

## 2. Payment Services Bill 2015 – Second Reading approved

Mr Braidwood to move:

*That the Payment Services Bill 2015 be read a second time.*

**The President:** Turn now to Item 2, Hon. Members, the Payment Services Bill. I call on Mr Braidwood to take the Second Reading.

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

Before I go into the Second Reading, Mr Crowe asked a question last time, Madam President, and my response was then that I would clarify this for the Second Reading and Clauses, but I think this will be placed under the European Communities (Isle of Man) Act 1973, but I said I would clarify it.

Madam President, the two Directives can be under the European Communities (Isle of Man) Act 1973 Order. However, competition law would not be covered by going through the European Communities (Isle of Man) Act 1973. In actual fact, they will be made under the Payment Services Act 2015 itself. But they will modify the provisions of the Fair Trading Act, so that we can actually put appropriate sanctions in place for a SEPA participant, which is failing to comply with its obligations under the competition provisions. It is because the Office of Fair Trading competition provisions are not compatible with the SEPA provisions, Madam President. I just wanted to clarify that for the Hon. Member. (**Mr Crowe:** Thank you.)

Madam President, as I said in the First Reading, this is rather a technical Bill, so I will try to be as quick as I possibly can.

The Payment Services Bill 2015 provides the enabling powers necessary to amend the Island's law as far as necessary for its banks to become participants in the Single Euro Payment Area (SEPA).

SEPA is a mechanism designed to facilitate faster payments throughout the European Union, and also those third countries, such as Switzerland, which become adherent jurisdictions. The Bill is intended to facilitate the making of an application for the Island to become an adherent jurisdiction in accordance with the criteria for participation in the SEPA schemes for communities of banks or financial institutions outside the European Economic Area, by the European Payments Council (EPC).

The key legislative changes made in clauses 4 and 5 will apply only to those institutions providing payment services under the SEPA schemes and to payments using those schemes.

Madam President, I beg to move the Second Reading of the Payment Services Bill 2015.

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

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

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

**Mr Crowe:** Thank you, Madam President. I thank the Hon. Member Mr Braidwood for clarifying that point that I raised about primary and secondary legislation, but he has covered the point I raised. Thank you for that.

**The President:** The motion is that the Payment Services Bill be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Payment Services Bill 2015 –  
Clauses considered**

**The President:** Turning to clauses: clause 1.

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

Clause 1 provides the resulting Act with its short title.

Madam President, I beg to move that clause 1 stands part of the Bill.

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

**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.

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

Clause 2 provides for the commencement of the resulting Act, other than clause 1, and this clause will come into operation by virtue of an order made by the Council of Ministers, on one or more appointed days

Madam President, I beg to move that clause 2 stand part of the Bill.

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

**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.

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

Clause 3 provides for the interpretation of key terms used in the Bill, and which will also appear in the related secondary legislation. In order to avoid the need for further amendments in the future, if there are changes in the EU legislation involving payment services and competition law, subsection (2) of the clause provides for references in the Act or secondary legislation to the Directives and the relevant competition provisions to be construed as references to the Directives and the competition provisions, as they have effect from time to time.

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

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

**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.

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

Clause 4 authorises the Financial Supervision Commission to make regulations giving effect in the law of the Island to the two Directives, transposition of which is critical to the Island being recognised as a SEPA jurisdiction. Regulations under this clause and clause 5 can make any provision that might be made by an Act of Tynwald.

Once again, this is intended to avoid the need for further primary legislation and to ensure the Island can react rapidly to any changes in the regulatory framework for payment services. This point, Madam President, is dealt with in clause 8.

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

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

**The President:** The motion is that clause 4 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

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

Clause 5 enables the Isle of Man Office of Fair Trading to make regulations to secure effective competition between SEPA participants in the Island and those elsewhere. This is a requirement for the Island to become a SEPA jurisdiction, because EU competition law is largely contained now in the Treaty on the functioning of the European Union. The necessary legislation can be put in place under the European Communities (Isle of Man Act) 1973, which is the reason for the need for the present Bill.

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

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

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

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

I have a question about what this is really all about. Are we talking about an umbrella organisation which allows other institutions that transfer money to be allowed to operate within this area, such as SWIFT or international CHAPS and things like that, or are we talking about a new system for moving money around within the European Community? I have not quite got it into my head what it actually is going to achieve. SWIFT is already pretty well regulated and you can send payments all over the world with that. Would SWIFT have to apply to operate within SEPA to be able to actually work within Europe? I just wondered what the model is going to be.

Thank you.

**The President:** The mover to reply.

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

If we look at the explanatory memorandum, and particularly to... SEPA is an area within which banks which are participants can secure value for their customers' payments transactions earlier than apply under other payment schemes. So in actual fact it is a quicker method of transferring money.

**The President:** Yes, we will allow you the clarification.

**Mr Coleman:** It is a point of clarification.

But does that mean that those participants have to get necessary equipment or necessary telecommunications? When you put SWIFT in you have to get specific equipment. I was just wondering – you can calm me down later if you want on this one – I just wondered just how it works, that you do it. Do you have to put in a specific network, which is secure, which only SEPA communicants can access?

I am sure the other banking Members within the Chamber at the moment would understand what I am talking about, if they have ever put in banking communications systems. It is not only terminals. It is also secure communication links, secure locations and all that sort of stuff. I just

wondered how it was going to be achieved, purely out of professional interest really – just how are they going to be doing it or what it is, in fact.

**The President:** It is enabling, isn't it? It is enabling.

**Mr Braidwood:** As I said, Madam President, if I may reply, it is a very technical Bill, which I said on the First Reading, and it is enabling legislation. It is enabling our banks to participate as SEPA participants. I think I mentioned, there are about 31 types of jurisdictions that are in this SEPA and I know the banks in the Isle of Man are wanting this legislation to be implemented as quickly as possible. As far as I know, all the equipment they have will be able to make them participate in the SEPA jurisdictions.

**The President:** The motion is, Hon. Members, 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.

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

Clause 6 provides, as I mentioned earlier, that regulations under clauses 4 and 5 can make any provisions that can be made by an Act of Tynwald. This reflects the position in relation to regulations under section 2B of the European Communities (Isle of Man) Act 1973.

Subsection (2) of the clause requires the makers of regulations under the Act to consult with such persons as appear appropriate. This is deliberately flexible, because while the regulations will normally only be of concern to the payment service providers themselves, the competition regulations will confer benefits on consumers and wider consultation may therefore be appropriate in that situation.

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

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

**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.

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

Clause 7 is intended to provide an element of future proofing for the legislation. It empowers the Council of Ministers by order to amend this Act if it appears necessary or expedient to do so, in the light of developments in the operation of payment services, regulated by the European Payments Council, or any change in EU Law relating to payment services.

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

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

**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.

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

Clause 8 provides that regulations and orders under this Act do not have effect unless approved by Tynwald.

Madam President, I beg to move that clause 8 stand part of the Bill.

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

**The President:** The motion is that clause 8 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Now...