

**Children and Young Persons (Amendment) Bill 2012**  
**Clauses considered**

5.1. Mr Crookall

**The Speaker:** Item 5, Bill for consideration of clauses, the Children and Young Persons (Amendment) Bill.  
I call on the mover, Mr Crookall.

**Mr Crookall:** Thank you, Mr Speaker. If I may, I will take clauses 1 and 2 together and then clauses 3, 4 and 5 separately.

Clauses 1 and 2 make provision about the resulting Act's short title and commencement and I beg to move that clauses 1 and 2 stand part of the Bill, sir.

**The Speaker:** Mrs Cannell.

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

**The Speaker:** I put the question that clauses 1 and 2 stand part of the Bill.  
Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 3, please.

**Mr Crookall:** Clause 3 provides for the resulting Act to expire, as it is amending legislation. The drafters are now putting in expiry clauses to keep the Statute Books tidy. The provisions, however, continue in the amended Act.

I beg to move clause 3 stand part of the Bill.

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** 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, say aye; against, no. The ayes have it. The ayes have it.  
Clause 4.

**Mr Crookall:** Clause 4 amends the Children and Young Persons Act 2001.

The substance of the Bill is in clause 4(1)(c), which inserts two new subsections (2A) and (2B) into section 3 of the 2001 Act. The effect of the new section 3(2A) is that the father of a non-marital child has parental responsibility for the child, if he is registered as a child's father under section 12(1) of the Civil Registration Act 1984 (registration of non-marital child). However, this is only the case if the man is registered as the child's father under the aforementioned provision after the new section 3(2A) has come into operation – see new section 3(2B). The rest of clause 4 contains minor amendments to consequentially refine the wording in sections 3 and 4 of the 2001 Act.

Mr Speaker, I beg to move that clause 4 stand part of the Bill.

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** Mr Speaker, I am happy to second and reserve my remarks.

**The Speaker:** Mr Houghton.

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

I am reasonably supportive of the Minister, but can he just decipher, in plain English, what he has just said in his opening address on this particular Bill?

**The Speaker:** Mr Karran.

**Mr Karran:** Could the mover also explain how this will actually help the parent, the father who is not the... married to the mother of the child? How will this improve the situation, as far as the access of being able to enforce the orders, as far as access orders are concerned?

One of the big problems we have at the moment is that parents... fathers are having a horrendous time trying

to get access to many of these children, simply because the courts will not enforce support orders that are there, as far as the access is concerned, when it comes to the wife. This is an important factor and this is an abuse of the Legal Aid system where, basically, many parents... many fathers, have ended up having to give up their access to their children. I am interested in bringing - I did think about bringing a private... bringing a subsequent amendment to this Bill. I think a private Member's Bill needs to be addressed on this issue as a matter of urgency.

I just would like to know the mover's... the points that have been raised by the Hon. Member for North Douglas, Doolish Twoaie, I think it is important to clarify in this Bill. This is a step forward in the right way, but it really is not going to resolve the real issues, as far as a lot of people, a lot of fathers, are concerned where, basically, they are just ignored by the courts as far as getting access and in the end they just cannot afford to keep paying through the judicial process when the other side has got an open ticket, as far as Legal Aid is concerned.

**The Speaker:** Mrs Cannell.

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

Just to be helpful to the Minister and also the queries raised by the Hon. Member for North Douglas, Mr Houghton. It is always difficult, is it not, when going through clauses, because one is always provided with the correct terminology and the legal wording for getting these things through Readings in the House of Keys?

Can I refer the Hon. Member, Mr Houghton, to the Bill itself, on page 4? The explanation of what the Minister has just moved is in 2A and 2B, in that the fundamental changes are that the father of a non-marital child has parental responsibility for that child, if he is registered under section 12(1) of the Civil Registration Act 1984, as registered as the father of the child, irrespective of whether the couple, the mother and father, are still married or still together or not.

Subsection (2A) does not confer parental responsibility on a man who, before that subsection comes into operation, was registered as the child's father. So, in other words, it is not retrospective. That is a simple case... a simple matter of the case. This gives the rights to a father who is down on Civil Registration Act as being the father of the child, irrespective of the relationship with the mother, as having responsibility for that child in law whereas, previously, we did not have that facility, so a father could father a child, he could go down named as the father on the Civil Registration Act when the child is born, but not have any parental responsibility whatsoever and, therefore, no say in the child's growth or development, because of the split between the man and the woman. It actually gives the man some right to have that parental responsibility, so it is on an equal basis of the mother of the child, the female of the child.

I hope that is helpful.

**The Speaker:** I call on the mover to reply, Mr Crookall.

**Mr Crookall:** Thank you, Mr Speaker, and I will start off by thanking my seconder there for her clarification to the Hon. Member.

I will follow it up, if I may read some of the notes on Second Reading, just for clarification to the Hon. Member from Douglas North. In the Isle of Man there remains a provision that excludes men from having legal parental responsibility for their children, unless they fit certain criteria. This is a hangover from way back but, of course, in society more and more people do choose not to marry for a variety of reasons, but do choose to start a family. This is the same in other jurisdictions.

Parental responsibility is the basic responsibility a parent has for their child and it is to do with matters such as healthcare, education and over the discipline and general upbringing and wellbeing of the child. If a man and woman have a child and they are married, the marital status determines that both automatically hold the parental responsibility and the man does not cease to hold such status if the couple divorce. What the Bill does is to alter provisions, so that when an unmarried man and a woman have a child and go to the Registry and register the birth, the father and mother are named in that registration. It is that process that will determine that both those individuals hold the parental responsibility for the child.

Currently, even if both parents are named on the registration birth certificate, the man, if not married, does not have any legal parental responsibility for that child and can have no say in the child's life. The only current options for an unmarried man would be either to enter into a parental responsibility agreement with the mother and lodge it with the courts or, if the mother refuses, the father has to apply to the court, usually the High Bailiff's court, to have the court grant parental responsibility. This can obviously be costly, upsetting, confrontational and, of course, is completely avoided if the man was married. I hope that clarifies that for the Hon. Member from Douglas North.

Replying to the Member for Onchan, Mr Karran, I completely agree with what he says and we had a discussion, after the Second Reading, with Mr Turner, the mover in the other place but that is not what this Bill

is about.

Access is for the courts to decide if the parents cannot decide. That is not what this Bill is all about. This is about responsibility, so if the Member is happy with that for the time being, with what was said.

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

**The Speaker:** The motion is that clauses 4 stand part of the Bill.

Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Finally, clause 5, Mr Crookall.

**Mr Crookall:** Mr Speaker, clause 5 similarly refines the wording in section 12(5) of the Civil Evidence Act 1973 and sections 12 and 13 of the Civil Registration Act 1984. I beg to move that clause 5 stand part of the Bill.

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** I am happy to second and reserve my remarks.

**The Speaker:** I put the question that clause 5 do stand part of the Bill.

Those in favour, say aye; against, no.

The ayes have it. The ayes have it.

Hon. Members, that brings us to the end of our business this morning.