

Sunbeds Bill 2012
Report received and recommendation approved
Amended Bill to be returned to the House of Keys

2. Mr Butt to move:

That the Report of the deputation elected by the Council on 5th February 2013 [PP 0044/13] be received and that the following recommendation be approved:

That the Bill be amended as shown in Annex 2 and returned to the House of Keys.

The amendments referred to in the recommendation are as follows.

AMENDMENTS TO CLAUSE 15

- 1. Page 13, line 22 for 'this Act' substitute 'section 10 or 11'.*
- 2. On pages 13 and 14 leave out the text from the beginning of line 37 on page 13 to the end of line 2 on page 14 and substitute the following –
'(4) The amount of the fixed penalty is £50.'*
- 3. Page 14, lines 8 and 9 for 'an offence under this Act' substitute 'the offence for which it has been given'.*
- 4. Page 14, line 14 for 'this Act' substitute 'section 10 or 11'.*

The President: We turn to Item 2, the Sunbeds Bill. I call on Mr Butt.

Mr Butt: Thank you, Madam President.

The Sunbeds Bill was introduced into the Keys in June 2012 and passed without amendment. The Bill was moved by Mrs Brenda Cannell.

However, during progress through the Legislative Council, concern was expressed that all the offences created by the Bill could be dealt with by way of fixed penalty. Opinions were expressed that it is not always appropriate to deal with the offences by way of fixed penalties.

At the clauses stage, the Council voted to delete the provisions which allowed for offences under the Bill to be dealt with by fixed penalties.

When the Bill was returned to the Keys those amendments were rejected, and as a result a Conference between the Keys and Council was called. Representing the Keys were: Mrs Cannell, the mover, and Mr Watterson; and representing the Council were Mr Turner, Mr Lowey and myself.

At the Conference, agreement was reached that the fixed penalty sanctions should only apply to sections 10 and 11 of the Bill, those sections relating to a duty to provide information to sunbed users and to display notices. We were told at the Conference that this was acceptable to the enforcers of the sponsoring Department, the Department of Environment, Food and Agriculture. This was a reasonable compromise, Madam President, and means that the more serious offences in the Bill will be dealt with by the normal processes of either caution or prosecution.

The amendments in the motion have the effect of allowing only sections 10 and 11 to be dealt with by way of fixed penalty, and there are subsequent minor amendments to enable this.

Madam President, I beg to move the motion standing in my name.

The President: Mr Turner.

Mr Turner: I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Downie.

Mr Downie: Thank you, Madam President.

I think the committee of Council have actually done an excellent job. There is no doubt in my mind that to have fixed penalty offences for some of the issues that we were asked to consider, for which the seriousness of not having a proper system in place affects people's lives in later years. So much now is

known about the harmful effects of over exposure to sun beds and cancers and so on at a later stage.

I think it is very, very important that we take the whole matter seriously and if I am led to believe now, the only fixed penalty notices now that will be included are those when there has been a failure to properly advertise or it is more in that minor group, whereas the more serious offences will still have to come before the courts and the whole opportunity of the outcome of that court case be known to the general public that there are people there who are looking after their interests.

The President: The Hon. Member, Mr Braidwood.

Mr Braidwood: Thank you, Madam President.

I believe the compromise which has been arrived at in the Conference has reached a satisfactory solution, and as has been mentioned by the Hon. Member of Council, Mr Downie, the fixed penalties for clauses 10 and 11, which he said were just duty to provide information to sunbed users and duty to display information notices, are the correct way forward.

The President: The Hon. Member, Mr Crowe.

Mr Crowe: Thank you, Madam President.

I too support Mr Butt's amendments, which are the result of the Conference between the two parts of Tynwald. As Mr Butt says, it is a reasonable compromise and I think we are seeing here democracy at work, where the Council have an opportunity to review legislation. I think this is the right way forward for the Bill and the sanctions that can be imposed under the new revised Bill.

Thank you.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

I think the process has actually resulted in the Bill being strengthened, because our original proposal was of course to remove the provision for fixed penalties. The reason for that is the fixed penalty clauses actually enabled the enforcement officers to issue a fixed penalty for any offence under the Act. I think this is where Council had some problems.

In reality, the Department was saying, 'Oh, but we wouldn't do that', but of course it is what the Act will actually say that matters, not what they might or might not do with it.

So I think by Council removing the fixed penalties, the other place disagreeing and us having this Conference, what has actually occurred here now is the ability for fixed penalties to be issued for the actual offences the Department intended to use them for anyway; whereas, I suppose with the Council's original amendment of removing them, they may not have taken any course of action against offences under 10 and 11, because the prosecution may have been seen as too heavy.

So I think, as result of this whole process, this Bill now is in excellent shape. The proposal from the Conference I think is a sound one and I hope Members will give it their full support.

The President: Hon. Member, Mr Wild.

Mr Wild: Thank you, Madam President.

Again, just to echo that, I support my hon. colleague, Mr Butt's amendments. I think that the Council have come up with a very robust and practical compromise and a way of taking the Bill forward. I agree with Mr Turner: I think it is a better piece of legislation for these discussions.

Thank you.

The President: The Hon. Member, Mr Corkish.

Mr Corkish: Thank you, Madam President.

I speak as Chairman of the Isle of Man Cancer Association. The main thrust of our work is raising funds for cancer awareness, so I welcome this Bill and I also applaud the compromise reached by the two parties.

The Bill is timely, certainly welcomed from me as an individual, but also those people who are concerned with the onward good health of our people.

The President: The Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

For me, I have had to approach this in somewhat of an academic exercise, going through the *Hansards* for the three appearances of this Bill within this hon. body, and also within the House of Keys, the other place.

I think that the result of the deliberations and the debate has ended up with the right answer, especially from the Conference, and I fully support the amendment.

The President: The Hon. Member, Mr Butt, to reply.

Mr Butt: Thank you, Madam President.

I thank Members who spoke for their support for this motion, this amendment.

First of all, I would like to say this Bill hopefully will perhaps never be used as an Act, because hopefully the fact that we now have legislation in place will deter people from using sunbed premises in the wrong way.

As regards the issue of fixed penalties, it was my view that people are prosecuted for offences not just to punish them, but we need to actually have the publicity to make people aware that these offences exist, that they should not be committing them, to deter people from committing offences. Fixed penalties, although they have their place in some areas, probably were not suitable for the offences in this Bill.

Mr Downie points out, quite rightly, the danger of sunbed overuse, which is the main reason for having this Bill, and the dangers that can cause to people. I thank him for his support.

I also thank Mr Braidwood for his support.

Mr Crowe has made a point that the Council actually does have its uses and is useful (*Laughter*) and we have actually done something which proves that the Council has a function, and is able to amend legislation in a way that makes it more user-friendly and a better use.

As Mr Turner said, the Bill has been strengthened by this. Although the reality was the Department only wanted to prosecute... use fixed penalties for those particular offences, we, by our actions, have now clarified that and put it into writing – actions speak louder than words, in effect. The words did say they could prosecute for everything, and now we actually have it in writing that fixed penalties will only be used for those which they would have used anyway.

Mr Wild also agreed that it is better legislation that has now come through as a result of the Conference.

Thank you, Mr Corkish, for your contribution. I think the debate we had in the initial stages about having fixed penalties was about awareness and how do you make people aware that these offences are being committed or exist. If you only do it by fixed penalty, the public would not become aware – and your organisation is trying to raise awareness, and this, hopefully, will do that.

I thank Mr Coleman for his response and also the fact he has read through all the *Hansards* – well done for that. I am not sure – is this your maiden speech, Mr Coleman? If it is, I congratulate him on his maiden speech before the Council, and I thank him for his support.

Thank you, Madam President. I beg to move the motion.

The President: The motion before you, Hon. Members, is set out at Item 2. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

I am not sure if this is a record, but that concludes our business for this morning, Hon. Members! The Council will adjourn until 30th April, but will now sit in private.