

4.1. Legislation Bill 2014 – Clauses considered

The Speaker: Item 4. Consideration of Clauses, and we have three Bills. The first of those is the Legislation Bill and I call on the mover, Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.

In accordance with the notes I sent you yesterday, I would like to take the Legislation Bill in groups of clauses to assist, hopefully, me and other Members to get through the business today. Of course that will mean that Members will be able to put questions to the groups rather than necessarily just to individual clauses. With that in mind, here we go. (*Interjection*)

Clause 1 gives the short title of the Bill.

Clause 2 provides for the commencement of this Act to be by order of the Council of Ministers, except for a small number of provisions, which will commence on the announcement of Royal Assent to Tynwald.

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 the reader to navigate the Bill. 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 tendency of courts to rely on the purpose or intention of legislation to make decisions about ambiguities.

Clause 4 provides for this Act and the Interpretation Act to be read together. The provisions for legislation are presented separately to the provisions for interpretation primarily for the benefit of users. Most of the provisions related to management of legislation will be of interest only to persons in the agencies charged with these tasks. The provisions related to interpretation of legislation are for a broader audience and it will help readers if they can access the interpretation provisions in a single Act uncluttered by other matters. Clause 4 states that both Acts are to apply to all Manx legislation – Acts and statutory documents – and to public documents such as court orders, judgments and warrants. Exception is made for Church matters or measures under the Church Legislation Procedure Act 1993 and in two other situations addressed by clauses 5 and 6.

Clause 5 provides an important exemption for cases where Tynwald decides this is warranted. Clause 5 provides that this Act is displaced by a contrary intention included in another Act. So, if there is a sensible reason to exclude something in another Act from complying with legislative provisions this can be provided for under that Act.

Clause 6 makes this Act subject to the provisions of the European Communities (Isle of Man) Act 1973, which is concerned with the application of EU legislation.

Finally for this group, clause 7 introduces schedule 2, which sets out the definitions for this Act.

Mr Speaker, I beg to move that clause 1 to 7 and schedule 2 do stand part of the Bill.

The Speaker: Mr Henderson.

Mr Henderson: I beg to second, sir, and reserve my remarks.

The Speaker: Mr Teare.

Mr Teare: Oh, sorry, sir. I beg your pardon.

The Speaker: In that case, Hon. Members, I put the question that clauses 1 to 7 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Watterson.

Mr Watterson: Mr Speaker, clauses 8 to 16 re-enact existing matters about the promulgation and announcement of Acts. However, clause 8 clarifies the scope of these provisions where there is doubt under the existing Promulgation Act 1888. They are to apply to any Act from when it receives Royal Assent.

Clause 9 provides for the announcement of Royal Assent to Tynwald.

Clause 10 provides for an announcement certificate stating the announcement day.

Clause 11 clarifies that the procedures set out in the rest of division 1 is collectively called 'promulgation'.

Clause 12 provides that an Act expires if it is not promulgated within 18 months. A provision is included here to clarify that this expiry does not affect anything done under the expired Act and that any Act which has been amended or repealed by or under it is revived in the form in which it stood before the provisions of the Act which has not been promulgated took effect.

Clause 13 describes what must happen before promulgation.

Clause 14 provides for the promulgation procedure on Tynwald Hill.

Clause 15 provides for a promulgation certificate.

Clause 16 states that for reprints a statement about its announcement day or promulgation day is sufficient evidence of that day.

Mr Speaker, I beg to move that clauses 8 to 16 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, Mr Speaker.

The Speaker: I put the question that clauses 8 to 16 inclusive do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 17, Mr Watterson.

Mr Watterson: Mr Speaker, clauses 17 to 21 deal with the commencement of Acts.

Clause 17 states that an Act commences when it is announced to Tynwald. It also clarifies the time of day when provisions commence if none are specifically provided.

Clause 18 provides for an Act's citation and commencement provisions to commence automatically. This will help shorten commencement provisions in all Acts.

Clause 19 makes it possible to commence different parts of an Act on different days, using an Appointed Day Order, commonly called an ADO. This will also save the same power being repeated in individual Acts.

Clause 20 allows for amendment of uncommenced Acts without this having undue effect on the commencement dates. This simply clarifies what is considered to be the current law.

Clause 21 allows for repeal of a commencement provision without affecting an Act's continuing operation. This will allow the removal by amendment of spent commencement provisions if desired.

Mr Speaker, I beg to move that clauses 17 to 21 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question that clauses 17 to 21 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 22, sir.

Mr Watterson: Mr Speaker, clauses 22 and 23 are miscellaneous provisions about promulgation and commencement.

Clause 22 clarifies that all Acts must be judicially noticed as public Acts. Prior to interpretation legislation, the courts treated public Acts differently to private Acts. This clause clarifies that there is no distinction.

Clause 23 provides that each provision within an Act has effect as a substantive enactment. This is a continuation of existing provisions. Before the 19th century, formal words of enactment were required for each section of an Act. Now words of enactment only appear at the beginning of each Act.

Mr Speaker, I beg to move that clauses 22 and 23 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question. Clauses 22 and 23: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 24.

Mr Watterson: Mr Speaker, clauses 24 to 28 relate to the making and commencement of public documents.

Clause 24 specifies who is the maker of a public document. It also provides for the execution of public documents by reference to existing Acts on the constitution of Departments and Statutory Boards.

Clause 25 states when a public document is to be regarded as having been made.

Clause 26 allows a public document to be commenced by notice. This will enable the drafting of public documents in cases where a precise commitment date has not been finalised. A safeguard is included to require a commencement notice to be published in the electronic gazette or in another way that will bring it to the notice of the public or those likely to be affected by it.

Clause 27 sets the time of day at which public documents will commence.

Clause 28 provides for amendment of uncommenced public documents without affecting commencement.

Mr Speaker, I beg to move that clause 24 to 28 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question. Clauses 24 to 28: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 29.

Mr Watterson: Mr Speaker, clauses 29 to 36 streamline existing Tynwald procedures for statutory documents.

Clause 29 defines the meaning of 'Tynwald procedure' where that expression appears in a statutory provision. The effect is, when read with the three following clauses and clause 34, to produce standard expressions which can be used as shorthand for the normal procedures rather than setting the description of a procedure out in full each time. This will save drafting time and help reduce the length of Bills.

Clauses 30, 31 and 32 define respectively the meanings of 'approval required', 'affirmative' and 'negative' when used in the context of a Tynwald procedure for a statutory document.

Clause 34 provides the meaning of 'laying only'.

Clause 33 deals with the effect of a statutory document ceasing to have effect and makes it clear that where a statutory document ceases to have effect – for example, because it has not been approved within the relevant time – it is to be treated in the same way as if it had been revoked by a further exercise of the same powers and everything which it amended or revoked is put back into the same position as it was before.

Clause 35 enables Tynwald to change the state of procedure – ‘affirmative’, ‘negative’ or ‘approval required’ – for a statutory document covered by these provisions.

Clause 36 provides for a default requirement that statutory documents are to be laid before Tynwald as soon as possible after they are made. This just reflects and formalises existing practice.

Mr Speaker, I beg to move that clauses 29 to 36 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question. Clauses 29 to 36: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 37.

Mr Watterson: Mr Speaker, this clause provides a limited mechanism for the correction of obvious mistakes which are found in a statutory document which has been laid before Tynwald but before a motion for its approval has been passed, or before the time for a motion to annul has expired. This is intended to obviate the need for relaying where a statutory document is found to have minor errors which do not affect its substance.

Clause 38 provides for the presumption that a public document is validly made unless the contrary is proved. This provides greater certainty in terms of the validity of these documents because it places the onus of proof on the person alleging that the document has not been properly made.

Mr Speaker, I beg to move that clauses 37 and 38 do stand part of the Bill.

Mr Quirk: I beg to second, sir.

The Speaker: Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker.

I just wanted to congratulate the bringers of this Bill for this part. It will be very useful.

Does the Minister agree with me that it is very important that the Clerk and the President and other people involved pay a lot of attention to the detail to make sure it is only administrative errors and legal references that are changed in this process, not any issue of substance?

A Member: Hear, hear.

The Speaker: Reply, sir.

Mr Watterson: Yes, Mr Speaker, I am absolutely in support of the Hon. Member’s comments. The safeguards are in clause 37 and 37(4) sets out the limited remit for a correction notice for the President and the Clerk of Tynwald to work within. So their intense scrutiny will be essential in terms of making that work.

I beg to move.

The Speaker: I put the questions separately. Clause 37: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 38: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 39.

Mr Watterson: Mr Speaker, clauses 39 to 44 deal with numbering, citation and distribution of Manx legislation.

Clause 39 sets up a numbering system for Acts of Tynwald, which aligns with the numbering system currently used for statutory documents.

Clause 40 provides for the Clerk of Tynwald to number statutory documents, which reflects existing practice.

Clause 41 describes how Manx legislation can be cited.

Clause 42 requires the filing of Manx legislation in the Public Records Office and distribution of certified copies to the Tynwald Library and the Attorney General. This reflects existing practice but incorporates a change of venue for the deposit at the request of the Chief Registrar. A certified copy given to the Attorney General is needed for inclusion in the electronic gazette.

Clause 43 obliges the Attorney General to make arrangements for the publication and sale of Manx legislation, including electronic publication on an appropriate website. Publication involves providing notice that the legislation has been passed and access to the text of the legislation.

Clause 44 provides for a new general defence to breaking the law if the relevant legislation has not been published as required. This mirrors a corresponding provision in the Statutory Instruments Act 1946 of Parliament in relation to subordinate legislation in England and Wales.

These clauses provide for a new era for access to Manx statutes. A one-stop online facility providing free access to the latest Manx legislation will make it easier to access this information.

I beg to move that clauses 39 to 44 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question. Clauses 39 to 44: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 45.

Mr Watterson: Mr Speaker, clauses 45 to 49 deal with the treatment of amendments.

Clause 45 states that an amending legislation is to be read as one with the legislation it amends. This is a restatement of existing provisions in the 1976 Interpretation Act. This approach provides for the revision of the words in the legislation, such as deletions, changes and insertions, when the amendments are made. This is a sensible approach because it leads to a clean, revised version of the legislation which is easier to read. It is still possible to locate and peruse earlier versions, which always continue to be available in existing annual volumes available in the Tynwald Library, in the Attorney General's Chambers and in many private collections, and in reprints produced since 1996. Also, all Acts as passed since 2000 will continue to be available on the Tynwald website and the Attorney General's Chambers website. It will always be there if needed for historical purposes.

Clause 46 states where amendments are to be inserted. It provides default rules, which are intuitive and follow alphabetical and numerical order. This will streamline and simplify amending legislation, which would otherwise be cluttered with multiple commands for inserting text. This clause and the next are a reflection that, for some time, amendments have been drafted and fed in electronically.

Clause 47 provides that an amendment to a provision is to be made wherever possible within that provision. This means that an amendment, such as a name change, can be applied wherever

that name appears in the provision. The amending legislation does not have to spell out each and every instance where the name appears and that it must be changed if a global change is intended within the provision in question. This approach is simpler to draft and easier to implement. Of course, if needed, the default approach can be overwritten by a specific provision.

Clause 48 allows for automatic consequential amendments such as punctuation, numbering and the like. These amendments are self-explanatory and the provision here will simplify amending legislation. Importantly, this does not allow for renumbering of provisions, since renumbering is neither necessary nor consequential.

Clause 49 clarifies that relocation of provisions does not change their meaning. This clause is included to remove any doubt and to make it easier for provisions to be moved with greater certainty.

Mr Speaker, I beg to move that clauses 45 to 49 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: Mr Thomas.

Mr Thomas: Thank you.

Please can the Minister and all other people involved accept my congratulations on this and other parts of this Bill. Obviously it will make things like bringing together all the housing legislation in one place, so it is easier to understand and implement... Therefore, in the new world, looking again at housing, it will be much quicker and easier to put in place valuable legislation.

The Speaker: Minister to reply.

The Speaker: Always happy to receive the Hon. Member's congratulations, sir. (**Two Members:** Hear, hear.)

I beg to move.

The Speaker: In that case, I will put the question. Clauses 45 to 49: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 50, sir.

Mr Watterson: Mr Speaker, clauses 50 and 51 relate to repeals and amendments.

Clause 50 provides default rules for the time of day at which a repeal takes effect. This eliminates the need for special provisions in each case to prevent overlapping Acts applying for the same matter during any part of the day on which a transition takes place.

Clause 51 treats expired legislation as having been repealed, so all of the provisions in this Act about repeals also apply for expiries.

Mr Speaker, I beg to move that clauses 50 and 51 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question. Clauses 50 and 51: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 52.

Mr Watterson: Mr Speaker, clauses 52 to 55 will greatly simplify the Manx Statute Book by tidying up amending provisions as soon as they have done their job and are no longer need to appear in reprints. It must be reiterated that it will always be possible to locate and peruse earlier amending Acts and provisions versions. Nothing will be lost and existing access to them will continue as before.

Clause 52 defines ‘amending legislation’. These are the provisions which do nothing more than amend legislation. They might change the wording of the text, for example, but once the change has been made they become redundant. The amending legislation is defined so it can be treated differently to enduring legislation, which includes all of the provisions which continue to have meaning and effect.

Similarly, clause 53 defines ‘amending provisions’, which are provisions in Manx legislation which do nothing more than make amendments or repeal legislation. They have no enduring purpose or effect.

Clause 54 provides for the repeal of all existing amending Acts and amending provisions if they have taken effect and are spent. This means they can be cleared off future reprint series. This will declutter future reprints, retaining the important enduring provisions, but removing the double-up of amending Acts and provisions that have already been fed into the relevant principal Acts.

Clause 55 provides a system for the future removal of amending provisions and Acts once they are spent. In future, amending provisions will be removed once they are used and the legislation will then remain focused on enduring provisions. A sleeker version of the Manx Statute book will be easier to read and cheaper to publish and maintain. An example of clause 55 in operation is the amendments and repeals under part 8. Once they have done their job and the Act promulgated, they will fall away because they will no longer be needed. Part 8 will not appear in future reprints of this Act. However, you can still always find it by going to this Act as passed in the hard copy annual volume or to the Act as passed on the Tynwald website or the Attorney General’s Chambers website. It will always be there if needed for historical purposes.

Mr Speaker, I beg to move that clauses 52 to 55 do stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question. Clauses 52 to 55: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 56.

Mr Watterson: Mr Speaker, clauses 56 to 59 deal with the operation of repeals and amendments.

Clause 56 states that an automatic repeal – discussed above for amending provisions – has effect for all purposes. This simply removes any argument that clause 57 might not apply for those repeals.

Clause 57 states that an amendment or repeal operates once and for all so that repealed legislation is not revived if the provision that repealed it is itself repealed – for instance, under the automatic expiry provisions under clauses 52 to 55. It is important that this provision is drafted effectively so there is no ambiguity at all about reviving material that has been repealed.

Clause 58 ensures that amendment or repeal of Manx legislation does not affect matters already underway and existing rights.

Clause 59 saves the continuing operation of repealed savings, transitional or validating provisions, so that amending legislation can be repealed without changing the law unintentionally.

Mr Speaker, I beg to move that clauses 56 to 59 do stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: I beg to second.

The Speaker: I put the question. Clauses 56 to 59: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 60.

Mr Watterson: Mr Speaker, clauses 60 to 68 provide a number of sensible default savings and transitional provisions, which will be useful when drafting new legislation. Again, these default provisions will streamline and simplify new legislation and support greater consistency of approach. They will be an important safeguard, particularly for the drafters of statutory documents. Transitional provisions are important because without them you can cut off the effect of existing laws being re-enacted. They do not stop bespoke transitional provisions from applying if the default provisions do not suit.

Clause 60 explains when the default savings and transitional provisions apply. Of course, it is always possible for specific provisions in new legislation to override the defaults if this is needed.

Clause 61 provides a number of defined terms which will help to abbreviate the savings and transitional provisions.

Clause 62 allows existing appointments to be retained for the remainder of their existing term.

Clause 63 transitions existing securities, information, documents and other things under the old legislation to corresponding provisions of new legislation.

Clause 64 transitions existing proceedings under old legislation to the corresponding provisions under new legislation.

Clause 65 preserves existing penalties and the rights to enforce them, unless they are mitigated or reduced in the new legislation.

Clause 66 provides that things done under the old legislation have the same effect and may be enforced under the new legislation.

Clause 67 converts general references in other legislation. This means that if general references to the old legislation exist in other Acts then these are converted to references to the new legislation. This clause also provides for construing references to discontinued bodies as references to their successors under the new legislation.

Clause 68 deals with specific references in other Manx legislation where things might be happening which normally rely on the legislation that is being repealed. For example, one Act might require a person to have a licence granted under the legislation that is going to be repealed. Clause 68 works to make sure that in these circumstances any specific references are transitioned to similar provisions in the new legislation. If there is no corresponding provision in the new legislation, the subclause (3) saves the old provisions for the extent this is needed for legal effectiveness. This is a sensible safeguard.

Mr Speaker, I beg to move that clauses 60 to 68 do stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: I beg to second.

The Speaker: I put the question. Clauses 60 to 68: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 69.

Mr Watterson: Mr Speaker, clause 69 provides a necessary clarification. It is sometimes argued that a statutory document amended by an Act cannot be amended or repealed by a later statutory document. Clause 69 is needed to remove doubt.

I beg to move that clause 69 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: I beg to second.

The Speaker: I put the question. Clause 69: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 70.

Mr Watterson: Mr Speaker, clauses 70 to 73 make general provisions for official reprints of Manx legislation. Importantly, official reprints will be able to be done for statutory documents as well as Acts. However, this is not an obligation, just a power. They do not have to be prepared if resources do not permit. It will streamline the current situation where several Departments have needed to prepare reprints of their legislation to administer it properly. However, they have no official status, but under these provisions they will.

Clause 70 gives the Attorney General power to authorise and publish versions of Manx legislation and other applied legislation and to authorise and publish correction of errors. These publications are collectively known as a reprint.

Clause 71 permits delegation of this power to the Chief Legislative Drafter or any other appropriately qualified person in the Attorney General's Chambers.

Clause 72 says the Attorney General may publish an official reprint of each reprint as a hard copy or electronically. As a safeguard, the Attorney General must ensure that electronic reprints are in an approved format and can only be accessed via an approved website.

Clause 73 gives an official reprint authoritative status in court and clarifies that there will be no need to print out a whole document to prove a particular provision is part of the official reprint. A declaration by the Attorney General, either incorporated into or associated with the reprint and relevant notes will be enough to prove the reprint is valid.

Mr Speaker, I beg to move that clauses 70 to 73 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second.

The Speaker: I put the question. Clauses 70 to 73: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 74.

Mr Watterson: Mr Speaker, clause 74 deals specifically with the treatment of amendments in reprints. Clause 74 states that a reprint must show all of the legislation in operation on a stated day, including all amendments to it that commenced on or before that day. Uncommenced amendments may be shown, but they must be differentiated and there must be a note stating that they have not commenced.

Mr Speaker, I beg to move that clause 74 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Mr Speaker, I beg to second.

The Speaker: I put the question. Clause 74: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 75, please.

Mr Watterson: Mr Speaker, clauses 75 to 77 provide for reprint changes.

Clause 75 states that changes can be made in reprints if these are minor changes, uncontroversial corrections or updates as set out in schedule 1. Schedule 1 includes such things as metric conversions and punctuation or spelling errors.

Clause 76 states that the Attorney General must approve all reprint changes and must consult with the Clerk of Tynwald before giving that approval. It also clarifies that any proposed change cannot change the effect of the text or renumber or relocate any provision.

Clause 77 clarifies the status of any reprint change, which is the same as if it had been made under an amending provision.

Mr Speaker, I beg to move that clauses 75 to 77 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker. I beg to second.

The Speaker: I put the question. Clauses 75 to 77: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 78.

Mr Watterson: Mr Speaker, clauses 78 to 80 deal specifically with reprint notes.

Clause 78 requires an official reprint to include, before the text of the legislation reprinted, notes stating that the Attorney General has authorised the reprint as an official reprint and the reprint date.

Clause 79 provides that a reprint must include endnotes giving details of amendments and corrections and changes at the end of the text.

Clause 80 enables reprints to include other notes to help users.

Mr Speaker, I beg to move that clauses 78 to 80 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second.

The Speaker: I put the question. Clauses 78 to 80: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 81.

Mr Watterson: Mr Speaker, clauses 81 to 85 establish the Legislation Consolidation Board. The Legislation Consolidation Board will oversee the drafting of Bills that consolidate but do not change the existing law.

Clause 81 establishes the Board.

Clause 82 describes the functions of the Board.

Clause 83 describes the composition of the Board.

Clause 84 sets out the powers of the Board.

Clause 85 deals with the scope of changes which can be drafted in a consolidation. A consolidation must not change the existing legislation's effect, but minor amendments can be made if the Board considers these are necessary or desirable to clarify Tynwald's intent in enacting the legislation or to reconcile inconsistencies between provisions.

I beg to move that clauses 81 to 85 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Obviously the process of consolidation is a very important one, and I have mentioned that previously.

I just wanted to remark that the composition of the Board in section 83 would perhaps have been drafted differently in a different era. Now it is two thirds Government and officers, half officers, and only one third Members of the legislative Branches of this Hon. Court, of the other place... I just wanted it on record that perhaps that needs to be reviewed at some point in the future.

The Speaker: Reply, sir.

Mr Watterson: I will disagree with that to an extent. I would say that it is one third Tynwald, one third Government and one third Crown. That would be the way that I would present it.
I beg to move.

The Speaker: I put the question separately on this occasion. Clause 81: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 82: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 83: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 84: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 85: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 86, sir.

Mr Watterson: Mr Speaker, clauses 86 to 88 establish the enactment procedures for consolidation Bills.

Clause 86 provides for the Board to certify to the Clerk of Tynwald that a Bill is a consolidation. Without this certificate, a Bill for a consolidation cannot be introduced.

Clause 87 provides for an abridged Tynwald procedure for consolidation Bills, once approved for introduction by the Council of Ministers. The Bill need not pass through any stages in the Branches of Tynwald so long as at least one sitting of Tynwald has passed since its introduction. If approved by Tynwald, it is taken to have been passed by both Keys and Council. An amendment may be moved only with the leave of the President of Tynwald or if the Board has certified in writing that the amendment is necessary to correct an error.

Clause 88 provides that if a consolidation is approved by Tynwald the Board must certify to the Governor that the Act is a consolidation and that any changes that effect existing legislation are minor or wholly due to amendments moved by Tynwald.

I beg to move that clauses 86 to 88 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second.

The Speaker: I put the question. Clauses 86 to 88: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 89.

Mr Watterson: Mr Speaker, clause 89 empowers the Council of Ministers to delegate its powers to make public documents under this Act to the Chief Minister. Such delegations are under the Council's supervision. They can be limited to particular things. Conditions can be imposed and are revocable at any time.

Clause 90 contains general regulation-making powers for the Council of Ministers for the purposes of the Act. This clause particularly empowers the Council of Ministers to make one-off ascertainment regulations for statutory documents so the public will know with certainty which ones are still in force. To do this, the regulations repeal all statutory documents except those in a stated published list. As a safeguard, the Attorney General is obliged to consult with the Clerk of Tynwald and do everything reasonable to identify existing documents. Also, Tynwald must approve draft regulations before they are made. Importantly, the provisions empowering ascertainment regulations are just powers. There is no obligation to make them if resources do not permit the preparation of such a list.

I beg to move that clauses 89 and 90 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second.

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

These are the two clauses that I do have some discomfort with, because it seems that more power is being centred and that, with the Council of Ministers delegating to the Chief Minister the powers, again it is just giving more power to one person.

I feel very uncomfortable with both of these clauses, Mr Speaker, but maybe the mover can set my mind at rest.

The Speaker: The mover to reply.

Mr Watterson: I am happy to set the Hon. Member's mind at rest because this does not introduce greater powers to the Chief Minister. What it does is when we go back to clause 24 and we talk about the power of executing documents and making documents, those are made normally under the hand of the Minister or chairman of the board responsible. What this says is that Council can delegate that power from the Minister to the Chief Minister. So in the absence maybe of a Minister, the Chief Minister could make that document on behalf of that Minister. So it allows for the Council of Ministers to delegate that power, as under clause 24, to the Chief Minister and may make regulations for when that power can and cannot be used. So that is the effect of the provision on clause 89.

The Speaker: I put clauses 89: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 90: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 91, sir.

Mr Watterson: Mr Speaker, clauses 91 to 94 provide for a small number of savings and transitional matters. Savings provisions preserve the effect of some things which have already happened. Transitional provisions carry over some elements of the old law to the new law where this is needed for legal effectiveness.

Clause 91 converts newspaper publication requirements under existing Manx legislation for notices and other matters by Government authorities. Generally, they are changed to a publication in the electronic gazette instead. The purpose of this clause is to streamline Government publications in the gazette and to reduce the costs involved in full newspaper publications.

However, to safeguard the interests of those who may be affected, if appropriate, reasonable steps must also be taken to bring the matter to the attention of the public or persons likely to be affected. Examples are given of when such steps will be needed. The example of 'reasonable steps' includes that of a newspaper publication under the existing requirement.

Clause 92 makes provision for the effect of existing reprints and notes. It transitions to this Act those made under the Reprints Act 1981 and clarifies the status of notes inserted under that Act.

Clause 93 applies the default savings and transitional provisions under part 4 of this Act for Acts this Act re-enacts.

Clause 94 declares that there is no revival of provisions which have been amended or repealed. This is a re-enactment of section 15 of the Interpretation Act 1976 in clearer terms.

Mr Speaker, I beg to move that clauses 91 to 94 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Does the Minister agree with me that clause 91 is actually a very important clause and that the precedent with respect to planning notices, given that this proposed clause is actually in line with the existing Order in planning, is actually very helpful? In other words, the notice is clearly in the gazette but reasonable steps might include adverts in newspapers and in other printed media or on the radio or in other places on the internet, to draw people's attention to the official notice which is in the electronic gazette.

The Speaker: Reply, sir.

Mr Watterson: Yes, Mr Speaker, I am happy to agree with the Hon. Member's comments, and of course would add to that that the yellow notices around a site in question would also add to that presumption of making sure that the information is available to individuals.

I beg to move.

The Speaker: I put the question. Clauses 91 to 94: those in favour, say aye; against, no. The ayes have it. The ayes have it.

At this point we will take the new clause in the name of the Hon. Member, Mr Skelly, and I call on Mr Skelly to move the clause in principle in the first instance.

Mr Skelly: Gura mie eu, Loayreyder.

This amendment inserts a new clause into the Bill to deal with the effect of the Transfer of Functions (Health and Safety) Order 2014. The amendment to the 2014 Order makes it clear that the only functions of the Department of Infrastructure which were transferred are those relating to health and safety and not, as might be thought in a literal reading of the original wording, all that Department's functions.

To be clear about this, the view of the Attorney General's Chambers at this point is that a court would not, even without the present amendment, have construed the words literally because they would produce a result which is obviously not the one which was intended in the drafting of the

Order. That said, they have also advised that it is desirable to deal with the matter once and for all and include revisions so the amendment which is now proposed is deemed always to have had effect.

Loayreyder, I beg to move the amendment standing in my name:

New clause

Page 49, after line 33 insert the following clause –

'95 Declaration about effect of Transfer of Functions (Health and Safety) Order 2014

(1) In Part 1 of the Schedule to the Transfer of Functions (Health and Safety) Order 2014, after "the Department of Infrastructure" insert "relating to health and safety".

(2) The amendment in subsection (1) is to be treated as having always had effect.'

In consequence of this amendment –

(a) change the heading for Division 2 of Part 7 of the Bill (page 48, line 14) to –

'DIVISION 2 – SAVINGS, TRANSITIONALS AND MISCELLANEOUS';

(b) renumber the subsequent clauses; and

(c) adjust cross-references accordingly.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

I beg to second and reserve my remarks.

The Speaker: I put the question that the new clause do form part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

I now ask the mover if he will move the clause in detail. Mr Skelly.

Mr Skelly: I beg to move the clause as stated.

The Speaker: Mr Henderson.

Mr Henderson: I beg to second.

The Speaker: I put the question that the new clause do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

The new clause, having been moved and approved, becomes new clause number 95. I therefore call on the mover to move the subsequently renumbered clauses, which will be starting at clause 96.

Mr Watterson: Thank you, Mr Speaker.

Accepting that the new clause 95 has been inserted, it may be easier for the reference of Members if I continue referring to them in the version as printed, if that is acceptable.

The Speaker: If that is agreed, I think that would avoid any confusion.

Members: Agreed.

Mr Watterson: It would make it easier for us all to refer to the document in front of us, sir.

Mr Speaker, clauses 95 to 98 as printed deal with repeals and related amendments.

Clause 95, as printed, repeals nine Acts, most of which have been re-enacted in this Act.

Clause 96 makes consequential amendments to three Acts which contain cross references about the filing and distribution of Manx legislation.

Clause 97 amends the Evidence Act 1871 to take into account the changes in this Act – for example, to give evidentiary value to the electronic gazette.

Clause 98, as printed, makes a series of miscellaneous amendments. A number of them relate to the enactment of the Tribunals Act 2006, the Bill for which had contained a schedule of consequential amendments. The schedule was deleted during the Bill's passage, leading to unnecessary overlaps and inconsistencies which the clause seeks to rectify.

Subsection (1) repeals the Douglas Library Act 1938, which is unnecessary in light of other local government provision enabling the maintenance of libraries. See section 333 of the Local Government (Consolidation) Act 1916. Mr Thomas queried this at Second Reading, and I am happy to inform the House that this repeal is at the request of Douglas Corporation, as it is felt there are more general powers authorising the maintenance of libraries that have been introduced since 1938.

Subsection (2) replaces the existing section 25 of the Rating and Valuation Act 1953 to make it read intelligibly, but also to remove material which, by virtue of the subsequent enactment of the Tribunals Act 2006, is unnecessary.

Subsection (3) updates a reference to the courts in England and Wales dealing with family matters.

Subsection (4) amends the Tourist Act 1975 to provide an appeal mechanism, which is compatible with the European Convention.

Subsection (5) removes a reference in the Control of Advertising Act 1981 to an Act which has already been repealed.

Subsection (6) amends the procedure for certain statutory documents under the Building Control Act 1991 to the affirmative Tynwald procedure.

Subsections (7) to (11) make amendments consequent on the enactment of the Tribunals Act 2006, relating to the procedure of a variety of tribunals which are now governed by that Act.

Subsection (12) amends the Tribunals Act 2006 at the request of the Appointments Commission to provide for greater flexibility in the appointment of Tribunal members to fill casual vacancies, to prescribe the procedure in relation to complaints about Tribunal members and to permit a member to continue to sit in relation to an appeal which began before the member's term would otherwise have expired where the appeal has not been determined before the appointment terminates.

Mr Speaker, I beg to move that clauses 95 to 98, as printed in the Green Bill, do stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker, I beg to second.

The Speaker: On clause 98, as printed, we have an amendment in the name of Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

This amendment to the Criminal Code of 1872 reflects the recent decisions around the Commonwealth that in future the eldest child of the Sovereign, regardless of gender, will be heir to the throne. Section 2 of the 1872 Code deals with the offence of high treason consisting of encompassing the death of the eldest son of the Sovereign being the heir apparent. Henceforth, the eldest son of the Sovereign will not necessarily be heir apparent, and this change is needed to keep the Criminal Code 1872 in line with the corresponding provision of the Treason Act 1351 (of Parliament). (*Interjection*) The 1351 Act will be modified by paragraph 1 of schedule 1 to the Succession of the Crown Act 2013 (of Parliament) after the last of Her Majesty's realms has approved the change to the succession, which is expected later this year. It is therefore desirable to keep our legislation on this subject in step with that of the United Kingdom.

Loayreyder, I beg to move the amendment standing in my name:

Amendment to clause 98

Page 52, after line 27 insert the following subsection —

‘(1) In section 2 of the Criminal Code 1872 for “the death of the eldest son” substitute “the death of the eldest child”.’.

Renumber the subsequent subsections of the clause and adjust cross-references accordingly.

The Speaker: Mr Henderson.

Mr Henderson: I beg to second, sir, and reserve my remarks.

The Speaker: I call on the Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

The amendment I propose to this is actually in line with the spirit of this Legislation Bill but it provides for a small amendment to the Government Departments Act, section 3, affecting delegations of functions and authorisations.

The amendment was drafted very kindly by the Attorney General’s Office, following my consultation with Tynwald’s officers, and is aimed to do two things, basically.

The first one is to provide a mechanism for Departments to make available in an easy way their delegations. For instance, they could be put in the Tynwald Library; and if anybody asked, they could be sent to the Tynwald Library to find them. The Department can do whatever it wants to make those delegations available, but this is a simple mechanism if procedures can be developed with the Tynwald Clerk and his staff.

The second objective is to establish a mechanism for correcting errors in delegations effectively by applying clause 37 of the proposed Legislation Bill, which deals for statutory documents, and it also covers things like making sure the validity of decisions made in a delegation, including errors, are not affected.

Issues have been raised about access to these delegations. A few are now available online – for instance, planning and building control ones – and others have been made available following a Government information code request, for instance all DoI ones. Moreover, all delegations which were current in October 2014 were summarised in a Written Answer in Keys on 28th October, but delegations and authorisations remain generally not available, although the principle has been established that they are public, as I have summarised. Tynwald would make these available, I believe, if they were laid before; thus the proposed mechanism in the amendment.

As has been pointed out in public, errors have been made in delegations and authorisations. The mechanism proposed provides a legal basis for corrections and a simple legal basis for corrections. Obviously legal drafting is difficult – for instance, this amendment had three errors in it when it first appeared on the Order Paper – but this process provides an easy, non-bureaucratic, simple, cheap way of actually correcting those.

Moreover, it is in line with the more modern version of the Council of Ministers arrangement put in place in Jersey, looking at our system as the basis. In Jersey, as I pointed out in an e-mail to Members, the approach that I have suggested is basically the one that was adopted. Delegations are actually made by ministerial decision and then presented as a report to the States of Jersey, which is the equivalent to laying before. A summary of all delegations in effect across departments is presented on a webpage in Jersey. Individual delegations are actually available in various ways by the departments following that procedure.

Back in October the Chief Minister was concerned that any system for publishing delegations would be bureaucratic, although he advised that Council of Ministers was working on a proposal to deal with apparent inconsistency between Departments. My proposed amendment is a simple one and would encourage efficiency if it minimised the consequence of drafting errors and facilitated access to the documents to those who request it.

I move:

Amendment to clause 98

Page 53, after line 21 insert —

'(6) Section 3 of the Government Departments Act 1987 is amended as follows —

(a) at the beginning of subsection (4) insert "Subject to subsection (6),"; and

(b) at the end add —

"(6) An authorisation under subsection (2) or (3) must —

(a) be in writing; or

(b) be evidenced in writing signed by the person giving it within 48 hours of its being given.

(7) A copy of a document giving or, as the case may be, evidencing, an authorisation under subsection (6) must be laid before Tynwald at the sitting following the giving of the authorisation, or the next following sitting.

(8) If Tynwald resolves, at the sitting at which a document is laid before it under subsection (7), that the authorisation to which it relates shall cease to have effect, that authorisation ceases to have effect from the end of that sitting.

(9) Subsection (8) does not —

(a) affect the validity of anything done in reliance upon the authorisation before it ceases to have effect; or

(b) prevent the making of a further authorisation in the same terms.

(10) Section 37 of the Legislation Act 2015 applies to a document laid before Tynwald under subsection (7) above as if —

(a) such a document were a statutory document to which section 32 of that Act applied; and

(b) section 37(2)(c) were omitted.".'

Remember the subsequent subsections of the clause and adjust cross-references accordingly.

The Speaker: Mr Hall.

Mr Hall: Thank you, Mr Speaker.

I beg to second the amendment in the name of Mr Thomas.

Given this morning that we have heard that the processes proposed are those used in modern Dependency and Commonwealth systems, and given that there have been issues in the last year and a half or so with delegations and the lawfulness and validity of the decisions made according to the delegation of functions inside them, it seems to me that we should support and vote for this amendment at this point.

I think that will give the opportunity for the Council of Ministers and also for the Departments and the Legislative Council – and perhaps the Clerk may confirm that, if necessary – to hear about the practicalities and any unintended consequences before a final decision is made on amending the Government Departments Act.

Thank you, Mr Speaker.

The Speaker: Hon. Member, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

Just briefly, I am happy enough to support the amendment too and just put on record that all the Ministers I have served under have given me good delegations.

The Speaker: I call on Mr Skelly to move the second of his two amendments.

Mr Skelly: Gura mie eu, Loayreyder.

This amendment is moved at the request of the High Bailiff in his capacity as Coroner of Inquests.

At present, if a person is charged with an offence of murder, manslaughter or causing death by dangerous driving, on their committal for trial to the Court of General Gaol Delivery any request into the relevant death is adjourned, and if the accused is convicted it need not be resumed. This is because the conviction of the Court of General Gaol Delivery disposes of all other questions before the Coroner under section 12(3) of the Coroners of Inquests Act 1987 – namely, who the deceased was and how and when and where... how he or she came by his or her death.

At present, where a person is convicted of causing death by careless or inconsiderate driving, causing death by careless or inconsiderate driving whilst under the influence of drink or drugs, or causing death by driving whilst unlicensed, uninsured, or disqualified, the Coroner of Inquests is obliged to resume the inquest after the conviction of the accused.

These new offences were added to the Road Traffic Act 1985 by the Road Traffic and Highways (Miscellaneous Amendments) Acts 2012. The consequential amendment of the 1987 Act was missed and this amendment rectifies the position and brings the treatment of these offences into line with other motoring offences which cause death as an integral part.

Loayreyder, I beg to move this amendment standing in my name:

Amendment to clause 98

Page 53, after line 21 insert the following as the next numbered subsection —

'() In section 13 of the Coroner of Inquests Act 1987 —

(a) in subsection (1)(a)(ii) after "section 1" insert "2B, 3A or 3B"; and

(b) in subsection (6)(b) —

(i) after "section 1" insert "2B, 3A or 3B"; and

(ii) for "(causing death by reckless driving)" substitute "(causing death by driving in certain circumstances)".'

Remember the subsequent subsections of the clause and adjust cross-references accordingly.

The Speaker: Mr Henderson.

Mr Henderson: I beg to second, sir, and reserve my remarks.

The Speaker: I call on the mover to reply to the debate.

Mr Watterson: I was not sure if any other Member wanted to —

The Speaker: I will give the movers of the amendments... I beg your pardon, Hon. Member. Mr Skelly, do you wish an opportunity to reply? I am not sure there is a lot to reply to.

Mr Skelly: No.

The Speaker: Mr Thomas.

Mr Thomas: Just to thank my seconder and for the support of Mr Quirk.

Even going through the Legislation Bill now there are a couple of clauses that actually suggest delegations that could perhaps be included. There might be practical issues, there might be unintended consequences, but I hope that, for the reasons identified by my seconder, the House will support the amendment today, and then they can be looked at before they come back from the Legislative Council, given that the House will be amending something that the Legislative Council has already approved, I believe.

The Speaker: Mr Watterson to reply.

Mr Watterson: Thank you, Mr Speaker.

I appreciate the outcome which the Hon. Member for Douglas West, Mr Thomas, seeks in his amendment to clause 98 as printed. He seeks clearer delegations and public delegations. These are certainly good intentions, but I feel there are a couple of key elements which I need to raise as to why Members should resist this amendment.

Firstly, I do believe it will create considerable bureaucracy. Members will appreciate that Ministers' functions are delegated to Members and officers all of the time. They can be as significant as deputising for a Minister in their absence, or delegating responsibility for a Division of Government, down to a delegation to another Minister to determine a planning appeal or to permit an officer to exercise an administrative function. To have each of these copied 48 times in paper and delivered through the Clerk of Tynwald's Office to be laid at the next available sitting of Tynwald would be onerous in the creation of paperwork and something of a sledgehammer to crack a nut.

Secondly, these delegations, or ones that people are interested in, are quite freely available through a Freedom of Information request. This is, I believe, a tried and tested method which means that delegations can be opened up to public scrutiny and, if required, legal challenge.

I have not had the opportunity to compare Jersey's use of delegations to ours, so I cannot fully respond on that point; but I would argue that a delegation is an administrative function, not a legislative function. Who actually exercises the power is not a matter of law but a matter for administration. The relationship between the Department as decision maker and the person at the receiving end of that decision does not change. The Department is still liable for its actions whoever lawfully exercises the powers vested in the Department. To give delegations a legislative character is to misrepresent their purpose; to publish many when few, if any, will be of interest is wasteful; and to lay them before Tynwald is unnecessary as the law is not changed, nor is the relationship between the body responsible for the decision and the person receiving that decision.

I do, of course, support the amendments in the name of my colleague, Mr Skelly, and would clarify that references in his speech to the heir apparent are nothing to do with the former Member, Mr Delaney!

The Speaker: Hon. Members, we are dealing with clauses 95 to 98. I intend to vote on them separately.

Clause 95, as printed: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 96: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 97: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 98: we have three amendments, two in the name of Mr Skelly and one in the name of Mr Thomas. Taking Mr Skelly's first amendment: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Taking Mr Skelly's second amendment: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Thomas's amendment: those in favour, say aye; against, no. The ayes have it.

Division called, we are voting on Mr Thomas's amendment to clause 98.

Electronic voting resulted as follows:

FOR

Mrs Beecroft
Mr Cannan
Mrs Cannell
Mr Hall
Mr Houghton
Mr Quirk
The Speaker
Mr Thomas

AGAINST

Mr Anderson
Mr Bell
Mr Cregeen
Mr Cretney
Mr Crookall
Mr Gawne
Mr Henderson
Mr Quayle

Mr Robertshaw
Mr Shimmin
Mr Singer
Mr Skelly
Mr Teare
Mr Watterson

The Speaker: With 8 votes for and 14 against, that amendment therefore fails to carry. Clause 98 then, as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members, that deals with the clauses.

Before we move on, just for the avoidance of doubt, the schedules at the back of the Bill.

First of all, schedule 1 which was introduced by clause 75, may I have that moved formally. I appreciate that, in moving clause 75, it was implicit; but I think it would be very helpful, for the record, to ensure that schedule 1 has been formally moved.

Mr Watterson: Certainly, Mr Speaker, if that assists the business of the House.

In accordance with the speech I gave at clause 75, I beg to move that schedule 1 stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second.

The Speaker: Those in favour of schedule 1, please say aye; against, no. The ayes have it. The ayes have it.

Schedule 2, which was implicitly introduced in section 7: may I just have a formal move, please.

Mr Watterson: I know that clause 2 was *explicitly* moved as part of it, but if you would like me to do it again, I would happily do it again.

The Speaker: For the avoidance of doubt.

Mr Watterson: I beg to move.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second.

The Speaker: Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Thank you, Hon. Members. That concludes the clauses stage of the Legislation Bill.