

**1. Interpretation Bill 2014 –  
Second Reading approved  
2. Legislation Bill 2014 –  
Second Reading approved**

The Acting Attorney General to move:

- 1. That the Interpretation Bill 2014 be read a second time.*
- 2. That the Legislation Bill 2014 be read a second time.*

**The President:** The first Item on our Order Paper, Hon. Members, is the Interpretation Bill. I call on Her Majesty's Acting Attorney General to take the Second Reading.

**The Acting Attorney General:** Thank you, Madam President.

I am pleased to be able to move the Second Reading of the Interpretation Bill 2014 on behalf of the Council of Ministers.

The Interpretation Bill 2014, together with the Legislation Bill 2014 which I will also with your leave, Madam President, move for its Second Reading today, again on behalf of the Council of Ministers, are companion Bills as they are inextricably and intentionally linked.

With your leave, Madam President, I would ask to speak briefly as to both Bills at this Second Reading of the Interpretation Bill if I may –

**The President:** Is that accepted, Hon. Members? Do you think we can cope with that?  
Yes?

**The Acting Attorney General:** – as doing this might assist both my hon. colleagues and also the public, to better understand their purpose separately, and together.

The main purposes of the two Bills are to simplify the drafting of Manx legislation and improve its presentation; to provide a legal basis for the online publishing of up-to-date official reprints of legislation both for Acts and statutory documents – to which I may at times refer as SDs; to enable minor corrections to legislation to be made administratively; to provide for a shortened procedure for the re-enactment of Bills that are purely consolidations; and to bring together provisions about legislation, or its interpretation, or powers enabling the repeal of a number of different Acts; and also to update and consolidate existing interpretation provisions.

The background to these Bills being brought forward is that they were generated within the Attorney General's Chambers. The driver was partly the result of the move which had occurred to establish an official Isle of Man primary legislation online, on the website. This move has already helped save three sets of costs: the cost to Government of having official reprints prepared by a commercial publisher – you may recall Blackhall Publishing; the cost to members of the public of purchasing copy legislation; and the cost to individual Departments in preparing unofficial reprints of legislation for cases in which official hard copy reprints were not available or up-to-date.

Another driver for the two Bills was the need to modernise and update the current Interpretation Act 1976 and certain other Acts, to make legislation easier to draft and to read, and to improve access to it. Having researched similar legislation in a number of jurisdictions, it was decided the best structure was to have two Acts: one for interpreting legislation and one for legislation and its processes itself. The dividing line between the Bills, however, is not clear cut and they are consequently to be read together.

In the consultation on the Bills it was mooted by some that the Bills might best be consolidated but, on careful reflection, it was agreed to proceed with the two Bill approach. There are, admittedly, arguments for and against each approach. However, with the Council of Ministers' approval, the two Bills were brought forward and they were subjected to lengthy and widespread

consultation; and views were expressed by many contributors whose responses are published, and they were considered.

Since the First Reading of the Bills I have enquired of the Isle of Man Law Society who did not, as a society, respond to the consultation; however, the Society did note the detailed response and submissions to the consultation which were published by Appleby Advocates. The Society confirmed to me on 29th October of this year, that its membership had been again invited to submit any comments before this sitting today of Council; and I can advise Council that I have heard nothing further. The changes made to the Bills as a result of the consultation were largely minor, drafting or technical ones, which were uncontroversial and unremarkable.

There will be, in the submission of the Council of Ministers, some positive outcomes which will flow from the Bills and I would like to briefly mention a few.

Generally, by streamlining the statute book the Bills will contribute to the Government's strategic aim of reducing regulation and making access to legislation easier. They will also save time and money as to the drafting, amending and printing of legislation which will as a result become more efficient. The Bills will remove a great deal of 'dead wood' from the statute book. They consolidate 13 existing Acts and provide for the repeal of over 100 obsolete, or spent, amending Acts. The Bills also provide for the ongoing repeal of future amending Acts and amending provisions once they become spent.

Chambers had been concerned about the current Filing of Statutory Documents Act 1937, which the Legislation Bill 2014 is to replace. Despite its title, that Act did not define 'statutory document.' Section 2 compels the maker of any public document 'having the effect of law' to file it in the General Registry. Chambers considered and advised that the better view is that many public documents not of a legislative character, for example interception warrants under the Interception of Communications Act 1988, are currently required to be made public. To fix this problem, the Bills clarify that only statutory documents, as opposed to public documents generally, need to be filed. A public document is only a statutory document if it is of legislative character.

The reprints and consolidation provisions under the Legislation Bill 2014 will avoid the need for corrections or changes of a minor or totally uncontroversial nature to be made by an Act of Tynwald. The reprint provisions will enable official electronic reprints to be prepared of both Acts and statutory documents, which the Reprints Act 1981 does not allow.

The Legislation Bill 2014 establishes an online electronic gazette, which is common in most other jurisdictions, and requires the notification of the making of legislation on it. These measures will facilitate access to legislation and provide greater certainty about what legislation has been made, and when.

Statutory documents will be able to make provision by applying another law or document, either at a stated time or as in force from time to time. Public documents making provisions about land or waters will be able to describe them by reference to a map, plan or register held by the responsible authority. All this aims to reduce the need to include such documents in the statutory document or public document itself, and so streamline the provisions.

The general power to prescribe a reasonable fee, but no more than the actual cost, will give greater flexibility. The alternative of prescribing a specific prescribed fee typically requires ongoing amendment as costs increase. Also, it may not be appropriate for smaller matters, for example providing copies of documents.

The provisions about statutory forms will reduce the need for detail in legislation. Administrative matters or detailed requirements can be left to a statutory form made by the administering agency. The provisions clarify that if there is a required statutory form for a purpose, for example making an application, the form must be substantially complied with otherwise the purpose is not achieved, for example the application is not valid and does not have to be considered. Other provisions in the Bills will shorten Acts and statutory documents and make them easier to draft.

Madam President, I have spent a little time introducing the Second Reading today of the Interpretation Bill 2014 and also I mentioned the Legislation Bill 2014 together, as they are technical

Bills and by necessity rather long in their drafting; and I have been mindful of the public in particular and us all, perhaps, may become somewhat switched off to the process when we come to deal with the detailed clauses stages of the Bills – but I do welcome Hon. Members of Council's consideration of these detailed provisions as we move on later.

Madam President, I beg to move the Second Reading of the Interpretation Bill 2014; and with your leave, Madam President, I do not know if it is the right time, at the same time to move the Second Reading of the Legislation Bill 2014.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** I beg to second, Madam President, and reserve my remarks.

**The President:** Hon. Members, we will consider the Interpretation Bill 2014 first, the Second Reading. Those in favour, please say aye...

Sorry, did anyone wish to speak? I am sorry.

**Mr Braidwood:** Thank you, Madam President.

Madam President, anything which simplifies legislation, I will be supportive of.

The presentation we had on the Interpretation Bill and the Legislation Bill showed this would streamline and modernise the legislation, which will hopefully make it a lot easier to understand and follow. I am supportive.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

I, too, support the Bill – or both Bills – but I have a query about the online publishing.

Obviously this makes it much simpler and gives it legality to publish online. I just have a query for the Attorney: does this mean there will no longer be a printed version available for applicants, officers etc, or the public, or is there still a printed version to be produced – because I think if there was not, it would mean advocates going to court with iPads perhaps in the future. I am not sure if that has been envisaged as yet.

So I would be grateful for that answer please.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President.

Can I ask the hon. mover just for a bit more clarity on the electronic gazette, and will it allow for all Government advertisements to be published electronically, such as for the Companies Acts liquidations and dissolutions?

I know planning applications now are online, but there are lots of other Government notices which may usefully be included on the electronic gazette.

So just a little bit of clarification would help there, Madam President.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

Just to give my support. I think anything that can help modernise Government and legislation is a positive, and I would look forward to the clarification in terms of the questions about the site itself.

Thank you.

**The President:** The learned Acting Attorney to reply.

**The Acting Attorney General:** Yes, thank you, Madam President, and thanks to Hon. Members who have spoken in support of the Bills.

Turning to you, Mr Braidwood, and your query... sorry, for your *support*; I am very grateful for what you have said. Certainly the Bills and everything that has been brought forward is designed to streamline things, as I have said, to save cost; and, rather selfishly, I do have a drafter here to help speed up the drafting process which I am sure we would all welcome.

Mr Butt, your query with reference to the printed version: that will still be produced. The online publishing is simply really the main access for the public and it is really developing what is already in place – replacing as I have said, Blackhall Publishing. We now have our own website which we manage and this is enhancing that. It is introducing further powers and further provisions as to how that is going to be used in the future, but it is certainly not designed to dispense with the actual printed version.

Mr Crowe, thank you very much for your question. Again, the electronic gazette is something that has now been created by this legislation, if passed. I certainly share your view that there is, crudely, a great future for this to be rolled out across Government as a vehicle which can be used for all sorts of purposes, be it for the Companies Acts legislation to which you have referred. That is something that will develop in time, but the purpose at this stage is to create the legislative power to have the gazette, to give effect to what is published there, and so this is what we are doing in these Bills; we are not actually down to the detail yet as to what else will go on there, save for legislation at this point in time. So I hope that is of help to you.

And Mr Wild, I thank you very much for your support.

**The President:** We move then to vote on the Second Reading, Hon. Members, of the Interpretation Bill 2014. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

And the Second Reading of the Legislation Bill 2014, assuming that everyone has made their comments on both Bills jointly. Those in favour of the Second Reading of the Legislation Bill 2014, please say aye; against, no. The ayes have it. The ayes have it.

#### **Interpretation Bill 2014 – Consideration of clauses commenced**

**The President:** We turn, then, to the clauses of the Interpretation Bill.  
I call on the learned Acting Attorney.

**The Acting Attorney General:** Thank you, Madam President.

I would firstly like to record again my thanks to the Members who have contributed to the debate during the Second Reading, and for Members' support; and also to record my thanks for those Members who attended the presentation given by Mr Connell, the senior drafter, on 27th October 2014.

Madam President, briefly, I should again highlight at the outset the importance of this Bill to simplify interpretation and drafting of the Island's legislation. This update of the interpretation legislation will consolidate the interpretation provisions which are currently located in a number of different Acts, and pull them together into one place. It would also update interpretive provisions to allow for the use of new technologies such as internet applications. We clearly need on the Island to make sure our legislation continues to provide for new technologies and procedures such as electronic approvals, which are now commonplace.

With this in mind, clause 1 gives the short title of the Bill; and Madam President, I beg to move that clause 1 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 2.

**The Acting Attorney General:** Madam President, clause 2 provides for commencement of the substantive provisions of the Act by Appointed Day Order.

Clause 1, and this clause, commence on announcement of Royal Assent.  
Madam President, I beg to move that clause 2 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clause 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 3.

**The Acting Attorney General:** Madam President, clause 3 sets out the Act's main purpose.

You might ask why it is important to include a statement of purpose at the front of the Bill. Primarily, it helps a reader to navigate within the Bill; it is important, and it is an important goal of Chambers, to draft legislation which is as accessible as possible by including structural elements such as purpose statements.

A clear statement of purpose is also helpful to the courts, particularly given the recent tendencies of courts to rely on the purpose or intention of legislation to make the decision about ambiguities.

Madam President, I beg to move that clause 3 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President, and I beg to second.

**The President:** The motion is 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.

**The Acting Attorney General:** Madam President, clause 4 makes it clear that this Act does not preclude the application of other consistent laws and rules about statutory interpretation. There are a number of legislative provisions and non-statutory rules and conventions which should remain applicable to the interpretation of Manx legislation, for example there are a number of traditional maxims and presumptions used by courts to aid interpretation, and it is sensible that the Interpretation Act does not exclude them.

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

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**The President:** The motion is 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.

**The Acting Attorney General:** Madam President, clause 5 declares that this Act is to be read together with the Legislation Act. Together, the two Acts provide an up-to-date consolidated revision of all Manx legislation related to the drafting, approval, publication and interpretation of the Manx statute book.

The two Acts are separated here, as they are in many jurisdictions around the world; because the Interpretation Act is used most often as an aid to understanding the law, a separate Interpretation Act uncluttered by provisions about the mechanisms by which the statute book is maintained, is easier to use. The provisions in the Legislation Act relate primarily to those mechanisms and are more useful to government agencies tasked with the job of developing and maintaining legislation.

Section 5 also declares that both Acts will apply to all Manx legislation and to public documents that are not legislative in character, such as court orders and warrants. Application of the Interpretation Act to public documents such as court orders and warrants will make it easier to draft these and rely on consistent definitions and provisions.

Madam President, I beg to move that clause 5 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

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

Clause 6.

**The Acting Attorney General:** Madam President, clause 6 provides for a sensible exception to clause 5 so it remains possible to tailor legislation, if required, to specific situations.

Madam President, I beg to move that clause 6 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**The President:** The motion is 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.

Clause 7.

**The Acting Attorney General:** Madam President, clause 7 provides another sensible exception to clause 5 for cases where Manx legislation calls up an Act of Parliament and it is necessary to apply the UK statutory interpretation provisions. This ensures that such provisions are applied consistently with the applicable UK provisions.

Madam President, I beg to move that clause 7 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clause 7 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Clause 8 which introduces schedule 1. To the schedule there is a proposed amendment so I would suggest that we need a seconder who is not Mr Coleman.

I invite the learned Acting Attorney to take clause 8 *and* schedule 1 together.

**The Acting Attorney General:** Yes. Madam President, clause 8 introduces the definitions specific to this Act which are set out in paragraph 2 of the schedule.

If I could just ask for guidance, do I simply move clause 8 at this stage and then somebody... ?

**The President:** Normally... well, you can move them both together and I will then take the amendment and then the schedule as... We will take clause 8 first and then the schedule, then the amendment, and then we have got it quite clear.

**The Acting Attorney General:** Thank you, Madam President, for your guidance.  
Madam President, I beg that clause 8 do stand part of the Bill.

**Mr Braidwood:** I beg to second, Madam President, and reserve my remarks.

**The Acting Attorney General:** I am very grateful.

**Mr Crowe:** Madam President, we do not seem to have an amendment to clause 8 in our papers.

**The President:** I think we do, don't we? (*Interjections*)  
We do, it is listed as 6 isn't it?

**Mr Braidwood:** It just says 'Schedule'.

**A Member:** It just says 'Schedule'.

**Mr Corkish:** I cannot find it.

**Mr Braidwood:** And it is the amendment to... and the schedule is on page 66, Definition of 'electronic gazette'.

**The Clerk:** But we are only in Part 2 of the schedule at the minute.

**The President:** I have asked the learned Attorney to move the whole schedule (**The Clerk:** Okay.) so that we can deal with that now. It is unusual to move a part of the schedule separately.

So we are dealing first of all with clause 8, then we will be dealing with the schedule, Hon. Members, to which there is an amendment.

**Mr Crowe:** Sorry, Madam President, I see –

**The President:** It is just not listed as the first amendment –

**Mr Crowe:** It just says 'Schedule' on the Order Paper, sorry. (*Interjections*) Thank you, Madam President.

**The President:** Are we clear now?

**Mr Corkish:** Confused.com!

**The President:** So, Hon. Members, in the first instance if you have any comment on clause 8 that you wish to make, please make it now. If not, we will move to... yes, Mr Turner.

**Mr Turner:** Well, it is on the schedule, actually –

**The President:** Well, we will discuss that when we have the schedule moved, shall we? Although they are interrelated – okay.

The motion is, then, that clause 8 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We will now turn to the schedule –

**The Acting Attorney General:** Madam President, I am very grateful for your guidance: if I could move the schedule to the Bill standing as part of the Bill?

**Mr Braidwood:** I beg to second, Madam President.

**A Member:** It is 11 o'clock.

**The President:** The clock is fast, I am just being signalled. We are going to recognise the two minute silence, Hon. Members, the clock is one and a half minutes fast so hopefully we will stop at the appropriate time.

The schedule has been moved – sorry, did we have a seconder?

**Mr Braidwood:** I seconded.

**The President:** You *did* second, right – Mr Braidwood. Thank you. Mr Crowe, did you want to comment at this point?

**Mr Crowe:** No, not at this point.

**The President:** Can we have the amendment moved then, please.

**Mr Coleman:** Thank you, Madam President.

This amendment is consequent upon section 7(1) of the Public Services Commission Bill 2014. That Bill will replace the concept of 'a civil servant' with 'an employee of the Public Services Commission'.

It will also insert a definition of that expression in the Interpretation Act 1976; but, as the 1976 Act is replaced by the present Bill, it is necessary to insert a corresponding definition in paragraph 1 of the schedule, 'Definitions for all Manx legislation', after 'electronic gazette' as follows: "employee of the Public Services Commission", see section 7(1) of the Public Services Commission Act 2014.'

I beg to move.

*Amendment to the Schedule*

*On page 66, after the definition of "electronic gazette" insert –*

*"employee of the Public Services Commission" see section 7(1) of the Public Services Commission Act 2014.*

**Mr Downie:** I beg to second, Madam President.

**The President:** At that point, Hon. Members, we will abandon our discussion of the Bill and recognise the two-minute silence.

### **Remembrance at 11 o'clock**

*Members stood in silence.*

**The President:** Thank you, Hon. Members.

### **Interpretation Bill 2014 – Consideration of clauses concluded**

**The President:** We have before us the schedule, and the amendment proposed by Mr Coleman. Does any Member wish to speak to the schedule or the amendment?

**Mr Turner:** Yes, Madam President.

**The President:** Mr Turner.

**Mr Turner:** It was just a query on the definition of 'British Islands'.

I always understood geographically the term British Islands included the whole of Ireland. I just wondered why it was down as meaning the United Kingdom, the Channel Islands and the Island, being the Isle of Man, and why it is not the recognised term that British Islands includes the entire geographic... That was always my understanding.

**The President:** Any further comments, Hon. Members? The learned Attorney to reply.

**The Acting Attorney General:** Madam President, I cannot go into the history of this but what I can say is that whichever way you look at this provision it clarifies matters, and that is the object of the Act which is to clarify our up-to-date thinking on interpretation.

If that definition is accepted going forward that will be what, in terms of our legislation here, British Islands means.

**Mr Turner:** Thank you.

**The President:** The motion before Council is that the schedule do stand part of the Bill. To that we have an amendment in the name of Mr Coleman.

I will put the amendment to you first, Hon. Members. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

I will now put the schedule, as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We move now to clause 9.

**The Acting Attorney General:** Thank you, Madam President.

Clause 9 defines two key concepts: 'Manx legislation' and the related expression, 'statutory provision'.

Madam President, I beg to move that clause 9 stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clause 9 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 10.

**The Acting Attorney General:** Madam President, clause 10 defines the term 'Act' and simplifies the process for referring to Acts in other legislation.  
Madam President, I beg to move that clause 10 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clause 10 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 11.

**The Acting Attorney General:** Madam President, clause 11 defines a 'Manx enactment' and creates a safe default provision that a reference to a Manx enactment includes a reference to any public document in operation under that enactment.

This means it will be easier to draft and interpret public documents as well as Acts and regulations. It will help to standardise terminology in public documents across Government; that in turn will make them easier to read and understand. It will also save Departments time in drafting new, or updating old, public documents.

Madam President, I beg to move that clause 11 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The Hon. Member, Mr Downie.

**Mr Downie:** Madam President, just to clarify really. The whole purpose of these two Bills is to make our law, or legal system, in the Isle of Man easier for people to interpret. But all the way through the two Bills we refer to a 'Manx enactment'.

So why are we not having an 'Isle of Man enactment' so that when people who deal with the law internationally in countries who do not understand what 'Manx' means, there is reference to Isle of Man?

We hear about Scottish law and English law, Irish law to some extent; but I think we are missing out here because in certain parts of the world 'Manx' is unknown, or it is misinterpreted in the northern hemisphere to mean something substandard. I would have thought if we are going through all this trouble we would want to make sure that the Isle of Man was recognised in some way and the Isle of Man was linked to Manx law.

Just a point.

**The President:** The learned Acting Attorney to reply.

**The Acting Attorney General:** Thank you, Madam President, and thank you Mr Downie for your comments. I can completely understand where you are coming from.

All that I can say is that out of the consultation process this is where we are. The consultation went out with the reference to Manx enactment, emphasising the *Manx* element as opposed to *Isle of Man*, and that consultation did not result in this provision being changed.

There are inevitably going to be differing views and that is what the consultation process is clearly designed to try and attach to, and to better inform the Bill-making process. But all that I can say is that we have before us the Bill in its form, which has gone through consultation; the results of the consultation have been considered, and this is where we are. But I do respect your views, sir.

**The President:** The motion is that clause 11 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Now we are going to take groups of clauses, Hon. Members; in this case it will be clauses 12 to 14.

**The Acting Attorney General:** Thank you, Madam President.

Clause 12 defines the term 'provision'; and clause 13 defines 'Parliamentary enactment' and clarifies the meaning of references to UK legislation.

Clause 14 provides that a reference to an EU instrument amended, extended or applied by another instrument is a referment to the instrument as so amended, extended or applied. This provision is a re-enactment from the 1976 Interpretation Act and works well to facilitate integration of EU instruments when required.

Madam President, I beg to move that clauses 12 to 14 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Sorry to digress slightly, but I think Mr Downie's point about Manx and Isle of Man is quite an interesting point of view; and I know we are trying to simplify legislation but the only way it could be altered would be an amendment in this Chamber, I guess, or in – ?

**The President:** Indeed, Hon. Member, that is what you are here for! (*Laughter*) If you want to amend it let's have the amendments coming forward!

You have the Third Reading as your opportunity, if you feel strongly about it.

**Mr Crowe:** We could move at the Third Reading if we wanted to change it – ?

**The President:** Indeed you can.

**Mr Crowe:** Where it says Manx in every case would change to Isle of Man?

**The President:** Well if you check that that is relevant in every single case... You may move whatever amendment you want to –

**Mr Crowe:** No, no, I am asking for guidance and you have given me guidance, Madam President! Thank you.

**The President:** Right. Are there any other comments on these three clauses?  
The learned Attorney to reply.

**The Acting Attorney General:** Madam President, I thank Mr Crowe again and I do respect the comments which he has made.

Certainly I can take away the comments and we can look at this again; but I can only just simply come back again to the process which has been followed so far that this did not come out of the consultation process. But clearly, as Madam President pointed out, it is open for this Council to move an amendment if it sees fit.

**Mr Crowe:** Thank you, yes.

**The President:** The motion, Hon. Members, is that clauses 12, 13 and 14 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.  
Clauses 15 to 18.

**The Acting Attorney General:** Yes, thank you, Madam President.

Clauses 15 to 18, which together constitute Division 2 of Part 2, work together to classify the different sorts of documents which might be subject to the interpretation provisions in the Act.

Clause 15 defines 'public document'; clause 16 defines 'statutory document' and clarifies the scope of this term, which is undefined in existing legislation. It also defines the statutory authority responsible for statutory documents.

Clause 17 provides the term 'non-legislative public document', for public documents which are not statutory documents.

Clause 18 defines the 'authorising legislation' for public documents. These standard terms will simplify and standardise language used to describe documents in all legislation.

Madam President, I beg to move that clauses 15 to 18 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 15 to 18 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 19.

**The Acting Attorney General:** Thank you, Madam President.

Clause 19 introduces a new part of the Act, Part 3, which includes provisions to clarify what forms the 'text' of Manx legislation. It is critical to the interpretation of legislation that we are clear about which words in the document must be considered to have legislative effect.

There are some things appearing in legislation, such as footnotes, which should not have any legislative effect, and we need clearly to identify these things.

Madam President, I beg to move that clause 19 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President, and I beg to second.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** So this is putting into absolute certainty the fact that what is in the words is what it means, not what some people might *think* it means?

**Mr Corkish:** Interpret.

**Mr Braidwood:** That's why it is the Interpretation Bill! (*Laughter*)

**Mr Downie:** Go and ask your lawyer!

**The President:** I am not sure that is the right interpretation of the clause.

**A Member:** I did not want to say!

**The President:** Does any other Member wish to speak?  
We will ask the Acting Attorney General to reply.

**The Acting Attorney General:** Thank you, Madam President; and thank you, Mr Crowe, for your very interesting proposition. The fact of the matter is it would be for the courts to decide ultimately, what the words mean (*interjection by Mr Crowe*) if it comes to that. But this is an *attempt* to clarify matters.

**The President:** The motion is, Hon. Members, that clause 19 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 20 to 22.

**The Acting Attorney General:** Madam President, clauses 20 to 22 which form Division 2 of Part 3, together define what forms the text of Manx legislation, what is included in the text and what is specifically *excluded* from it.

Clause 20 provides that the text of Manx legislation is all of the material from the start of the first section to the end of the last section, or to the last appendix or schedule, if any.

Clause 21 includes specifically any preamble, enacting words or headings in the text.

Clause 22 excludes things such as long titles, marginal citations, footnotes and the like.

Madam President, I beg to move that clauses 20 to 22 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Madam President, I beg to second.

**The President:** The motion is that clauses 20 to 22 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 23 to 26.

**The Acting Attorney General:** Madam President, clauses 23 to 26, which together constitute Division 3 of Part 3, spell out what is included in the text of each provision.

It is important to be clear how to identify separate provisions and how different parts of the text work together to give meaning to the provision. These provisions are quite simple, but important to state.

Clause 23 states that a heading is included in the text of the provision to which it relates.

Clause 24 explains the status of examples and notes in the legislation. Examples are very helpful in legislation to help readers understand what is meant. However, there has always been a concern that if a particular example is used this might limit the provision. Clause 24 removes this concern by declaring that examples are not exhaustive.

Clause 25 provides for the status of penalties in the provisions within which they appear. This will aid clarity.

Clause 26 relates to schedules: immediately below the heading to a schedule there is normally a reference to the 'authorising provision' to that schedule. This is the provision in the Act which provides for the schedule to have effect. Clause 26 indicates that the reference *below* the heading of the schedule is part of the *heading* of the schedule, not part of the *body* of the schedule. This minor clarification will make it much easier for drafters to amend legislation.

Madam President, I beg to move that clauses 23 to 26 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 23 to 26 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 27.

**The Acting Attorney General:** Thank you, Madam President.

Clause 27 introduces the Part 4 of the Act: this deals with aids to interpretation. Clause 27 indicates that this part of the Act applies to all Manx legislation.

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

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clause 27 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 28.

**The Acting Attorney General:** Thank you, Madam President.

Clause 28 introduces a number of general definitions for all Manx legislation which are set out in paragraph 1 of the schedule. General definitions simplify drafting, because new provisions can be drafted without tedious repetitions of standard terms that need definition.

General definitions also aid interpretation since they promote consistency of terminology. The general definitions in this Act are drawn from the 1976 Interpretation Act. A number of additions have been included such as 'negative Tynwald procedure'; and some definitions have been updated or modernised, for example the definition of 'writing' now has to account for an expanding range of digital communication technologies.

Madam President, I beg to move that clause 28 and paragraph 1 of the schedule do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second. (*Interjection by the Clerk*)

**The President:** Yes. Hon. Members we have already approved the whole of the schedule so, just for clarification we are voting on clause 28, which effectively introduces that part, or relates to it.

If there are no comments, I will move it.

The motion before Council is that clause 28 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 29.

**The Acting Attorney General:** Thank you, Madam President.

Clause 29 provides that a definition applying to Manx legislation applies to the whole of it. If expressed to be for a particular provision, it does not apply to another provision.

Madam President, I beg to move that clause 29 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**The President:** The motion is that clause 29 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We will now take clauses 30 to 34.

**The Acting Attorney General:** Madam President, clauses 30 to 34 provide additional clarification about how the general definitions are to be applied.

Clause 30 provides for the usual approach of the courts so that words, even defined words, need to be read in context.

Clause 31 provides for definitions to extend to other parts of speech and derivations of the same defined term. Once you define a word, such as 'publish' for example, the definition can then be applied to published, publishing, publisher and the like, subject to the context dictating otherwise.

Clause 32 provides for any reference to the reigning Sovereign to take into account predecessors and heirs.

Clause 33 provides that words indicating one gender include other genders; and clause 34 provides that words in the singular include the plural. These two clauses greatly simplify legislation and avoid verbose drafting. The presumption is, of course, subject to context in accordance with clause 30 so nonsense interpretations will be avoided.

Madam President, I beg to move clauses 30 to 34 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**The President:** The Lord Bishop.

**The Lord Bishop:** Thank you, Madam President.

This is a page that I have really enjoyed having some correspondence with the Attorney General's Department on; and I can feel the water around my feet even as I try to keep it back.

I am very glad to see clause 30, because 30 reminds us that context matters, otherwise a word like 'cleave' which can mean 'join to' or 'separate from', would be something that one would not like to see in Manx legislation.

But particularly clause 33:

‘Words indicating a gender include other genders.’

I have had a long bit of correspondence about that.

The definition of gender is:

‘the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for men and women.’

There are just two gender roles so the draft, I think, is rather curious in suggesting that there may be more; and the argument that transgendered people might be a third gender is in fact not correct because a transgendered person is assigned to one of the two genders. So there are no more than two genders.

Gender of course is not really a thing at all, it merely describes a given role. So I think that is rather curious: ‘other genders’.

In clause 34, I think that is interesting because I know that there is the legal principle – I have been reminded of the legal principle *Generalia Non Derogant Specialibus*. But one might see, for instance, a sentence that would go like this: ‘It is the law of the land that a man may have a wife’ or ‘It is the law of the land that a man may have wives’.

‘Words in the singular include the plural and words in the plural include the singular.’

I think that is rather strange; that is why I think the permissive word ‘may’ should be inserted into that. But I give up and I will not vote against it.

**The President:** But you do not have an amendment to put?

**The Lord Bishop:** No, I have tried with the Legal Department and been defeated, Madam President. (*Laughter*)

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** I think the Bishop started off by saying section 30 actually covers that, so if things are read in context I presume the ‘wives’ and the ‘wife’ issue would be dismissed because the context would say you cannot have ‘wives’ when it should be ‘wife’.

I hope that would be –

**Mr Braidwood:** It could not be any other way! A wife, a man, or men.

**The Lord Bishop:** Yes, absolutely.

**A Member:** Let’s not go there!

**The Lord Bishop:** I agree.

**The President:** The learned Acting Attorney to reply.

**The Acting Attorney General:** Thank you, Madam President, and thanks to the Lord Bishop for continuing the debate (*Laughter*) which he has been having with Mr Howard Connell – who again is present today – on this point.

And thank you, Mr Butt, for reminding us of clause 30 which was really the point that I was going to make, that there is an answer within the legislation that if we put these words into context hopefully we will find a sensible – or ‘non-sense’ or ‘unsensible’ – outcome.

I think just to help my colleagues I will read a note of the response which was given to the Lord Bishop – and I am sure he will not mind me sharing this with colleagues. ‘There is a subtlety in the drafting of clause 33, which is worth mentioning’, and I read, ‘academics are now somewhat divided as to whether there are indeed only two genders, unlike theologians who by and large still subscribe to the male and female created he/them approach’.

This explains the generalised reference to ‘other genders’, acknowledging that society now accepts for many purposes the concept of those who are transgendered, and who do not identify themselves specifically as either male or female.

I leave those thoughts with hon. colleagues, and I am not making any judgments but there is a reasoned explanation as to why these words have been used; but to take Mr Butt’s point we need to go back to clause 30 to put those words into context.

**Mr Braidwood:** Hermaphroditic.

**The President:** The motion is, Hon. Members, that clauses 30 to 34 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 35.

**The Acting Attorney General:** Madam President, clause 35 provides for terms such as ‘anyone’ and ‘someone’ which refer to persons generally but do not use the word ‘person’ specifically.

Clause 35 is needed to clarify that whenever these terms are used they refer to persons either natural or incorporated. Specifically, it is important to clearly state that these terms include ‘bodies corporate’. Of course, clause 29 will ensure that this presumption is subject to context to avoid nonsense interpretations – that should be clause 30, I beg your pardon.

If the legislation in question is about something only a human being can physically do, the presumption will be rebutted by the context.

Madam President, I beg to move that clause 35 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President.  
Could the hon. mover just clarify ‘foundations’ and ‘trusts’ in this clause?

**The Acting Attorney General:** Sorry...

**The President:** Are you asking whether ‘corporation’ covers trusts?

**Mr Crowe:** Whether the wording of a ‘person’ covers the word –

**The President:** Covers a trust?

**Mr Crowe:** – a trust or a foundation?

**The Acting Attorney General:** Yes, Madam President, if I may: it includes a reference to a body corporate as well as to an individual, so –

**Mr Crowe:** To a corporation and an individual, (**The Acting Attorney General:** Yes.) not a trust, not a foundation.

**The Acting Attorney General:** A foundation is –

**The President:** Perhaps we can take some comment from Mr Connell?

**The Acting Attorney General:** I am hoping there will be a definition. (*Laughter*)

Yes, the guidance I have is, 'A foundation is a body corporate'. I can go with that. A trust is not a body at all and I do have some sympathy with the point you have made, Mr Crowe. So I think I would like to clarify that if I may, and I will come back to you.

I can take the point a foundation *is* perceived as a body corporate but I, hopefully, can find some statutory reference to that. A trust not being a body at all, I think we will need to clarify, if I may.

**Mr Crowe:** Yes, because the foundation was brought in as an amalgam of a trust and a corporation, wasn't it? (**The Acting Attorney General:** It was.) It has a specific definition so... I look forward to a comment on that point.

**The Acting Attorney General:** Yes, I would like to just find that, Mr Crowe, and I am very grateful for that. Thank you.

**The President:** The motion is that clause 35 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 36 and 37.

**The Acting Attorney General:** Madam President, clause 36 provides that the term 'may' allows for discretion. If you 'may' do something you also have the discretion *not* to do that thing. You *may* or may *not* do that thing; you do not *have* to. This is a sensible clarification to make sure the term is properly understood.

Clause 37 clarifies the meaning of the word 'shall'. Unfortunately, the word 'shall' has four different meanings according to the Oxford English Dictionary. In legislation we are quite used to seeing 'shall' as the same as 'must' and most modern legislation uses that term in preference. The dictionary definitions appear to greatly add flexibility, so there is a need to remove potential ambiguity. Clause 37 clarifies that 'shall' is to mean 'must'.

Madam President, I beg to move clauses 36 and 37 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

It is a shame, in a way, these have been defined so specifically because it will take away lots of our debates! (*Laughter*) In Mr Lowey's time, I think we had hours and hours talking about 'shall' and 'must', but now we know exactly what they mean.

**The President:** I think we knew what they meant. The debate used to be about whether one should be changed for the other in the piece of legislation. But, yes, indeed, they have been defined here.

**Mr Butt:** Thank you.

**The President:** Any further comment, Hon. Members?  
I am not sure that there is a reply but you may reply if you wish to.

**The Acting Attorney General:** No, Madam President, other than to thank Mr Butt for his helpful comments. *(Laughter)*

**The President:** The motion is that clauses 36 and 37 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 38 to 40.

**The Acting Attorney General:** Madam President, clauses 38 to 40 provide similar, sensible clarifications.

Clause 38 provides for common names to be used in legislation rather than just scientific names, when the common name is sufficiently clear.

Clause 39 defines the meaning of 'commencement' and this is a useful clarification which will help to simplify other legislation.

Clause 40 clarifies that a reference to repealed legislation is a reference to that legislation as it was in operation immediately before it was repealed. This helps when we need to cross-reference legislation and it keeps the cross-reference provisions alive for the purpose of maintaining legal effectiveness. Of course, the link can also be severed by a suitable amendment if this is required.

Madam President, I beg to move that clauses 38 to 40 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 38 to 40 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 41 and 42.

**The Acting Attorney General:** Madam President, clauses 41 and 42 are aids to the interpretation of references within Manx legislation. It is not unusual for one provision in the legislation to cross-refer to another provision.

Clause 41 simply clarifies that a reference to a provision of Manx legislation is a reference to everything within that provision, from the start to the end of the provision. This is a useful default position. Without this clause, drafters would find themselves writing longer, more complex references because they would need to state, each time, the scope of the reference.

This clarification will also make it much easier to draft amending legislation if a global change is intended to the provision amended. It will be possible to change a term, such as the name of a tribunal, without an entire provision by *one* amendment rather than having to state each specific incident where the term needs to be changed.

Clause 42 provides similar default rules for identifying references to provisions.

Madam President, I beg to move that clauses 41 and 42 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 41 and 42 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 43 to 45.

**The Acting Attorney General:** Madam President, clauses 43 to 45 provide a number of general aids to interpretation. The main value of these provisions is that they eliminate the need to repeat general provisions in every new piece of legislation. They simplify the drafting process, but they also make other legislation more readable because it is not cluttered with the sort of basic provisions which are intuitive, but must be definitely stated.

Clause 43 provides the default position that Manx legislation applies to the entire Island.

Clause 44 provides that Manx legislation continues to have effect and may be applied from time to time as each occasion requires. This clarification seems so self-evident as to be unnecessary, but is used universally as a legal starting point to clarify that a legislation was not written just for one point in time but is intended to apply on an ongoing sense.

Clause 45 provides that changes in drafting practice should be taken to automatically suggest a change in meaning if the words express the same idea. Drafting practice has to change over time. Changing times ask for changing practice. Language is dynamic. Drafting practice evolves to meet changing needs; but it is important to point out, overtly in this Act, the changes in drafting practice should not be taken to suggest a change in meaning.

If we start to use the term 'must' instead of 'shall' we are simply modifying our drafting practice to better accommodate the contemporary ambiguity. We do not mean to say that there is any change to the requirement to do something where the term 'shall' has been used in the past.

Madam President, I beg to move that clauses 43 to 45 do stand part of the Bill.

**The President:** Hon. Member, Mr Coleman.

**Mr Coleman:** Madam President, I beg to second.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

If I could just ask for a point of clarification: does the word 'Island' include the territorial waters?  
Thank you.

**Mr Crowe:** It is in the definition, Madam President.

**Mr Wild:** Sorry, I do apologise.

**Mr Braidwood:** In the schedule.

**The President:** Any further comment? Yes, the Hon. Member, Mr Crowe.

**Mr Crowe:** I guess clause 45 is a future-proofing objective, is it, Hon. Member? It is to consider the future changes that may or may not occur and can be brought in without changes to primary legislation?

**The Acting Attorney General:** Madam President, if I could just –

**The President:** Yes, if there is no further comment? Yes, would you care to reply, sir?

**The Acting Attorney General:** Yes. Thank you, Mr Wild, for your question; and thank you, Mr Crowe, for coming to my speedy aid in that regard.

With regard to your own query: yes, clause 45 is not there to avoid future legislation or having to introduce primary legislation. It really is an aid to interpretation: that times will change, we will move on and, as it says, the change now to ‘must’ and ‘shall’ does not have any effect on the past.

And there may be other changes in the future: it future-proofs it to the extent that these changes can be made and it does not affect what has already happened. I think that is the point of clause 45.

**Mr Crowe:** Thank you, and just picking up Mr Wild’s point: ‘Island’ refers to Isle of Man in the definition on page 67; also, at the bottom, it is spelt ‘Mann’.

So, food for thought, Madam President.

**Mr Downie:** Absolutely.

**The President:** Yes – ‘and its territorial sea’.

**The Acting Attorney General:** And its territorial... yes.

**Mr Wild:** Thank you.

**The President:** The motion is that clauses 43 to 45 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 46 to 51.

**The Acting Attorney General:** Yes, thank you, Madam President.

Clauses 46 to 51 provide clarification of terms used in Manx legislation about time and distance. As with many of the provisions in this Act, they are somewhat self-evident but require statement. They are sensible default provisions which can be modified by specific provisions, if this is required.

Clause 46 states that distance is to be measured in a straight line on a horizontal plane.

Clause 47 deals with references to Tynwald Day and the special sitting of Tynwald Court. It deals with the circumstances where 5th July falls at a weekend and makes it clear that a reference to the sitting held on Tynwald Day includes a sitting on any day to which the Court is adjourned.

Clause 48 provides general rules for working out time periods. These are the same as were included in the Interpretation Act 1976.

Clause 48(6) is new and had to be included because ambiguity existed. Clause 48(6) clarifies that a reference to a number of days between two events does not include the days when the events happen.

Clause 49 excludes non-working days when there is a requirement to do something in a certain number of days. This is a sensible default.

Clause 50 provides for the doing of things when no time is fixed.

Clause 51 clarifies that missing the deadline for getting something done does not remove the obligation to do it. The obligation continues even if the time for doing it has passed. For example, if you have to renew your licence within seven days you are still obliged to renew your licence even if you have not done so within seven days.

Madam President, I beg to move that clauses 46 to 51 do stand part of the Bill.

**The President:** Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 46 to 51 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

The proposal is that we take clauses 52 to 54 but, as we have an amendment to 54, could I ask that we take 52 and 53 together, please?

**The Acting Attorney General:** Yes, thank you, Madam President.

Madam President, clauses 52 and 53 provide for interpretation of offence provisions, as does clause 54 which we will come to later.

Once again, these provisions cover issues which need to be spelt out in every piece of legislation with offence provisions, unless they are covered by this Act. Their inclusion here will simplify legislation.

Clause 52 provides a rule that if an offence is created by provision of Manx legislation it is only an offence if committed after the provision commences. You cannot be held to have committed an offence if you did something before it became an offence. The same applies to increased penalties: you receive the penalty in place at the time you commit an offence.

Clause 53 clarifies that you can be charged for continuing offences. You can be charged more than once for an offence if you continue to commit the offence.

Madam President, I beg to move that clauses 52 and 53 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 52 and 53 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 54.

**The Acting Attorney General:** Yes, clause 54, Madam President, provides for the liability of officers of bodies corporate. This is, I believe, where an amendment has been moved?

**The President:** Yes, indeed. Do we have a seconder for the main clause?

**Mr Braidwood:** I will second, Madam President.

**The Acting Attorney General:** I see, thank you, Madam President.

**Mr Braidwood:** I reserve my remarks.

**The President:** To this clause we have an amendment proposed by Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

The amendment to clause 54(2) results from the recognition that the original clause did not address the situation where an officer of a body corporate is itself a body corporate. Paragraph (a) deals with that situation and paragraph (b) deals with an unusual situation where the officer is an individual.

I beg to move:

*Amendment to clause 54*

*Page 31, for lines 33 to 35 substitute –*

*‘Maximum penalty (on information) or (summary) as the case may be:*

*(a) if the officer is a body corporate, the same penalty as the other body corporate; and*

*(b) if the officer is an individual, the penalty to which an individual would be liable if guilty of the offence committed by the body corporate.’*

**Mr Corkish:** I beg to second, Madam President.

**The President:** Does any Member wish to speak? The Hon. Member, Mr Crowe.

**Mr Crowe:** Yes, it is a very helpful clarification because there are instances of corporate bodies acting as company secretaries or even acting as directors, so it makes the position very clear.

I support the amendment, Madam President.

**Mr Braidwood:** A foundation would be all right as well.

**The President:** The learned Attorney to reply.

**The Acting Attorney General:** I am very grateful for your support, Mr Crowe, to the amendment and for the amendment which has been tabled, which has been agreed by the Council of Ministers.

As Mr Crowe said, this is a very good point to raise because, certainly – to go back to the point Mr Crowe mentioned before – there are many instances of companies being trustees, and I will link that in to the question when I come back and confirm the position there.

Thank you.

**The President:** Hon. Members, we will take clause 54 and to that we have the amendment in the name of Mr Coleman. I put to you the amendment first. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

I now put to you the clause as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 55.

**The Acting Attorney General:** Yes, thank you, Madam President.

Clause 55 introduces a new standard scale of fines for summary offences, and provides a simple mechanism for their future variation if it appears to the Council of Ministers that there has been a change in the value of money. Subsection (4) increases all existing fines which are below the new level 5 to the first level above the present amount.

Madam President, I beg to move that clause 55 do stand part of the Bill.

**Mr Braidwood:** I beg to second, Madam President, and reserve my remarks.

**The President:** We have an amendment in the name of Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

The first amendment changes subsection (2)(a) and has the effect of ensuring that the standard scale of fines applies to harmonise fines for almost all offences tried summarily, and not merely those which are *only* summary offences.

The second amendment remedies a drafting error in the table in subsection (7). When the legislation was being drafted it was intended to capture Acts containing fines. Unfortunately, the search for such Acts retrieved a Credit Union Act erroneously. Although the Act mentions an amount

of £50,000 but that amount is not a fine, it relates to another amount which is not a fine; hence the removal of the reference to the table in subsection (7).

I beg to move, Madam President:

*Amendments to clause 55*

*Page 32, lines 12 and 13 for 'convicted of a summary offence is liable on summary conviction' substitute 'is liable on summary conviction'.*

*Page 33, in the Table following line 17, delete the entry relating to the Credit Unions Act 1993.*

**Mr Downie:** I beg to second, Madam President, and reserve my remarks so I can speak on the items before us.

**Mr Braidwood:** You cannot.

**The President:** You cannot reserve your remarks if you are seconding an amendment.

**Mr Downie:** But it is to speak... I have not had a chance to speak on the main part of the –

**The President:** Okay, I did not catch your eye.

**Mr Downie:** Yes, that is why I wanted to –

**The President:** Would someone else like to second the amendment?

**Mr Crowe and Mr Butt:** I will second, Madam President. *(Interjections)*

**The President:** With your agreement, Hon. Members, we will consider it as one amendment, unless you want them moved separately. *(Interjections)*

The Hon. Member, Mr Downie.

**Mr Downie:** On the maximum fines, Madam President, it would be interesting to see which piece of legislation takes precedence, because in the landlord and tenant legislation that has been out to a Committee, there is a clause which brings in a maximum fine of £25,000 for failing to register as a landlord.

We need to be quite clear what we are doing here. Does this piece of legislation that we are passing now, introducing maximum fines, mean that all these higher amounts will actually go?

**The President:** Does any other Member wish to speak?

The learned Acting Attorney to reply.

**The Acting Attorney General:** Yes, I thank Mr Downie for his question. The simple answer to the question is, no, it will not affect any higher fines which might be imposed by other legislation.

**The President:** The motion is then that clause 55 do stand part of the Bill. To that we have two amendments to the same clause in the name of Mr Coleman, which I will put together.

Those in favour of the amendments, please say aye; against, no. The ayes have it. The ayes have it.

I now put to you clause 55 as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 56 and 57.

**The Acting Attorney General:** Madam President, clauses 56 and 57 will simplify the description of 'penalties' in Manx legislation.

Clause 56 provides for a standard shorthand description of penalties that says the same thing as the current form of words does, but briefly. It also clarifies that if no amount is stated for a fine, there is no limit to the fine. Also, if more than one penalty is stated, joined by the words 'and' or 'or', then these penalties may be imposed either cumulatively or alternatively.

Clause 57 provides for stating the penalties to be imposed for 'summary' offences and, if relevant, when a person is convicted 'on information'. A penalty can be imposed summarily if the legislation providing that penalty allows it to be imposed without the right to a jury trial or indictment. A more serious penalty is sometimes imposed when a person is convicted on information which generally involves a jury trial. Clause 57 provides for an easier-to-read shorthand for stating penalties in legislation.

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

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 56 and 57 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 58 to 60 will be moved together, I think, but we will have an amendment to clause 60, so we will vote on them separately, although I invite the learned Attorney to move them together.

**The Acting Attorney General:** Madam President, thank you.

Clauses 58 to 60 state some useful default provisions for the service of documents.

Clause 58 establishes the scope of these provisions which are to apply if a document is authorised or required to be served. Clause 58 also clarifies that these default provisions do not preclude permitted methods to vary in other Acts where needed.

Clause 59 explains how service may be achieved for individuals; and clause 60 makes similar provision for service of documents on bodies corporate and other associations.

Madam President, I beg to move clauses 58 to 60 do stand part of the Bill.

**The President:** Would any Member like to second?

**Mr Butt:** I beg to second, Madam President.

**Mr Braidwood:** Madam President, I thought Mr Coleman was going to second 58 and 59. I was just going to second clause 60, but it does not matter –

**The President:** It does not matter who seconds, as long as there is someone in favour!

I will take the vote on clauses 58 and 59; they have been moved and seconded. Those in favour of clauses 58 and 59 standing part of the Bill, please say aye; against, no. The ayes have it. The ayes have it.

Clause 60 has been moved and seconded. To that we have a minor amendment in the name of Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

This amendment corrects the typographical error in subsection (2)(b)(ii) by inserting the word 'by' after the word 'exercised' in line 30.

I beg to move:

*Amendment to clause 60*

*Page 36, lines 30 and 31 for 'fall to be exercised the entity's board' substitute 'fall to be exercised by the entity's board'.*

**Mr Braidwood:** I beg to second, Madam President.

**The President:** The motion is that clause 60 do stand part of the Bill, and to that we have an amendment in the name of Mr Coleman. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

I now put clause 60 as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We move on to clauses 61 to 63.

**The Acting Attorney General:** Thank you, Madam President.

Clause 61 makes provision for electronic service not covered in the Interpretation Act 1976.

Updated provision for electronic service of documents beyond that provided in the Electronic Transactions Act 2000 is critical to efficient administration of many Government schemes and services. Electronic transactions offer many opportunities to provide faster service at a reduced cost.

It has become commonplace, in particular, for agencies to provide for electronic service by 'message and hyperlink'. A document can be served by providing a customer with access to the document via a hyperlink to the agency's website. This mode of service is simply agreed in advance by exchange of e-mails or a tick box on an electronic form.

Existing provisions in the Electronic Transactions Act 2000 are too general to provide legal certainty about these forms of service; clause 61 fills this gap. So long as the requirements for the clause to apply are met, it will cover all electronic communications and not just ones involving Government.

Clause 62 covers service on an unknown owner, lessee or occupier; and clause 63 provides for service by prepaid post.

Madam President, I beg to move that clauses 61 to 63 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Clause 62, Madam President, there is just a... it appeared in the previous clause as well, subclause 2(a), where a valid authority is:

'delivering it to someone at the premises who appears to be at least 16 years old...'

It just seems an unusual piece of drafting that I have not come across before, so maybe...

**The President:** The Hon. Member, Mr Downie.

**Mr Downie:** On a similar vein to Mr Crowe, I thought we were trying to get rid of ambiguity, and we whipped through that quite quickly, but it would be useful to find out what this 'appears to be... 16 years old' is about. (**Mr Corkish:** Define it.)

Surely, there must be a better way of couching that (**Mr Corkish:** Definition.) definition.

On clause 62:

'Service on unknown owner, lessee or occupier'

I am sure this is a big problem now, because people can up sticks and go, and move an e-mail address or be in a position that it is almost impossible to nail them down.

I have some sympathy when people are trying to go electronic with businesses and so on, but in this day and age I would have thought part of a registration process for an entity or a business, providing that they are properly licensed, would be providing a method where you can tell whether the e-mail has actually been accepted and there is a form of receipt given. Failing to do that would mean that you cease trading, or cease becoming an entity, and that is perhaps one of the ways to make sure you are serving notices on unknown owners, lessees or occupiers.

A comment, really.

**The President:** The learned Acting Attorney to reply.

**The Acting Attorney General:** Yes, I thank Hon. Members for their comments.

The provision with reference to someone at the premises who appears to be at least 18 years old – (**The President:** Sixteen.) Sorry, I beg your pardon, 16. The point I had in mind is the fact that currently as it stands it is 18 years old – I beg your pardon – so from the point of view of how we view an adult, we have moved on in times where we now view an adult as someone who is 16 or over.

This is not saying that if you simply form the view that you are giving notice to a responsible adult, who *appears* to be 16, that is going to be the end of the problem, so to speak, because at the end of the day it will be the court to decide whether notice has been given. It is an enabling provision which will enable the court, if *it* is satisfied that somebody is 16 or over and is a responsible person in its view – that is the court's view – it would be able to say that service has been effected; it could not have said that if the provision had said someone who was 18 or over. So it is an enabling provision.

But to appear to be 16, I think the aid there is for the court to decide whether or not the individual – whether perhaps 16 or not, or appearing to be 16 – is responsible; and I think that is the acid test which a court will apply.

**Mr Downie:** Madam President, can I just come back and ask who is responsible for serving the notice? Is it the coroner or is it some other agency acting on behalf of –

**The Acting Attorney General:** Madam President, if I could assist there, that is not the point here, with respect, Mr Downie. At the end of the day you would have to prove *service*. The coroner would be used as a best option because, of course, he is well versed in serving documentation, but as things are at the moment you do not *need*, necessarily, the coroner to serve documents – that can be done by you personally. You then have just got to satisfy the court that the service has actually been effected, and it will look at your evidence, Mr Downie; that was the point. (**Mr Downie:** Good.)

With reference to unknown owner, lessee or occupier, again these are enabling provisions. The court at the end of the day would have to be satisfied that notice had been given. Quite often, as is the case now where there is nobody at the premises, where the owner is perhaps unknown or uncertain, the court has been able to accept notice having been given by simply saying it has been left at the property. So these are, again, enabling provisions.

**The President:** The motion is that clauses 61 to 63 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 64 to 66.

**The Acting Attorney General:** Thank you, Madam President.

Clauses 64 to 66 offer standard provisions for forms which are authorised or required under Manx legislation. Again, these standard or default provisions are useful to avoid repetition in other Acts.

Clause 64 states circumstances under which the provisions of the division are to apply.

Clause 65 provides that a statutory form may be made for any matter under or relating to it, even though a form is not mentioned in the relevant provision of the legislation. This means the default position for Manx legislation is that forms can be made without any specific form-making power. If it is sensible to use a form to deal with a matter, then this will be possible. Of course, it remains possible for legislation to specifically preclude the making of a form or state a contrary intention. The default position will simply free-up agencies to make and use forms where these are useful for administrative purposes and remove unnecessary clutter or forms from legislation.

Clause 66 clarifies the extent to which people are obliged to comply with approved forms. The clause states that requirements for an approved form are obligatory, but that substantial compliance is sufficient. There is a safeguard here which states that a requirement to complete a form is not obligatory if the information requested is not relevant for the purpose of the form.

Importantly, clause 66 specifies that if there is empowering legislation which requires a form for an application or other purpose, the form must be properly completed or the application or other purpose will not have been achieved. This will remove the burden on Departments and other agencies from having to deal with things that do not substantially comply – in other words, if you have to complete a required form to apply for a driver's licence, you will not be considered to have applied for the licence unless you have substantially completed the form. Again, these are logical and intuitive requirements which need to be stated clearly in the legislation. Placing them here in the Interpretation Act will save duplication and simplify the Manx statute book.

Madam President, I beg to move that clauses 64 to 66 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**Mr Downie:** Madam President?

**The President:** The Hon. Member, Mr Downie.

**Mr Downie:** Just a query really.

There is nothing in these couple of clauses that link statutory forms to the Electronic Communications Act, and I am just wondering that now with so many Departments operating a template for serving notices, statutory forms and so on electronically, I would have thought this would be an ideal opportunity to clarify this.

The Attorney raised a point about driving licences, and there are very few people, I understand, who go and fill a form in. They download the form, fill it in electronically and they send it. But the agenda which we are referring to here is the old fashioned agenda and I think we need to make sure that whatever we pass by way of legislation does deal with Government's policy, which is to put more and more things online and have more things done electronically.

Likewise, the serving of notices as I understand it, and I could be wrong here, but if you are behind with your tax and you put your tax form in online... you are sent a notice now to tell you that your tax is overdue online. So that is another way in which we are seeing this movement and this whole form of templates coming in, and I am just wondering if a statutory form is the same, meaning as a template to be served electronically.

**The President:** The learned Acting Attorney to reply.

**The Acting Attorney General:** Yes, thank you, Madam President; and thank you, Mr Downie, for your query.

Under clause 66 at the moment, which you have before you, in the guidance or examples reference is already made to 'electronic form'. The key here again, with reference to this division of the Bill, is the fact that, as clause 65 says:

'A statutory form may be made for a matter under or relating to a provision of the empowering law, even though the provision does not mention any form.'

So we have got the ability to introduce a form.

Then if we go to 'Compliance with statutory forms', it is anticipated again that the issuing or authority in stating how a form is to be signed and completed; it says that the form is prepared in a particular way – that is under subsection (2) of clause 66, where the reference to an example of electronic form is made – means that the issuing authority could use electronic forms, could say how they are to be completed online, and that would then have statutory effect. So the enabling provisions are there, Mr Downie, and I am sure that they will be used in the way that you anticipate.

Thank you, Madam President.

**The President:** The motion is that clauses 64 to 66 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 67 and 68.

**The Acting Attorney General:** Thank you, Madam President.

Clauses 67 and 68 help to standardise interpretation of terms within public documents.

Clause 67 provides that words and expressions used in public documents have the same meaning they have in the legislation under which they are made.

Clause 68 provides that reference to an Act in a public document means the Act under which the public document is made, unless otherwise stated. This will help to shorten public documents.

Madam President, I beg to move clauses 67 and 68 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**The President:** The motion is that clauses 67 and 68 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 69 to 71.

**The Acting Attorney General:** Thank you, Madam President.

Clauses 69 to 71 provide a small number of default provisions about the exercise of functions and powers. Again, the purpose of these provisions is to provide a sensible default position for functions and powers in Manx legislation. The statement of these defaults in the Interpretation Act avoids any possible ambiguity or mistake if important provisions are not effectively articulated in other legislation. It also avoids repetition and helps to simplify other Acts. It does not prevent in any way other legislation making specific provisions for these matters different to the proposed defaults.

Clause 69 clarifies that the power to do something includes the power to do anything else reasonably necessary for, or incidental to, doing the act or thing.

Clause 70 provides that the power to make a decision includes the power to reverse or change it.

Clause 71 provides for the exercise of powers between the making and the commencement of Manx legislation. This clause facilitates smooth implementation of administrative matters without having to wait until commencement for things to be done.

Madam President I beg to move clauses 69 to 71 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 69 to 70 –  
Did you wish to speak, Mr Crowe?

**Mr Crowe:** Just a clarification, Madam President.  
On clause 69, subclause (5), a reference to ‘unincorporated body’ is made: just to clarify what that would cover, Hon. Attorney?

**The President:** “Person” includes an unincorporated body? (**Mr Crowe:** Yes.)  
The learned Acting Attorney.

**The Acting Attorney General:** Madam President, across you, if I may. I did not quite understand the question, sorry.

**Mr Crowe:** What does ‘unincorporated body’ cover in this clause? I know what an unincorporated body is, like a committee, a charity, a club or an association, and so it would cover all those?

**The Acting Attorney General:** I am sorry, Madam President.  
In my view, yes.

**Mr Wild:** If I may, Madam President?  
Would it be a practical suggestion to include a definition in the schedule of what a –

**Mr Downie:** An unincorporated body.

**The Acting Attorney General:** Yes, Madam –

**The President:** Do you want to take advice from a legal draftsman, or do we –

**The Acting Attorney General:** Madam President, I do not actually think I need it – (**The President:** No.) (*Laughter*) although I think that is a marvellous suggestion, Madam President!

**Mr Wild:** I do apologise.

**The Acting Attorney General:** If I could just comment: I have been through definitions and at times wondered why some words were not there – as the learned drafter, who might be listening to this, will be aware – and I think this will be a very helpful addition. So I will take that away, if I may, Madam President.

Thank you, Mr Wild, for that. Thank you.

**Mr Braidwood:** Madam President, if we look at clause 35, which we have agreed, and that says ‘References to “person” generally’, and of course it mentions body corporate and everything, but does not mention, as Mr Crowe has pointed out, *unincorporated* body.

**The President:** But that is specific to this particular clause.

**Mr Braidwood:** Yes, but if you go for references in the schedule –

**Mr Downie:** There will be a reference to it.

**The President:** Right, well, the suggestion is then that the unincorporated body might be considered for consideration in the schedule, I guess. (**Mr Braidwood and The Acting Attorney General:** Yes.) Oh, I am right.

Does anyone wish to add anything? If not, could you reply, sir?

**The Acting Attorney General:** Yes, thank you, Madam President.

I am very grateful for Mr Wild's suggestion and Mr Braidwood's and, as I have said, Madam President, I will take that away because I think it would be very helpful certainly to have that and perhaps some other terms included in the definitions.

Thank you.

**Mr Wild:** Thank you.

**The President:** The motion is that clauses 69 to 71 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 72 to 75.

**The Acting Attorney General:** Yes, thank you, Madam President.

Clauses 72 to 75 provide for exercise and delegation of Governor's functions.

Clause 72 provides for delegation of the Governor's functions, other than the Governor's power to make a public document.

Clause 73 provides for signing of orders and the like by the Governor.

Clause 74 clarifies what is needed to evidence the making of an authority, direction or public document by the Governor in Council or the Council of Ministers.

Clause 75 gives a power to the Council of Ministers to amend acts of Tynwald as a consequence of a parliamentary enactment applied to the Island. This clause will allow the Island's statute book to be updated for such consequential changes without the passage of a Bill. The order making the amendment will still need prior Tynwald approval.

Madam President, I beg to move clauses 72 to 75 do stand part of the Bill.

**The President:** Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**The President:** Hon. Member, Mr Crowe.

**Mr Crowe:** Madam President, I think we have talked about clause 75 before about the process whereby the Council of Ministers can make an order which Tynwald has to approve, which is a substitution for primary legislation, I understand. Is that correct, learned Attorney?

**The President:** Are there any other comments before the learned Attorney replies?

**Mr Downie:** Mr Turner has got his hand up over there.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Yes, it was just to do with the Governor's functions: I just wondered whether that is an existing or a new provision? It is not clear by the explanatory notes, because it just seems that this is a wide one that can delegate any of his functions. Is that something that is existing?

**The Acting Attorney General:** Yes. I am sorry –

**The President:** Would you like to reply, sir?

**The Acting Attorney General:** Yes, thank you, Madam President.

Just dealing with Mr Crowe's point: it does avoid the necessity for primary legislation, but it is limited to applying this in respect of a Parliamentary enactment; and clause 13, which we have already seen, refers to and explains:

'A "Parliamentary enactment" is an Act of Parliament or a provision of an Act of Parliament.'

– and I am just reading from clause 13 now –

'(2) A reference (either generally or specifically) to a Parliamentary enactment includes a reference to all instruments of a legislative character in operation under the enactment.

(3) A reference in a Manx enactment to UK legislation is a reference to the legislation as it was in operation when the provision containing the reference commenced.'

So when looking at the power of the Council of Ministers under clause 75, it only applies to apply a parliamentary enactment, as defined; and the safeguard, as you are aware, Mr Crowe, is the fact that it then has to be approved by Tynwald.

Turning then to Mr Turner's point, for which I thank him: this is simply enacting arrangements as they currently exist and so there is nothing new here as far as the Governor's powers are concerned.

Thank you, Madam President.

**The President:** The motion is that clauses 72 to 75 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 76 to 80.

**The Acting Attorney General:** Thank you, Madam President.

Clauses 76 to 80 provide for the making of appointments.

Clause 76 provides for the making of an appointment by name or by office. This sensibly provides for powers to be delegated to a particular office or position, such as the chief executive officer of an agency. If at any time another person is relieving or acting in that position, they can exercise the powers of the office without requiring a personal delegation.

Clause 77 provides the making of acting appointments for public officers during a vacancy in an appointment or if an appointee is not able to perform their duties. Judicial officers are excluded in this provision because such a power would offend Article 6 of the Human Rights Convention rights.

Clause 78 enables the Civil Service Commission or the Chief Minister, or other authorised Minister, to provide for an alternative appointer to appoint people to acting positions.

Clause 79 clarifies that a power to appoint includes the power to decide terms and conditions of an appointment. This will avoid repetition of this clarification every time appointment powers are legislated.

Clause 80 gives a general power of delegation to deputies. This power of delegation applies if functions are conferred on a Minister or a public officer, other than a judicial officer. It includes a safeguard not in the 1976 Interpretation Act, that a deputy must be suitably qualified. Also, the

person who appointed the Minister or public officer must also approve the delegation to a deputy. Of course, delegation to deputies is not allowed for Ministers, who are appointed by the Governor.

Madam President, I beg to move clauses 76 to 80 do stand part of the Bill.

**The President:** Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** So in this particular clause, then, does this relate to, for example, one I can think of that is appointed by the Governor, which I think is the Industrial Relations Officer? I think the Director of the Communications Commission might be a Governor appointment: is this the type of appointment we are talking about? And, if so, does this mean that the Governor can delegate this, effectively, to a Department, in which case is that almost diluting the separation that the Governor has from the role in Departments; or is it more of a practical measure that actually these appointments are generally made on the advice of... and does it potentially cut out that extra step? In which case I am a little unsure whether, if it is a new provision, it is entirely a good idea to have a complete delegation of his functions because I thought that was what his role was.

**Mr Downie:** Madam President?

**The President:** The Hon. Member, Mr Downie.

**Mr Downie:** On clause 80 there is reference here if the Minister appoints a deputy, and I just want clarification. Let's take, for example, the planning system, or a situation where the Council of Ministers appoint someone to adjudicate or represent the Minister on a particular planning decision: it is quite clear from the legislation here that the person has to be appropriately qualified to perform the functions, therefore it means that someone who has had no previous experience in planning, if that is the case, would not be able to fulfil this function.

**The President:** Are there any further comments?  
Could I invite the Acting learned Attorney General to reply?

**The Acting Attorney General:** Yes, thank you, Madam President.

Turning to Mr Turner's queries, for which I thank him, as things stand at the moment the Governor is able, and under the proposed legislation here, to delegate functions, and I do not see that there is any concern with that, unless Mr Turner comes back and raises that issue; it is not trying to extend the powers which he already has.

There are, moving down the chain then, certain situations where if the Governor has made an appointment, that appointee is unable to himself appoint a deputy without the approval of the Governor because I have said the powers here which are provided necessitate the person who has made the appointment agreeing to that delegation. But there is nothing here that restricts the Governor himself delegating his functions to a third party, and that is as things stand at the present time. So we are simply clarifying existing practice, and the legislation as it stands at the moment will be stating it here in this Interpretation Bill.

Moving then to the queries which you raised, Mr Downie: the issue here is that this does not allow for Ministers to appoint a deputy, and I will explain that when I address these issues. A Minister's power of delegation – talking to the reference and the example of the Planning Committee or the planning legislation to which you refer – is under the Government Departments

Act, where he can make a delegation of specific functions, be it to a planning official or someone of that nature. The point here, and what this covers, is that that person who has got the delegated authority from the Minister, say, in planning terms, can himself depute if delegation has been made to him, provided that person is suitably qualified; but again with the approval of the person who has made the delegation to him. So the Minister would have to approve that delegation or his appointment of a deputy.

So if you take the spread of planning officers – you have used that example – the delegation could be made to the chief planning officer, if there is such a person, who could then appoint deputies within the planning department, but he would have to have the approval of the Minister to the appointment of those persons who must be suitably qualified to so act.

I do not know whether that helps you, Mr Downie, but that is the way that the legislation is designed to work. As I say, this is to clarify what actually happens at the present time.

Thank you.

**The President:** The motion is that clauses 76 to 80 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 81 to 85.

**The Acting Attorney General:** Thank you, Madam President.

Clauses 81 to 85 deal with the power to charge fees. These are simply a modernised re-enactment of provisions in the Fees and Duties Act 1989, with one update to account for changes in technology.

Clause 81 sets up the power for Treasury, Departments and Statutory Boards to levy fees and duties; this is called the ‘general fee power’.

Clause 82 sets out the matters for which a general fee can be levied.

Clause 83 ensures the power is only exercised with Treasury concurrence.

Clause 84 sets requirements for providing information about fees and duties. This provision has been updated to allow for information to be available on appropriate websites.

Clause 85 makes the fees and duties part of the Island’s general revenue.

Madam President, I beg to move clauses 81 to 85 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**The President:** The motion is that clauses 81 to 85 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Clauses 86 to 94.

**The Acting Attorney General:** Thank you, Madam President.

Clauses 86 to 94 provide for powers related to public documents.

Clause 86 provides a definition of ‘matter’, which helps to simplify subsequent provisions.

Clause 87 sets out some additional powers which come with the power to make a public document. The power to make a public document comes with a number of other reasonable powers, which might be needed to give effect to the empowering legislation.

Clause 88 enables public documents to be applied generally or to a limited extent.

Clause 89 enables a Manx public document to make a law by applying stated Manx legislation, UK legislation, EU instruments or other legislation or documents. This is a new approach for the implementation legislation but it is common in other individual Acts.

It is often useful for Manx legislation to adopt in law UK legislation, EU instruments and the like. Adopting a detailed chemical safety code maintained by the EU, for example, might provide a simple mechanism for Manx provisions to remain up-to-date and effectively aligned with other countries where Manx companies need to do business.

Clause 89 also allows the public document to choose the time for which any applied document – Manx, UK, EU or other – is to operate. This is important so that relevant agencies can decide whether it wants a particular version of the document to apply or not. Agencies can also decide to apply a document as it applies from time to time. In this case, any updates to the document are automatically applied for Manx legislation. This eliminates the need to constantly monitor and amend applied versions in Manx legislation, if consistency with the applied provisions is desired. It also provides a safeguard, when updating documents is critical to the continued effect of the public document; it might be disastrous, for example, if a list of safe chemicals altered by EU authorities was not similarly amended on the Island and the safety of persons was jeopardised by the oversight. Subsection (3) has the safeguard that if no time is chosen, the applied provisions apply as they were in operation on the making of the public document.

Clause 90 provides for public documents to make provisions relating to land or waters by reference to a particular map, plan or register – this will help to shorten public documents. However, access is assured as the responsible authority must ensure the documents are available free of charge for inspection at its principal office during normal hours, and for public viewing on the Government website or another appropriate website.

Clause 91 provides for agencies to prescribe a fee that is stated in terms of reasonable costs; so, for example, an agency with the power to prescribe a fee for copying documents is entitled to state a fee as being the reasonable cost of providing copies, rather than constantly changing the fee structure to meet changing costs. This is a reasonable default approach which is likely to save agencies money and time. A safeguard is included to stop fees exceeding the real cost of doing what is required with the documents.

Clause 92 parallels the existing provision. It states that a Government authority which is authorised, but not required, to perform a service may charge a reasonable amount for performing that service if no fee is prescribed. This ensures that any charges for government services which are not prescribed and scrutinised by Tynwald must be reasonable.

Clause 93 provides that the power to make a public document includes the power to amend or repeal it.

Clause 94 provides that an act done under a public document is taken to have been done under its authorising legislation. This is important to dispel any argument that Acts and their statutory documents are separate in terms of function.

Madam President, I beg to move clauses 86 to 94 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The Hon. Member, Mr Corkish.

**Mr Corkish:** Thank you, Madam President.  
Clause 91, 'Power to prescribe reasonable fee'. What constitutes a reasonable fee?

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

Clause 92, the first query is: is this new or has this always been in place, that Government authorities may charge a reasonable fee for performing a service? I am thinking in particular of the parking charges proposed in Douglas, £25 for residents, where it has been stated that the cost is £11.80 to issue them. Would this clause actually say that is not a reasonable amount to charge? Is that clause already in place?

I am not being political here, Madam President, I just think would this give a power to say to the Department, 'that is not reasonable'?

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** I suspect we need to look at a definition of 'reasonable', unfortunately.

**The President:** The Hon. Member, Mr Corkish.

**Mr Corkish:** Thank you, Madam President.  
Further on section 91(2)(a):

'the responsible authority considers is reasonable;'

Is that not a grey area?

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Isn't this the man on the London Clapham omnibus? (*Laughter*) Isn't that at the root of all this definition?

**Mr Downie:** But it is for documents, as I read it. (*Interjections*)

**Mr Butt:** Madam President, and just going further, would this preclude Departments from saying we will make a profit on this, rather than providing the cost of the service?

**The President:** Learned Attorney, if you can reply?

**The Acting Attorney General:** Madam President, I thank the Hon. Members for their comments which are really of the same ilk, which is back to this question of, firstly, a definition of what is reasonable and, secondly, whether or not this is a new provision and will it actually stop the Departments making a profit.

Just working backwards: certainly if a Department was to approach setting the fee with profit in mind as purely the objective, that would be outwith the powers of the Bill. It *specifically* provides that the fee charged is to be assessed on the basis of what is a *reasonable* fee; and in that regard, Madam President, the Hon. Mr Crowe is right, it is the man sitting on the Clapham omnibus who is going to have to measure this from the point of view of reasonableness if it ever becomes challenged. But the important point is that this now makes the fee-setting challengeable and Departments have got to bear that in mind when they come to address charging fees.

I do not know if I can say any more, but that is really the gist of this, which is simply it creates the power to charge a fee, it is re-enacting and clarifying the Fees and Duties Act which is in place at the moment – which is going to be repealed – where there is the provision to charge fees, to take Mr Butt's point. But what we are doing now is clarifying under this Interpretation Bill the fact that, in using its powers, it has got to be assessed on the basis of 'reasonable'

I do not, Madam President, through you, believe that we are actually going to come up with a definition that is going to fit the bill, in that regard; but if I could leave it at that, Madam President?

**The President:** The motion, Hon. Members, is that clauses 86 to 94 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.  
Clauses 95 and 96.

**The Acting Attorney General:** Thank you, Madam President.

Clause 95 provides for circumstances when a person is required to produce documents reproducing material kept on a computer. This clause has become necessary since it has become typical for records to be kept on computers, and clarity is needed around how digital records must be produced when legislation requires it.

Clause 96 provides that if an act or thing is required to be done by more than two persons, a majority of them may do it; this is the usual position.

Madam President, I beg to move clauses 95 and 96 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 95 and 96 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.  
Clause 97.

**The Acting Attorney General:** And 98.

**The President:** Yes, 97 and 98.

**The Acting Attorney General:** Thank you, Madam President.

Clauses 97 and 98 are general clauses, which facilitate implementation of the new Act.

Clause 97 allows the Council of Ministers to delegate its powers under this Act. Public document-making powers are delegable to the Chief Minister, and appointment powers are delegable to any Minister or to any appropriately qualified civil servants.

These delegations are under the Council's supervision. These delegations can be limited and conditioned and are recoverable at any time.

Clause 98 provides for general regulation-making powers for the Council of Ministers, the Department or statutory board. Of course Departments and statutory boards may only make regulations for Manx legislation they administer, and all such regulations are subject to Tynwald approval.

Madam President, I beg to move clauses 97 and 98 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.  
I beg to second.

**The President:** The motion is that clauses 97 and 98 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.  
Clauses 99 to 103.

**The Acting Attorney General:** Thank you, Madam President.

Clauses 99 to 103 provide savings and transitional provisions. Savings provisions preserve the effects of some things which have already happened; transitional provisions carry over elements of the old law to the new law where this is needed for legal effectiveness.

Clause 99 applies this Act to existing legislation and documents, with a small number of sensible exceptions.

Clause 100 clarifies that marginal notes shifted as section headings in existing reprints have never had the effect of changing the law.

Clause 101 applies the default savings and transitional provisions under Part 4, Division 4, of the Legislation Act for the three Acts which this Act re-enacts.

Clause 102 enables the continued operation of existing public documents made under the Fees and Duties Act 1989, as if they had been made under this Act.

Clause 103 updates references to 'enactment'.

Madam President, I beg to move clauses 99 to 103 do stand part of the Bill.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I beg to second.

**Mr Braidwood:** Madam President, it was just an observation that under clause 99 in the examples it mentions:

'Unincorporated bodies were included in the definition of "person" under section 3 of the repealed Interpretation Act. Such bodies are not included in section 35...'

which would be of the Interpretation Bill 2014. That is right, to a person generally...

'For anything that happened before the commencement, a reference in an existing document to "a person" includes (subject to the context) an unincorporated body. For anything happening from the commencement, that reference will only include (subject to the context) an individual or body corporate.'

So, it might be worthwhile, as the learned Acting Attorney has said, that it should be put in the schedule for 'person' – no? Mr Connell is shaking his head!

**The President:** In some clauses 'person' is defined particularly and in other clauses it is defined in other ways, and I think we need to read the clause to get the context. However, it does not preclude unincorporated bodies being defined perhaps. That is something that the Attorney has agreed he will look at before we come to the Third Reading.

If no further Member wishes to comment, do you want to add anything?

**The Acting Attorney General:** Only to thank, through you, Madam President, Mr Braidwood for his comments; and again exemplifying that this is something that we do need to look at, and I will bring this back to the Third Reading. Thank you.

**The President:** The motion is, Hon. Members, that clauses 99 to 103 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

It has been indicated that we wish to take clauses 104 to 107. I am happy for the learned Acting Attorney General to *move* them together but there will be an amendment to clause 106, so I will vote on them in groups which take out 106.

Would you care to move clauses 104 to 107?

**The Acting Attorney General:** Thank you, Madam President.

Clauses 104 to 107 provide for a small number of minor and consequential amendments.

Clause 104 repeals the Statutory Time, et cetera, Act 1883, the 1976 Interpretation Act and the Fees and Duties 1989 Act, which the Act is to replace.

Clauses 104 to 107 amend Acts that cross-refer to repealed legislation and update certain terms in existing Acts to those defined under this Act, and make minor amendments to other Acts to remove provisions that will become redundant because of this Act.

They are not in a schedule as they will not be needed after promulgation, and this will avoid leaving a blank schedule to this Act.

Madam President, I beg to move clauses 104 to 107 do stand part of the Bill.

**Mr Braidwood:** I beg to second, Madam President, and reserve my remarks.

**The President:** I will put to you, Hon. Members, clauses 104 to 105.

**Mr Butt:** Could I speak, Madam President?

**The President:** Sorry, did you wish to speak to those clauses, sir?

**Mr Butt:** Just clause 104, Madam President?

**The President:** Sorry, yes, carry on.

**Mr Butt:** Just a comment about the repeals in 104: we are waving goodbye to an ancient Act here, the Statutory Time, et cetera, Act, which I think measures time. Time has not changed but we have got a new legislation to deal with it. In particular the Interpretation Act 1976, I used to find in my duties in CID and as a prosecutor, that was the 'go to' Act when you had a problem and you wanted to sort something out and find out how things could be interpreted – that was the main Act we used to go to. And that is a very useful Act which is now disappearing and replaced by this Act which I think is a lot more complex and lengthy than the original. But time has moved on.

**The President:** Perhaps you are glad you have retired! *(Laughter)*

**Mr Butt:** It is all there though, it is still all there!

**Mr Braidwood:** At least it defined unincorporated bodies! *(Laughter)*

**The President:** If there are no further comments... I think they are observations, probably nothing to reply to.

I will put to you clauses 104 and 105. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Clause 106. To that clause we have an amendment in the name of Mr Coleman. Would you care to move your amendment, sir?

**Mr Coleman:** Thank you, Madam President.

The amendment simply corrects a typographical error in section (6) of clause 106. At the moment it says 'In of the provisions' the amendment simply puts after the word 'In', 'each' of the provisions.

I beg to, move Madam President:

*Amendment to clause 106*

*Page 57, line 4, for "In the provisions of Table F" substitute "In each of the provisions of Table F".*

**Mr Downie:** I beg to second, Madam President.

**The President:** I put clause 106 to you, Hon. Members, and the amendment to that clause. Taking the amendment first: those in favour, please say aye; against no. The ayes have it. The ayes have it.

I now put clause 106, as amended, to you. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

And finally, clause 107, Hon. Members. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

That concludes consideration of the clauses of the Interpretation Bill, Hon. Members.