaker, this clause states that if a person wishes to make a registration application during the registration grace period and no regulations have been made, then the Department can decide the information, documents and fee. The Department may also decide or defer considering the application until the registration grace period ends. It is not anticipated that the Department will need to use this clause, as all required regulations should be in place. However, it has been added just in case there is any delay.

Mr Speaker, I beg to move that clause 177 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 178.

**Mr Robertshaw:** This clause states that, if consent was given by the Department for a disqualified person to be employed for a category of care service under the Children and Young Persons Act 2001, then it will be taken to be an exemption under this Bill for that care service category.

Subsections (2) and (3) relate only to the registration grace period under this Act as described previously. They confirm that there is a defence available for disqualification under this Act, if it did not amount to a disqualification under the Children and Young Persons Act 2001. This provides certainty during the transition.

Mr Speaker, I beg to move clause 178 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clause 178 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 178.

**Two Members:** We have just done that.

**The Speaker:** Sorry, clause 179.

**Mr Robertshaw:** This clause states that an amendment of the registration conditions under a repealed care law is taken to be necessary or desirable, if the Department wishes to amend them to make them compatible with this Bill, or impose decided conditions to make the carrying on of the care service compatible with this Bill.

Mr Speaker, I beg to move clause 179 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 180.

**Mr Robertshaw:** This clause states how registration applications and appeals are dealt with, if they have been made, but undecided before the enactment of this Bill. Also a decision made under a repealed care law about a converted registrant continues in operation, but as the corresponding decision under this Bill.

Mr Speaker, I beg to move that clause 180 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 181.

**Mr Robertshaw:** This clause states that a previously appointed inspector for the Department becomes an inspector under this Bill, subject to the terms and conditions of the old authorisation. Their identity card will be valid until they are issued with a new card under this Bill, or the card expires.

Mr Speaker, I beg to move that clause 181 stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 182.

**Mr Robertshaw:** This clause explains a reference to a repealed care law is taken to be a reference to this Act. In addition a provision of the repealed care law is taken to be a reference to a provision of this Act that corresponds.

Mr Speaker, I beg to move that clause 182 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 183.

**Mr Robertshaw:** This clause applies if no appeal rules have been made. A version of the draft model rules, electronically numbered 140508 and held by the Department of Home Affairs will be taken to be the rules. However, if appeal rules are made before the enactment of this Bill is defined under clause 166, this clause will expire on the enactment of this Bill. Otherwise, this clause will expire when the appeal rules are made.

Mr Speaker, I beg to move that clause 183 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I am just wondering, what the difference is... if the fall back position is the ones from Home Affairs, what differences there will be in the rules?

**The Speaker:** Mover to reply.

**Mr Robertshaw:** Mr Speaker, the Department of Home Affairs' version is satisfactory but may need refinement, and I am happy to deal with that in the next Reading.

**The Speaker:** I put the question 183 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 184.

**Mr Robertshaw:** This clause states that, if, immediately before clause 142 comes into operation, a person was employing or engaging a person to perform social care work, then clause 142 does not apply to the person until three months after the enactment of this Bill. Also if, within the three months, the social care worker or the person applies for registration, then this clause does not apply to the person, until the application is finally decided or withdrawn. This clause is to take into consideration that the registration process can take some time. Hence the clause refers to applying for registration within three months, not being registered.

Mr Speaker, I beg to move clause 184 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 185.

**Mr Robertshaw:** This clause states a regulation may provide for a matter relating to the transition from a repealed care law to this Bill or the coming under this Bill of a newly regulated care service, about which the Department considers this division does not make provision or sufficient provision.

As transitional provisions have been properly thought through and drafted into the Bill, the normal provision about an Appointed Day Order providing for transitional arrangements is unnecessary. However, in case there are any consequential issues, this transitional regulation-making power has been added.

Mr Speaker, I beg to move that clause 185 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second, Mr Speaker.

**The Speaker:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 186.

**Mr Robertshaw:** This clause states this division, other than the division heading and clauses 178 to 185 expires on the day on which all newly regulated care services have been prescribed under paragraph (b) of the definition of 'registration grace period' under clause 164. As stated in my explanation of clause 164, the registration grace period is prescribed by regulations. The expiry of this part reduces the length of the Bill by 14 pages.

Mr Speaker, I beg to move that clause 186 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, it seems to me that there is a fighting chance we can complete the business before lunchtime, if you are prepared, we will carry on to finish. I understand the presentation scheduled for 1.30 can be moved back. So we will see how we go. I do not want to curtail debate and the Members' rights to speak, but with the groupings about to take place, we may well finish.

So with that, I will call on the mover to move clauses 187 to 189.

**Mr Robertshaw:** Thank you, Mr Speaker.

I will be grouping these clauses 187, 188, 189, as they all deal with amendments to the Adoption Act. These clauses make minor amendments to the Adoption Act.

I beg to move that clauses 187, 188 and 189 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that 187, 188, 189 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 190 to 200, Minister.

**Mr Robertshaw:** Thank you, Mr Speaker.

I will be grouping clauses 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, as they all relate to the Children and Young Persons Act 2001.

The Bill makes a number of amendments and repeals to the Children and Young Persons Act. In particular, the Department has made one new insertion for the Department to provide or secure a fostering service and specify that the Department must ensure no child is fostered under the service to someone who, under section 58 disqualifications of this Act, is disqualified from fostering a child privately. This was required to allow fostering inspection and regulation to be covered under this Bill. The repeals are because the topics are now covered under the Bill.

I beg to move that clauses 190, 191, 192, 193, 194, 195, 196, 197, 198, 199 and 200 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that the aforementioned clauses stand part of the Bill. (*Laughter*) Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 201 and 202.

**Mr Robertshaw:** And to 204: 201, 202, 203, 204.

**The Speaker:** Well, I am in your hands. Start with 201.

**Mr Robertshaw:** Thank you, Mr Speaker.

I will be grouping clauses 201, 202, 203, 204, as they deal with amendments to the Education Act.

These clauses deal with situations where a child is accommodated at a school or a college. It deals with inspectors' functions in carrying out the inspection of those services. The provisions for the Department of Social Care to make minimum standards for the service. The situation where the Department of Social Care can notify the Department of Education about inspections and the power to impose a fee for inspection. King William's College is already inspected by agreement and has been working to an agreed set of minimum standards for boarding schools.

I beg to move that clauses 201, 202, 203, 204 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** I beg to second.

**The Speaker:** I put the question that clauses 201 to 204 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 205.

**Mr Robertshaw:** This clause states the consequential amendments and revocations. These are all minor amendments, for example, changing of any references to previous Acts in other pieces of legislation and adding new definitions.

Mr Speaker, I beg to move that clause 205 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I beg to second.

**The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 206.

**Mr Robertshaw:** Thank you, Mr Speaker.

This clause states that clause 163 and this part expire on the day after the promulgation of this Act. When this part expires the Bill will reduce by 12 pages, further reducing its size.

I beg to move that clause 206 do stand part of the Bill.

**The Speaker:** Mr Singer.

**Mr Singer:** Mr Speaker, I am pleased to second.

**The Speaker:** I put the question, those in favour that clause 206 stand part of the Bill, please say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members. That brings us to –

**A Member:** The schedule, Mr Speaker?

**The Speaker:** The schedule has been approved in an earlier clause.

Thank you, Hon. Members, for the efficient transaction of the business. I congratulate the mover (**Members:** Hear, hear.) of this particular Bill.

**Mr Singer:** And seconders!