

#### 4.1. Control of Employment Bill 2013 – Council amendments approved

**The Speaker:** Item 4. Consideration of Council amendments, Control of Employment Bill.  
I call on the mover, Mr Shimmin.

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

The Control of Employment Bill received its Third Reading in this Hon. Court on 4th March.

During its subsequent progress in another place, the Bill was amended in several respects. Some of the amendments were moved by the Department. For the most part, these derived from consideration of points raised in the debates in this House, but there were also some points brought to the Department's attention by the Home Affairs Minister and the Attorney General's Chambers. Some other amendments were put forward by individual Members in another place concerning the categories of employment which Members considered should be exempt from the requirement for a work permit.

Both the Department and the Council of Ministers have considered the amendments before they were dealt with in another place and have supported them. It is now necessary for this House to consider those amendments.

Mr Speaker, moving to amendment 1, this would exempt the Chief Fire Officer from the requirement for a work permit. This was put forward by Mr Braidwood MLC in light of his experience as a former Home Affairs Minister. Members will note that the post of Chief Constable is already exempt, so the amendment would result in the two posts being treated in a consistent manner. The mover's view was that, on occasion, there may be a need to bring in leaders with a wider range of skills and experience than local applicants may have. That will not, however, preclude an Isle of Man worker from being able to hold the position if he or she is the best candidate. I note in this respect that while the post of Chief Constable is exempt, the holder of the post is of course an Isle of Man worker who was promoted because he was judged to be the best candidate for the job.

Mr Speaker, I beg to move the first Council amendment be agreed.

**The Speaker:** Mr Singer.

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

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I will support the proposal, but I just feel that we need to make sure that, when we are discussing the issue of the procedures of appointments of people, they have the flexibility to make sure that they have the right criteria, so that they do not have the situation where they are being blackmailed... not being able to take on the candidate who can do the job.

I just feel that the Minister needs to clarify to the people outside, who have equally difficult jobs getting work permits in the private sector, why Government should be different to the private sector, who must have the same problems in being able to appoint people from outside of the Island.

**The Speaker:** Mr Thomas.

**Mr Thomas:** Can the Minister advise whether or not this change was included in the consultation and whether his Department supports this? (*Interjections*)

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

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

There will be a trend running throughout this, and I take on board the Member for Onchan's comments, because much of this is about succession planning. This is about skills and training our own people so they are capable of stepping up and taking the top jobs.

Indeed, in the private sector, as in the public sector, jobs that warrant significant responsibility, and indeed salary that goes with them, have got to be the best to drive our Island forward, whether that be the private or the public sector. Therefore, it is our collective responsibility and that of the bodies within Government to make sure that our staff are trained and experienced, and if that does involve courses off Island or periods of time off Island that we encourage them to do so.

So I am grateful for his support but I do understand very clearly that this is all about making sure. Indeed, in the past, a former Chief Fire Officer did exactly that: he made sure that junior officers were trained to qualifications which would allow them to subsequently take the post. We are after the best person for the job, but that does not mean we stop training our people up so they can reach the highest level.

With regard to Mr Thomas, it is something where there was a wide-ranging consultation over a long period of time. This was not reverted back from the time that it was discussed with the Legislative Council. It is one, however, that has been discussed previously around the Houses as to whether it is appropriate, and I do give it my support.

**The Speaker:** Hon. Members, I put the motion as set out on page 5 of the Order Paper in respect of 3A. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Shimmin.

**Mr Shimmin:** The second amendment would exempt judicial court and tribunal appointments from the requirement for a work permit.

The amendment to sub-paragraph (1) captures some additional judicial and court employments which had been overlooked when the original Bill was drafted. The amendment was suggested by the Attorney General's Chambers.

I beg to move, sir.

**The Speaker:** Mr Singer.

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

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I feel that this is a good move forward. I think being a small jurisdiction it is very difficult to stop Deemsters, High Bailiffs and judicial officers from having conflicts as far as issues in this small nation.

Could the Shirveishagh just clarify how far down does a judicial officer go as far as this piece of primary legislation is concerned?

**The Speaker:** The mover to reply. Mr Shimmin.

**Mr Shimmin:** He started off so well, the previous speaker, in agreeing with me, and for those very reasons I am very grateful to him for explaining what is quite clearly a danger of conflict within such an important part, and the separation of the powers which we hang onto proudly does mean that that is appropriate.

In regard to the final part, I am afraid I have not got that information. It was requested by the Attorney General's Chambers. From my point of view, it would be to a level whereby those conflicts would not necessarily be causing any issue.

I beg to move.

**Mr Karran:** Pont of order: can he just circulate that later on, if that is possible?

**Mr Shimmin:** With pleasure, sir.

**The Speaker:** Thank you, Mr Shimmin.

I put the question as set out on page 5 in the second amendment in respect of 3A. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Shimmin.

**Mr Shimmin:** The third amendment, which was moved by Mr Alex Downie MLC, would exempt the Chief Secretary or the chief officer of a Department or a Statutory Board from the requirement for a work permit. Mr Downie made the case in another place for these very senior posts to be exempted so that the work permit system does not deter non Isle of Man workers from applying for these very important posts and so that we can be sure we get the most able people, irrespective of whether or not they are Isle of Man workers, to lead the Departments and Statutory Boards.

Whilst the Department did not consult on such an exemption, having given it consideration, both the Department and the Council of Ministers support it on the grounds that an exemption would be likely to widen the pool of applicants for top public Civil Service appointment jobs and lead to an overall increase in the quality of public services for the benefit of all our citizens.

Mr Speaker, I would also like to give advance notice to this House that both the Department and the Council of Ministers consider this particular amendment to be so important that, subject to the approval of the amendment today, I will be bringing forward in exemption order to another place in May, to be made under the existing Control of Employment Act, so that chief officers can be exempted from the requirement for work permits as soon as possible, even before the new Act comes into force.

I beg to move that the third of the Council amendments be agreed by this House.

**The Speaker:** Mr Singer.

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

**The Speaker:** Mr Quirk.

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

I am brought to my feet by the last comments by the Minister. I do have some concern here. We have a policy within Government for succession planning – trying to grow our own within the Island's employment circle. I agree with that and it is working in several places: the Chief Constable is one and the Deputy Chief Fire Officer became the Chief Fire Officer. We opened it up then to the employment of the Chief Secretary and Statutory Boards, and we are bringing it out a little bit wider. I have a little concern regarding this. I am a little bit more uncomfortable with it. We also have the thing at the bottom, if I am right, regarding the lay workers and religious bodies. I just wondered what the Department's views were on that.

**The Speaker:** I do not think we have come to that discussion yet.

**A Member:** No, we haven't.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I just would like the Shirveishagh to explain to this House why we should have that exemption when the private sector does not have that exemption as far as the Control of Employment Act. If he gives us that justification, I think that is important for the public record.

Many years ago, when we first came into this House, one of the things that a group of us tried to do was to bring about good employment legislation. We brought about good employment legislation (**A Member:** The royal 'we'!) to protect good employees from bad employers. If the structures within the personnel department in the Civil Service cannot address the issue of the chief officers for both Departments and Statutory Boards, I am concerned that this is not getting done to address the other issue where... What we wanted when we brought that legislation in was to protect good employees against bad employers. If there is a problem as far as the Civil Service is concerned, I do hope the Minister will keep the pressure on to make sure that, even allowing for this, we do not end up with a situation where we take our eye off the ball as far as that issue is concerned.

I do support the principle because what we have seen is almost a situation of a cabal, where we have people who have been picked as senior officers... and I know the mover will go hysterical over this, but the reality is that in the private sector they would never have got the job and it defies logic how they have got the job. It would be wrong of me to use the privilege of this House to name examples.

If this will help us to get to some realistic situation of getting people who are appointed to senior jobs and actually knowing what they are doing in those senior jobs, then obviously we have got to support this proposal in front of us today; but I do feel that there is an issue that CoMin needs to be thinking about, and that is addressing the issue of, in the public sector, employees who are not providing the service that they are being employed for. They do need to address that issue as well.

So, as far as I am concerned, I will support this even though I do feel, to a certain degree, it will actually be counterproductive as far as succession management is concerned within the Government service. The point is we need to address the higher management. I am sick to death of the workers being attacked for bad management higher up in executive Government. I think most of us in this House would support this proposal.

**The Speaker:** Mr Thomas.

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

In the past, before election to this House, I actually put down a Petition for Redress of Grievance about selection procedures by Government for high positions, and I also took a court case in my own name about that issue; so I wanted the Minister to answer two questions, please.

The first one is that I was given the 120 pages of response to the consultation in 2011 and I cannot see this idea coming through the consultation. That is the first one, so I just wanted to confirm that that was the case.

The second one is that, given the Department now thinks this is such a good idea, why didn't the Department bring it originally? Why was it for the Legislative Council to actually put this into the political policy development debate? They are my two questions for the Minister.

**The Speaker:** The mover to reply. Mr Shimmin.

**Mr Shimmin:** Thank you.

I think it highlights exactly the difficulties... the Department has been trying to do... As to the two members for Onchan expressing concern, I do not have any difficulty with that concern because we have agonised over the same things.

I think that there has been a clear understanding that within the Civil Service, on occasions, Members of this House have criticised what might be classed as dead man's shoes – that there would be an automatic assumption that those persons would move up the ladder into more senior positions. Many Members of this House have expressed what I would consider almost inappropriate criticism and condemnation of senior managers across a number of senior areas of Government.

For the Member for Onchan, Mr Karran, we do already effectively have this exemption for chief executives of international companies, and we are now talking about... With the budget involved in some of these posts within Government, we need the best people. That does not take away... I can reassure both Hon. Members for Onchan that succession planning skills training is core and fundamental to everything that we do. I can understand a level of discomfort; however, history has shown us that the failure of allowing us to get the best person for these jobs – because there can be persons who are capable of doing the job but are not the best – has wrought many problems and concerns for us on the Isle of Man, and that is why we are attempting to try and deal with that.

My good friend for West Douglas talks about the consultation. No, because it is a finely balanced one, we did not wish to try and introduce this sort of contentious area. However, the consultation has gone on for two or three years now and therefore there are lots of things that time has moved on and our experiences in certain areas may well mean that this is now supportable. It was not originally in there – we did not think that further exemptions were the way to go – however, we now believe there are some fundamental positions where we need to make sure we have got the best.

The final comment I will make is on Mr Karran's point: we are absolutely wanting to protect good employees from bad employers, and we are also wanting to try and protect good employers from bad employees. Within the Government circle it is working both ways. We have to make sure that we train up and give skills to those capable, but if there is underperformance – whether it be at the senior level or any stage within our organisations – we have to try and drive standards to help the public. We are public servants, as are our staff. It is our responsibility to assist the public and failure to do that at any level should not be tolerated. That may be done by good management training and helping, but at other stages it does mean exiting the organisation and I think we have chickened out of doing that for many years so that poor quality has been tolerated, and it would be a message now that that cannot continue.

With all of that, I hope I have covered most of the comments. If not...

If I can just go back, Mr Speaker, with your permission, with regard to the judicial officers, this covers the High Bailiff and the Deputy High Bailiff under the High Court Act 1991; it can also include a Justice of the Peace under the Interpretation Act in respect of section 20 to provide for exercise of functions in absence or inability to act or during a vacancy, and that is set out in paragraph 4 of the schedule.

I beg to move, sir.

**The Speaker:** Hon. Members, I put the motion as set out on page 5 under '4A Senior public service appointments'. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Shimmin.

**Mr Shimmin:** Mr Speaker, moving on, paragraph 5(1) of the Bill retains the exemption 'ministers of religion', which is in the existing legislation, the Control of Employment Act 1975. However, this exemption now includes lay officers who exercise a ministry within any of the

mainstream churches. The Lord Bishop, whose first chaplain on the Island was a lay woman, sought to extend the exemption to lay officers of religious bodies through tabling this amendment. The amendment has been framed to meet the needs of the increasingly flexible concept of ministry even within the established Church, and both the Department and the Council of Ministers are content to support it.

I beg to move, sir.

**The Speaker:** Mr Singer.

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

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, whilst not wanting to object to the religious freedom of any citizen in the Island – I think he has talked of lay officers and we talk of lay workers – I am concerned, if there is not real clarity, what that exemption will end up being. Is a lay officer a person who maybe runs the local youth club for a church? A lay worker for a religious body could be a youth worker, could be a social worker, or whatever, and I just think that because we are doing primary legislation it is important that we clarify what we actually are doing.

The idea of giving religious persons – vicars, mullahs or whatever – an exemption is one thing, but the problem I have here is that the Minister needs to clarify what is a lay officer and what is a lay worker with a religious body. I think it is something that needs to be seriously considered so that this does not end up being a way of avoiding the work permit legislation, where somebody on the Island could be a Christian youth worker for a religious body or whatever. I just think this needs a bit more clarification, because the problem with the wording of this... We saw the mover talk about a 'lay officer' and we have got down here a 'lay worker' with a religious body. I just think it needs to be clarified, because you might find that some organisations could then use a religious organisation for employing people to circumvent the situation. (*Interjection*) I know it might sound a bit far-fetched, but I think you will find that these are problems that certain London boroughs have got.

**The Speaker:** Mr Quirk.

**Mr Quirk:** Just to echo the same sentiments, really, my concern there is to do with 'lay', or 'lay officials' having the work permit... I think it should be specific. I will give you an example of that. My colleague has touched on a couple of areas too, but we could have somebody who is brought into a religious organisation to run a local community bus. I do not see that as something special, really wonderful, that somebody else could not do or somebody within the community could not operate.

I will be definitely voting against this when I exercise my vote. I have had no real push to look at this or give this exemption. I think it is particularly wrong to categorise it as a lay worker. What is a lay worker? When you look down the category, whether it is a skilled individual, a professional organisation or just a normal labourer... a lay worker is anything.

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

**Mr Shimmin:** Once again, Mr Speaker, it does identify the difficulty in terminology and language. What are we attempting to achieve with this legislation? How tightly do we define everything, because you will then have an even lower amount of flexibility to achieve what is good for the Isle of Man.

This was an amendment brought forward by the Lord Bishop. The issue was drafted by the Attorney General's Chambers. We believe that that is adequate for the very rare occasions that

this will be worked. However, we will have to now go back, if there is a vote against this. It would be a disappointment to actually restrict certain elements of ability for normally what are temporary workers coming into the church for a relatively short period of time, but the Hon. Members for Onchan have raised definition issues which the Attorney General's Chambers believe is adequate. If there is a problem, we would have to try and get a definition of that in the future.

I would ask Hon. Members to vote for it. However, if their conscience... or they are not satisfied, then vote against it. It is a minor point. We believe it is fairly seldom to be utilised, but it gives flexibility to the churches who predominantly are attempting to help the people in our community.

I beg to move, sir.

**The Speaker:** I put the motion as set out on page 5. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Shimmin.

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

Although the next amendment appears to be rather long, it is for the most part a rewrite with improved drafting of paragraph 6(2) of part 1 of schedule 1 of the Bill.

The substance of the revised draft does, however, differ from the existing paragraph in one important respect. In order that work permit legislation is not overly bureaucratic and does not encumber international financial companies on the Island, the Control of Employment (Exemptions) Order 2009, made under the Control of Employment Act 1975, allows a company incorporated in the Island, which is a member of an international group, to bring in certain persons employed outside the Island by another company which is a member of the group for up to 48 days a year, subject to compliance with certain conditions. This Order has now been consolidated in the schedule of the new Bill.

The amendment before you this morning will extend a parallel right to that enjoyed by international companies to class 1, class 2 or class 3 licenceholders within the meaning of the Regulated Activities Order 2011. That Order regulates all classes of financial services. Class 1 covers deposit taking, class 2 covers investment business and class 3 covers services to collective investment schemes.

The international group provision in both the 2009 Order and the Bill does not yet work for these classes of financial services businesses because typically there is no subsidiary incorporated in the Island. Instead, they are frequently run on the Island as branches or agencies of companies incorporated in one or other of the Channel Islands.

The lacuna in the existing exemption was brought to the attention of the Department by the Home Affairs Minister, whom I would thank. The FSC has since been involved in identifying which additional international executives should be covered by a temporary exemption.

Mr Speaker, in summary, this is something which is a technical one, for which the intent was always there and this is now clarifying it legislatively.

I therefore beg to move that the fifth of the Council amendments be agreed.

**The Speaker:** Mr Singer.

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

**The Speaker:** Mr Quirk.

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

It may sound strange – I will warn the Minister – but there is a theory behind this one. I have looked at this particular one and had an instance, which I reported to your own Department,

regarding an international group. It came to my attention because we had a difficulty with the official in the Isle of Man under Unite, which was the former T&G, and they parachuted somebody in. The Department did say to me, and I wanted clarification on this, that when this person was brought in, because it was part of an international group – I did not see the T&G Isle of Man or Unite Isle of Man as part of an international group – it was permitted. I just want clarification here today from the Minister, does he consider that... I know I just – perhaps the wrong word – ‘jumped’ on him today, (**A Member:** No, it isn’t!) but I am looking forward to that response, even if he cannot today commit to give me that decision.

**The Speaker:** Mr Karran.

**Mr Karran:** Can the Shirveighshagh just clarify for the record how it actually improves... to stop the abuse as far as these companies are concerned?

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

**Mr Shimmin:** It is always difficult. I am not sure what abuse the Hon. Member is directly referring to. If I did not make it clear, this is all international companies, not just those in the finance sector, and it is defined in paragraph 8 of the schedule.

We are attempting to do something which will allow business to develop, and opportunities and therefore employment to continue on the Island. This is essentially something which, if we are going to sit on the international stage, we have to make easy for international companies.

If there are abuses, we believe this whole raft of legislation which we are bringing in should give us better powers to penalise those who are misusing their position or the system... and there are those who are trying to actually carry out work. The companies have to submit returns. If the returns are found to be fraudulent or anybody using the exemption... and indeed we come on to exemptions a bit more, in the register, in one of the next amendments. So we do believe that it is a balance, but we believe that this amendment will actually tighten up something we thought was already in.

The Hon. Member for Onchan causes me a considerable problem with regard to the Transport and General Workers Union, and I think he has declared his position on it already. My understanding is that currently we are having one or more officers of that national union come to the Isle of Man to represent members. Should they or should they not require work permits? They are representing members, but there are members on the Isle of Man who could do that post. Do I, as Minister, try and thwart that by actually saying that this is an Isle of Man issue for Isle of Man people, or do I respect the rights of individual workers to have the best representation of their parent body from the United Kingdom?

If I make an analogy with myself as a former school teacher, there is a parent body that I was part of, the National Association of Schoolmasters and Union of Women Teachers: if we were unable to operate at that level on the Isle of Man, would we have somebody coming in from the UK to represent the members on the Island? I think the members would think that that is perfectly legitimate; but that person under certain controls would not get a work permit to come and represent membership on the Isle of Man. Over the dispute, which has now gone on for sadly far too long a period, we would not stop individuals helicoptering in for short periods of time (**A Member:** Parachuting.) – parachuting in, helicoptering in – from the point of view that the reality is that that is when they were coming in for specific meetings. To actually have persons permanently resident on the Isle of Man is an issue where I do believe they would require a work permit. (**Mr Quirk:** Hear, hear.)

That is something where I will have to go and look at that individual case myself, because it is not what I would class as an international company but it is a group representing members.

Therefore, I will have to come back to him on that one. I hope my clarification has not just confused the matter further.

With that, I would beg to move the fifth of the Council amendments be agreed.

**The Speaker:** I put the question that the fifth of the Council amendments be agreed. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Shimmin.

**Mr Shimmin:** The Department listened carefully, Mr Speaker, to the arguments put forward in this Hon. House regarding the register of work permits. The amendment, which failed to carry, would have obliged the Department to maintain a register of work permit holders, containing the names and addresses of those to whom they are issued. There would also have been a requirement for the register to be open to public inspection at any reasonable hour.

My Department did not support the amendment for a number of reasons. It did not want to be required to maintain a public register with personal information if it considered that would not be in the public interest. Such a register might also come with a hefty price tag and would be unlikely to be ready by the time the Bill was to be commenced. Another reason for having reservations was that the information to be kept seemed rather partial and limited. Finally, the amendment made no provision for a register to be kept in electronic format, which might ease the requirement which would have been imposed for the register to be open to public inspection at a reasonable hour.

Nevertheless, my Department subsequently gave the matter further consideration, and the sixth amendment would deal with our previous concerns. It is proposed that this would be enabling legislation to allow a register to be available for inspection by the public, if the Department considered it appropriate. It could be kept in electronic form, and the information to be kept about persons would be prescribed in regulations.

Whereas the Bill presently provides enabling powers for a register of work permits at clause 23(1)(h), the new clause is now wider. The Department considered that, if we are to go down this road, in addition to a register of persons in respect of whom permits have been issued it might also be useful to have registers of exempt persons and Isle of Man workers, and not just holders of work permits as had previously been proposed. In this way, information would be available as to all people working on the Isle of Man, whereas at present there are some gaps. For example, the Department knows little about those persons who are exempt under the legislation or even the numbers of exempt people. Therefore, registers could ease enforcement.

I beg to move that the sixth Council amendment be agreed, Mr Speaker.

**The Speaker:** Mr Singer.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** I do support this particular one. The only word I have got is when it is 'appropriate' if somebody wants to inspect something. I used to, in my previous lives, have a little dig at Government Departments and they used that particular stick all the time – whether it was appropriate for you to look at it. So I just wondered what the terms of 'appropriate' would be. Would that be because it is a relevant organisation, a trade union, a religious group or something like that; or would it be just a citizen walking in?

**The Speaker:** Mrs Cannell.

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

I would be very appreciative if the Minister could describe to us the intention of this particular amendment to the clauses, because it does say that the Department *may*, and it *may*, and it *may*. In other words, in law it *may not* either.

If this is supported by the House and the Department decides that it will maintain a register, then surely regulations are going to have to flow from this particular amendment in order to provide the procedure for a member of the public to make application to consider the register.

In subsection (b) it just says:

‘may, if the Department considers it appropriate,’

– and picking up the comment made by the former speaker, Mr Quirk, on ‘considers it appropriate’, clearly there will have to be standards, will there not, to define when it is appropriate and when it is not appropriate for it to be made available for inspection by the public?

I take on board what the Minister is saying in terms of there will be a choice in terms of making it available electronically, but again there has to be an application process, surely.

So what is the intent behind this? Is there really an intention to bring this in so that we do have a procedure for inspection of registers of those holding work permits and those who are exempt; or is it just a token gesture to say that we are doing it because there was an amendment which was not successful but we are trying? Is there an intention to bring it in? If there is, then surely there must be a set of draft regulations somewhere that will accompany this to give some more detail on the bone.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I think it is good to see common sense prevail over this subject. Obviously, the important thing is to get the primary legislation in, which is the one that takes the time unless you have got the position to suspend Standing Orders and have a block vote to do so. So the reality is that at least now, with having the primary legislation, a declaratory resolution can be put down in another place for it to be implemented.

I am glad to see there has been some movement on this point because I think it is important. We have seen in the adjacent isle increasingly a resentment as far as people who are not indigenous to that community. I believe that, by bringing this in, what we can do is make sure that we can go against any prejudice that could come along through misinformation. Having the information available so that people can actually go for... and actually say, ‘Well, I could have done that job and I am an Isle of Man worker,’ has to be a step in the right direction.

Obviously, it is very similar, apart from not having the enforcement of bringing in with the primary legislation... with the Bill... and it would mean that it will have to be a matter for the Department to bring in the regulations. At least now we can put a declaratory resolution down in Tynwald and it can be implemented.

I think the Minister needs to be congratulated for actually bringing this about, because I actually feel it will help not just Council of Ministers but it will help this piece of legislation as far as many people have little or no belief in how this work permit system works at the present time. So I actually think that maybe the process of bringing in a register sooner will be more important.

The point is that in the last 29 years that I have been in this House, apart from the beginning of that period, we have been in an unprecedented economic boom. That boom is going to have to be... look for new engines as far as the economy is concerned, and this issue of work permits... When we have got indigenous people who are Isle of Man workers not being able to find employment, this will at least lance the boil when that is the case. I particularly get a number of parents concerned about young people not being able to get a job. At least then, if they have a complaint, the information is there and they can actually give credibility as far as that, and when

that work permit comes up for appeal then at least they have the information there to show that there is a reason for not renewing that appeal.

Transparency will work to the advantage of the Isle of Man and the Isle of Man Government. Just like the Question that the Hon. Member raised here this morning about the confidentiality clauses, you cannot enforce anything if you do not have the information.

So I think the Minister, the mover, should be congratulated. It is not as far as I would have wanted, but it is a start.

**The Speaker:** Hon. Member for Michael.

**Mr Cannan:** Thank you very much, Mr Speaker.

I do not share the same optimism as the Member for Onchan, and indeed I too would seek some further clarification from the Minister as to what purpose exactly this is going to serve, this maintenance of a register open for public inspection.

The issue of work permits and the recording of work permits surely is already available to the Department – they are issuing.

**Mr Karran:** For the general public.

**Mr Cannan:** But to have it open to inspection by the general public seems to me to be, firstly, for the individuals concerned, a breach of their privacy rights. Why should other members of the public have access to a register to see what job they are doing and the requirements of the work permit?

Also, from a business perspective I would be potentially liable to think that confidential aspects about business plans and business strategy in the future may well be then open to competitors. For example, if a business wanted to bring forward a specialist in a certain area to explore future business opportunities, that would be then publicly open and potentially on record.

So I am curious as to what this is actually solving. Of course, like all Members in this Hon. House, I fully support the idea that Manx workers, locals brought up through the educational system, are given every opportunity to apply for roles; but again, to have constant questioning about the suitability of individuals for work permits to me seems to be creating more problems rather than solving them. Perhaps the Minister might address some of my concerns in his response around these issues.

Just to add a couple of other points, is this not going to add substantial costs to the Department? Also, is he satisfied – going back to the point that I was raising about personal privacy – that there is no breach of data protection in having this sort of information available to the public?

Thank you very much.

**The Speaker:** Mr Thomas.

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

This issue of registers might have been one that the Work Permit Committee that I proposed in the original debate would have taken up after passage of the legislation, and I wonder whether the Minister would consider coming back with a short piece of legislation to address that issue thereafter.

Another issue I raised when making that point was that the Work Permit Committee might be in a difficult situation if it was not in the statute that we are passing today, and since then the Attorney General has assured me that he would consider whether there is any difference between the Work Permit Committee as proposed and the Planning Committee, which we have

heard today does need a statutory basis. I hope the Minister can address that in his response today and perhaps look at, in the future, a short piece of legislation to address these issues.

**The Speaker:** Minister to reply.

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

It is fair to say that this piece of legislation has had a relatively smooth passage, and I am not surprised that right at the 11th hour there are still concerns, because what we are attempting to do was elucidated by the Member for Onchan, Mr Karran – this is future-proofing it. This is actually something which has not been fully finalised. Therefore, the questions being raised by Mr Quirk, Mr Cannan and Mrs Cannell to an extent can be summarised by... this is enabling future-proofing of the regulations, and all the issues that would fall from that are ones that would make it easier to actually introduce, but that would be requiring much discussion and indeed consultation on regulations.

The reality is we are dealing with a piece of legislation that is 39 years old. These things do not get changed regularly because they are difficult politically and publicly to manage.

Mr Cannan mentioned costs. It has not been costed out, but that would be a major consideration. Is this something that we would bring in now? No, we do not propose to do that. In five years' time or two years' time, the situation may change, but there are issues where we lack information currently, which would indicate to the Department that we might wish to have a register because, for example, as I said before, we do not know who is exempt – therefore, there is a workforce out there that we have no records of because they are exempt and therefore do not need to be identified.

There is a situation where a person could work and be an Isle of Man worker, living here for five years and working, fully eligible as an Isle of Man worker, but then moves away from the Isle of Man. When they return to the Island, they are still an Isle of Man worker but they have got to prove it. At the moment, some of the records that we have got are not making it easy for those people.

The Member for Onchan, Mr Karran, was talking about new engines for our economy. We have to get people in here, we have to skill up our own people, but let's not kid ourselves. Just like within this House, within Government, within the workforce there are some people – Isle of Man workers – who are not suitable for the jobs they are going to.

I had meetings last week with one industry and they were very damning about the skills of the people turning up for interviews for their posts. There is a lot of work out there but we need to make sure that we give employers an ability to actually get the people who can make their businesses successful. We do not have the role of putting a whole new range of bureaucracy in the way of business to actually allow them to flourish. It has already been stated this morning that small businesses are the powerhouse and the engine of our economy, and yet here we potentially could get the balance wrong and put too much responsibility and bureaucracy on small businesses and force them to take workers who are not going to grow their business.

So the reason why can be simply answered: to future-proof it. It is not intended to be brought in now. That is why we were not originally intending to put it into this legislation.

With regard to the Work Permit Committee, it is not and should not be brought on a statutory basis. I will arm wrestle my good colleague from West Douglas regarding the Work Permit Committee. We are here politically to make decisions which assist the economy of the Isle of Man and I am not going to delegate that responsibility over to lay people who may have a different interpretation.

I hope I have answered Mrs Cannell's comment. Are we serious? No, at this stage we are not, but we need to have that enabling legislation in there. If it is going to be a good idea, we would make sure that everyone would look at that. There would be consultation. We would look at what

information would be kept on the register and that would have regulatory approval by Tynwald before any of this could be brought in.

With that, Mr Speaker, I hope I have tried to reassure people that this is not being bounced in. It is to enable the flexibility which too often our legislation does not permit. I would urge Hon. Members to support the sixth Council amendment.

**The Speaker:** Hon. Members, the question is that the sixth Council amendment be agreed. Those in favour, please say aye; against, no. The ayes have it.

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

<b>For</b>	<b>Against</b>
Mr Anderson	Mr Cannan
Mrs Beecroft	The Speaker
Mrs Cannell	
Mr Cregeen	
Mr Cretney	
Mr Crookall	
Mr Gawne	
Mr Henderson	
Mr Karran	
Mr Quayle	
Mr Quirk	
Mr Robertshaw	
Mr Ronan	
Mr Shimmin	
Mr Singer	
Mr Skelly	
Mr Teare	
Mr Thomas	
Mr Watterson	

**The Speaker:** With 19 votes for and 2 against, the motion carries.  
Mr Shimmin.

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

The remaining amendments can be grouped together because each amends clause 23, which is concerned with the Department's powers to make regulations and provide enabling powers for the provision of prescribed information to the Department by employers, by the holders of work permits, by exempt persons and by Isle of Man workers.

Once again, the Department listened carefully to the arguments that were put forward in this Hon. House regarding the potential difficulties of policing exempted employments. The amendment is a fairly comprehensive enabling power which would enable the Department to obtain information from all relevant parties.

At present, as I have previously stated, most exempted employments are beneath the radar and consequently the Department does not know which individuals are exempt or how many they are in number. The additional powers to obtain information rectify this and are also necessary if the Department is to be able to maintain registers of Isle of Man workers, exempt persons and holders of work permits under new clause 21A.

Paragraphs (h) and (k) of subsection (1) are omitted as part of this amendment. Paragraph (h), which deals with registers, is now covered by the new clause 21A; while paragraph (k), which requires employers and work permit holders to notify the Department on the happening of prescribed events, is no longer necessary due to the insertion of the new paragraph at the end of subsection (1), which enables the Department to obtain prescribed information. Such information includes the information that could have been obtained under paragraph (k).

Mr Speaker, before moving this final amendment, I would like to extend my thanks for the support of this House for the Bill. The subject of work permits is, as we all know, divisive and controversial, so I am especially pleased that we have been able to achieve a good deal of consensus.

I would add that the Department attempted at all times to treat amendments that were tabled, both in this House and in another place, in good faith and to engage with the movers as constructively as possible.

Once Royal Assent has been granted, the next stage will be to bring forward regulations in order to complete our legislative reforms. In addition, the Department will take the opportunity to review the existing administrative arrangements as well as sub legislative policy, so the whole system works as efficiently as possible.

Finally, I would like to thank my officer, Jonathan Clague, and Mr Wild in the Legislative Council for their assistance – in particular Jonathan Clague, who has worked with us for many years and I believe is an expert in the field and somebody to whom the House owes a debt of gratitude for persevering over a long period of time. He has my personal thanks. **(Several Members: Hear, hear.)**

I beg to move.

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

**The Speaker:** Hon. Members, I put the question that the final Council amendment be agreed. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members.