

## 6.1. Public Health (Amendment) Bill 2013

**The Deputy Speaker:** We now go on to consideration of clauses and the Public Health (Amendment) Bill 2013.

I call on Mr Gawne to move clauses. Mr Gawne, can you move, please, clause 1.

**Mr Gawne:** Gura mie eu, Lhiass-loayreyder.

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

I therefore move clause 1.

**The Deputy Speaker:** Mrs Cannell.

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

**The Deputy Speaker:** Hon. Members, the question is that clause 1 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Gawne, please move clause 2.

**Mr Gawne:** Gura mie eu, Lhiass-loayreyder.

Clause 2 relates to the commencement of the Act. Sections 1 and 2 of the Bill will come into force automatically on the announcement of Royal Assent, whilst the remaining provisions will come into operation on a day or days stipulated in the Appointed Day Order.

Provision is made for the Department to consult the Department of Health prior to making an Appointed Day Order and for any order to contain consequential, incidental or transitory provisions where the Department considers it appropriate.

I move clause 2 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

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

I beg to second and reserve my remarks.

**The Deputy Speaker:** The question is that clause 2 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Gawne, clause 3, please.

**Mr Gawne:** Gura mie eu.

Clause 3 provides that the resulting Act will expire either on the day following its promulgation or when the final provisions of the Bill have been commenced through an Appointed Day Order.

I move clause 3 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

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

I beg to second and reserve my remarks.

**The Deputy Speaker:** The question is that clause 3 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Gawne, please move clause 4.

**Mr Gawne:** Clause 4 introduces the amendments to the Public Health Act 1990.

I therefore move clause 4 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

**Mrs Cannell:** Thank you, Deputy Speaker.  
I beg to second and reserve my remarks.

**The Deputy Speaker:** The question is that clause 4 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Mr Gawne, please move clause 5.

**Mr Gawne:** Clause 5 repeals the whole of Part II and Schedule 2 of the Public Health Act 1990, which concerns control of disease and is being replaced by a new part being inserted into the 1990 Act by this Bill.  
I move that clause 5 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

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

**The Deputy Speaker:** The question is that clause 5 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Mr Gawne, please move clause 6.

**Mr Gawne:** Clause 6 inserts a new Part IIA into the 1990 Act which is titled 'Public health protection' and contains 19 sections, numbered from 51A to 51S, providing new public health control measures to help prevent and control the spread of serious disease caused by infection and contamination from chemicals or radiation.

The newly inserted Part IIA also permits the Department to give effect in the Island to the new International Health Regulations 2005, which were adopted by the World Health Organisation in 2007.

The 2005 Regulations are the means by which the World Health Organisation aims to prevent and control the international spread of disease in ways which are commensurate and restricted to public health risks and which avoid unnecessary interference with international traffic and trade.

Part IIA makes more flexible provisions, which enables a response to be made where appropriate to a wide range of specific problems in more proportionate ways. By way of example, currently the only actions a justice of the peace may order in relation to a person suffering from a specified disease is that they be removed to and detained in hospital. However, to reduce the threat to others, these new provisions will permit a restriction to be made which would simply require the person concerned to stay in their own home, with the appropriate support from the Health Service until the risk of infecting others has passed.

Section 51A expands the scope of current provisions which concern infectious disease such as cholera and plague, to take into account risks that can be posed by contaminations such as chemicals.

Section 51B enables the Department to make regulation to prevent danger to public health from international travel and to detain modes of transport and carry out measures to prevent the spread of infection. It imposes duties on persons who have control of transport and points of entry.

Section 51C provides that the Department can through regulation control the spread of infection by placing restrictions on members of the public and imposing a duty on medical

practitioners and other persons to notify the Department of suspected cases of infection or contamination.

Section 51D places restrictions on the regulations made under section 51C so that they are proportionate to what is sought to be achieved.

Section 51E provides that regulations made under sections 51B and 51C may not require a person to undergo medical treatment.

Section 51F provides that health protection regulations made under section 51B or 51C may confer functions on local authorities and other persons to create offences, provide for the execution and enforcement of restrictions and requirements it imposes, as well as provide for appeals.

The levying of charges and fines, section 51G, enables the High Bailiff to make an order imposing certain restrictions or requirements on any person in order to prevent the spread of infection or contamination, provided he is satisfied that the person is so infected or contaminated.

Section 51H enables a justice of the peace to make an order imposing certain restrictions on requirements on a thing, if the justice is satisfied that the thing is so infected or contaminated that it could present significant harm to human health.

Section 51I permits a justice of the peace to make an order imposing certain restrictions and requirements in relation to premises, if the justice were satisfied that the premises were so infected or contaminated that they could present a risk of significant harm to human health.

Section 51J explains how the powers in sections 51G, 51H and 51I apply to groups of persons, things or premises.

Section 51K makes further provisions about the orders under the previous three sections, which are referred to as health measure orders, including, in addition to the restrictions of requirements, such other measures as the person making the order deems necessary, such as the entry of an authorised officer onto any land to carry out specified actions.

Section 51L provides that a health measure order must specify the period for which the restriction or requirement set down remains in force. In the case of a person detained in hospital or other suitable establishment or kept isolated or quarantined. However, that period must not exceed 28 days.

Section 51M provides that an application of an authorised officer, a justice, has the power to make a health measure order. A justice also has the power to vary or revoke an order following an application to do so by the affected person. The authorised officer or any other person who has a function in executing or enforcing the order.

Section 51N permits the Department to make further provision by way of regulations relating to the discharge of the health measure order, including the type and manner of investigation, the liability for cost and compensation.

Section 51O extends powers to authorise officers to enter any premises, provided 24 hours' notice has been given. It also provides that such entry can be authorised by a warrant issued by a justice of the peace, if they are satisfied on sworn application of the authorised officer of the need to gain such entry.

Section 51P provides that if a person failed without reasonable excuse to comply with any restriction or requirement imposed by an order or obstruct anyone in the execution of an order, they would be guilty of an offence and might be liable to take remedial action to meet any expenses incurred.

Section 51Q provides that public documents must be either approved by Tynwald or, if declared by reason of urgency that they are necessary to come into operation before Tynwald approval, are laid before Tynwald at its next sitting and unless approved will cease to have effect.

Section 51R makes provision for Part IIA to apply to the territorial sea adjacent to the Island.

Section 51S provides for further definitions specific to this part of the Bill.

I move that clause 6 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

**Mrs Cannell:** Thank you, Deputy Speaker.  
I beg to second and reserve my remarks.

**The Deputy Speaker:** Mr Quirk.

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

Could I just ask the Minister regarding premises and notification. Just to seek a reassurance, I presume, when a place or business has been infected, that a statutory notice goes up. I just wonder whether it is your Department or the local authority which actually places the notice. I seek clarification that that notice is in a prominent place.

**The Deputy Speaker:** Mr Gawne to reply.

**Mr Gawne:** Gura mie eu, Lhiass-loayreyder.

Yes, there are... It depends which sort of notice and what part of the regulation you are referring to. There will be notices that the Department will be issuing, but also, there are powers for local authorities to take action as well. In many cases, officers in my Department act as agents for local authorities as well, so that may apply in that instance.

So I beg to move clause 6.

**The Deputy Speaker:** Hon. Members, the question is that clause 6 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Gawne, please move clause 7.

**Mr Gawne:** Gura mie eu.

Clause 7 replaces section 92 which applies to Parts I, IIA, VI and VII in relation to aircraft and vessels. This includes vessels in the Isle of Man's ports or lying in territorial waters associated to the Isle of Man or aircraft in the Isle of Man or in those waters.

I move clause 7 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

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

**The Deputy Speaker:** The question is that clause 7 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Gawne, please.

**Mr Gawne:** Gura mie eu, Lhiass-loayreyder.

Clause 8 inserts a new Part VI into the 1990 Act containing sections 92A to 92H, and which concern investigative powers when undertaking a public health inspection.

Section 92A provides that a 'public health inspection' means an inspection to determine whether there has been any contravention of the Act. It provides that any inspection may be carried out by an authorised officer and what an authorised officer may do in relation to an investigation under the Act.

Section 92B concerns powers in relation to the entry to premises and empowers an authorised officer to enter premises. An authorised officer may take a constable with them, if they suspect that access to premises will be obstructed, and to take any necessary equipment or materials to

assist entry. An authorised officer is expected to leave any premises they have entered effectively secured.

Section 92C enables an authorised officer to take measurement, photographs and recordings considered necessary for the purpose of a public health inspection. It also makes provisions for taking samples from the premises in addition to samples of air, water or land in the vicinity of premises. Any sample taken from premises can be detained for as long as necessary in relation to examination and for use as evidence.

Powers are extended to an authorised officer to require the production of records and the taking of copies of those records. Provision is made for any document that is privileged to be withheld by any person.

Section 92D enables an authorised officer to ask questions of any person whom that authorised officer has reason to believe has information relevant to a public health inspection. A person to whom questions are levelled may nominate another person to be present when those questions are asked. Any answer given by person in these circumstances is not admissible in evidence against that person in any criminal proceedings.

Section 92E contains supplementary provisions in relation to a public health inspection. It requires an authorised officer to produce a document showing their authority. The Department may make regulations conferring such powers on authorised officers for the purposes of public health inspections, with such regulations able to modify any enactment, including the 1990 Act.

Section 92F sets down the two conditions for entry into properties that are occupied dwellings. The first condition requires 24 hours' notice to be given in respect of any entry, with the second condition being that consent has been given by the occupier or entry is affected under authority of a warrant.

Section 92G concerns inspection warrants and provides for the issue of a warrant where an authorised officer has been refused entry or anticipates that refusal. This section also makes provision where the premises are unoccupied or the 24-hour notice would defeat the object of the public health inspection.

The section sets down the criteria to be met for a warrant to be issued by a justice on the application of an authorised officer.

Section 92H provides for offences where failure to comply with requirements, intentional obstruction or failure to provide facilities or information takes place, among other things. A defence is also provided in respect of this particular section.

I therefore move that clause 8 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

**Mrs Cannell:** Thank you.

I beg to second and reserve my remarks.

**The Deputy Speaker:** Mr Quirk.

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

Just on the taking of evidence and photographs and documentation, I am just wondering whether the Minister could maybe enlighten the House that when the case has ceased or the infection has disappeared, what happens to all the documentation? Is there a time bar on it? Is there a destruction policy for evidence so it does not last there forever and a day?

**The Deputy Speaker:** Minister to reply.

**Mr Gawne:** Gura mie eu, Lhiass-loayreyder.

In essence, the material can be kept by the Department as long as the Department needs for its investigations and to ensure proper adherence to this particular piece of legislation. We can retain the evidence for as long as we need it, and then it is returned to the person who it was extracted from, if that is appropriate.

I beg to move clause 8.

**The Deputy Speaker:** Hon. Members, the question is that clause 8 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Gawne, please move clause 9.

**Mr Gawne:** Gura mie eu, Lhiass-loayreyder.

Clause 9 inserts a new cross-heading, constituting a new Part VII, which will contain sections 93 to 98 of the 1990 Act.

I move that clause 9 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

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

**The Deputy Speaker:** Mr Quirk.

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

Could I just ask the Minister to explain a bit more. It is just the ones I had highlighted were these new clauses that came in – what do these new clauses actually do and what would that relationship be with that 1990 Act, which is the Local Government Act, and also 1985? What are we getting for our buck?

**The Deputy Speaker:** Minister.

**Mr Watterson:** That's the next one.

**Mr Gawne:** Gura mie eu.

There are no new clauses associated with this. This is purely a numbering issue which is being corrected by this clause.

I beg to move clause 9.

**The Deputy Speaker:** The question is that clause 9 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Gawne, please move clause 10.

**Mr Gawne:** Gura mie eu.

Clause 10 amends section 97 of the 1990 Act, which deals with the application of provisions of the Local Government Act 1985 for purposes of the 1990 Act. Some of the provisions of the 1985 Act no longer need to apply to the 1990 Act, as a consequence of other amendments made to this Bill.

I beg to move clause 10.

**The Deputy Speaker:** Mrs Cannell.

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

**The Deputy Speaker:** The question is that clause 10 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Gawne, clause 11.

**Mr Gawne:** Gura mie eu, Lhiass-loayreyder.

Clause 11 amends Schedule 4 which specifies penalties for offences under the 1990 Act. Reference to those penalties relating to the repealed of Part II of the Act are removed. A new provision is made in respect of the newly inserted Parts IIA and VI is made.

I move clause 11 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

**Mrs Cannell:** Thank you.

I beg to second and reserve my remarks.

**The Deputy Speaker:** The question is that clause 11 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Gawne, please move the final clause, clause 12.

**Mr Gawne:** Gura mie eu, Lhiass-loayreyder.

Clause 12 repeals section 4 of the Local Government (Miscellaneous Provisions) Act 2001, which is now spent, as the amendments it made to the 1990 Act are repealed in this Bill.

I would like to thank the Hon. House for its support this morning, and also particularly thank my seconder of this Bill.

I move that clause 12 stand part of the Bill.

**The Deputy Speaker:** Mrs Cannell.

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

I beg to second and also praise the Minister for the efficient manner in which he pursued the clauses stage of this Bill.

**A Member:** Ah!

**The Deputy Speaker:** Mr Quirk.

**Mr Quirk:** Sorry, Deputy Speaker – not as quick as my Minister! *(Laughter)*

**The Deputy Speaker:** I do not know if you wish to reply to that or not, Minister! *(Laughter)* I should think not, no.

The question is that clause 12 do stand part of the Bill. All those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That completes the clauses stage of the Bill.

Hon. Members, that concludes the business of the House today. The House will now stand adjourned until the next sitting, which takes place at 10.00 a.m. on 29th October in this Chamber.