

## 4.2 Interpretation Bill 2014 – Clauses considered

**The Speaker:** The next Item on the Order Paper is consideration of clauses of the Interpretation Bill, which once again is in the hands of Hon. Member, Mr Watterson.

I invite Mr Watterson to move clause 1, please.

**Mr Watterson:** Mr Speaker, clause 1 gives the short title of the Bill.

Clause 2 provides for commencement of the substantive provisions of the Act by Appointed Day Order. The title clause and this clause commence on the announcement of Royal Assent.

Clause 3 sets out the Act's main purpose and I set out the reasons for this at the same stage in the Legislation Bill.

Clause 4 clarifies 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 these. Clause 4 states overtly that these conventions still apply.

Clause 5 clarifies that this Act is to be read together with the Legislation Act. Together, the two Acts provide an up-to-date consolidated version of all Manx legislation related to 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 machinery of maintaining the Statute Book is easier to use. The provisions in the Legislation Act relate primarily to the machinery of maintaining the Statute Book, and these provisions are more useful to Government agencies that are tasked with the job of developing and maintaining legislation. Clause 5 also clarifies overtly that both Acts will apply to all Manx legislation and 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.

Clause 6 simply provides for a sensible exception to clause 5, so it remains possible to tailor legislation, if required, to specific circumstances.

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.

Finally, Mr Speaker, clause 8 introduces the definitions specific to this Act, which are set out in paragraph 2 of the schedule.

Mr Speaker, I beg to move that clauses 1 to 8 and paragraph 2 of the schedule stand part of the Bill.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, sir.

**The Speaker:** I put the question that clauses 1 to 8 and paragraph 2 of the schedule stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

**Mr Watterson:** Clause 9 defines the terms 'Manx legislation' and 'statutory provision'.

Clause 10 defines the term 'Act' and simplifies the process for referring to Acts in other legislation.

Clause 11 defines a Manx enactment and creates a safe default position that a reference to a Manx enactment includes a reference to any public document in operation under that enactment. This means the Interpretation Act will make it easier to draft and interpret public documents as well as Acts and Regulations. It will help to standardise terminology in public documents across Government, which will make them easier to read and understand. It will also save Departments time in drafting new or updating old public documents.

Clause 12 defines the term 'provision'.

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 referent to the instrument as so amended, extended or applied. This provision is a re-enactment of the 1976 Interpretation Act and works well to facilitate integration of EU instruments when required.

Clauses 15 to 18 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 the 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.

Mr Speaker, I beg to move that clauses 9 to 18 do stand part of the Bill.

**Mr Quirk:** I beg to second, sir.

**The Speaker:** I put the question that clauses 9 to 18 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 19.

**Mr Watterson:** Mr Speaker, Clause 19 introduces a new division of the Act, 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 to note these.

Clauses 20 to 22 define what forms the text of Manx legislation and clarify what is included in the text and what specifically is excluded.

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 these exist.

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.

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 you use a particular example this might limit the provision. Clause 24 removes this concern by clarifying 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 for that schedule. This is the provision in the Act which provides for having the schedule. Clause 26 clarifies 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.

Mr Speaker, I beg to move that clauses 19 to 26 stand part of the Bill.

**Mr Quirk:** I beg to second, sir.

**The Speaker:** I put the question that clauses 19 to 26 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 27.

**Mr Watterson:** Mr Speaker, clause 27 introduces the next part of the Act, which deals with aids to interpretation. Clause 27 clarifies that this part of the Act applies to all Manx legislation.

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 repetition of the 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.

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

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 account of predecessors and heirs.

Clause 33 provides that words indicating one gender include other genders.

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.

Clause 34 provides for terms such as 'anyone' and 'someone', which refer to persons generally but do not use the word 'person' specifically. Clause 34 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 30 will ensure that this presumption is subject to context to avoid nonsense interpretations. If the legislation in question is about something only a human being can physically do, the presumption will be rebutted by the context.

Clause 36 provides that the term 'may' allows for discretion. If you 'may' do something, then 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.

Similarly, 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', but dictionary definitions apply greater flexibility so there is a need to remove potential ambiguity. Clause 37 clarifies that 'shall' is to mean 'must'.

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-referenced 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.

Mr Speaker, I beg to move that clauses 27 to 40 and paragraph 1 of the schedule stand part of the Bill.

**Mr Quirk:** I beg to second, sir.

**The Speaker:** Mr Thomas.

**Mr Thomas:** Thank you very much.

Perhaps the Minister could advise, Mr Speaker, how terms were chosen for definition in the first paragraph of the schedule. For instance, given today's decision, for the time being, not to take a great deal of care about delegations and authorisations, and given clause 71 of the Legislation Bill, which uses different terms – it uses 'delegation' and 'nomination' rather than 'delegation' and 'authorisation' – perhaps the Minister can undertake to go back and revisit the need to define the terms 'delegation', 'authorisation' and 'nomination' as another approach to dealing with the potential for severe and significant embarrassment when using delegations, authorisations or nominations.

**The Speaker:** Hon. Member, Mrs Cannell.

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

I have just got a query on page 25, clause 33:

'Gender  
Words indicating a gender include other genders.'

– if the Minister could further explain what is intended by that kind of wording.

**The Speaker:** Mover to reply.

**Mr Watterson:** Yes, in reverse order, the Hon. Member will be used to seeing in legislation the term 'man includes references to women and vice versa'. This really just puts that as the default position in legislation.

In terms of Mr Thomas's point, most of the definitions in the schedule are imported from the 1976 Act, which is largely repealed by this Act... *[Inaudible]* will be dictionary definitions.

In terms of his point about authorisations, delegations and nominations, I will take advice before Third Reading on that as to whether there is any complexity there that needs to be ironed out.

**The Speaker:** I put clause 27. Those in favour of clause 27, please say aye; against, no. The ayes have it. The ayes have it.

Clause 28, including paragraph 1 of the schedule. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We will now take clauses 29 to 32 inclusive. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 33: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 34 to 40 inclusive: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 41, sir.

**Mr Watterson:** Mr Speaker, clauses 41 and 42 are aides to the interpretation of references within Manx legislation. It is not unusual for one provision in the legislation to reference other provisions.

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, throughout 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.

Clauses 42 to 45 provide a number of general aides 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 definitively 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 the legislation was not written just for one point in time but is intended to apply in an ongoing sense.

Clause 45 provides that changes in drafting practice should not 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 that 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 a 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.

Clauses 46 to 51 provide clarification of time and distance terms within Manx legislation. As with many of the provisions in this Act, they are somewhat self-evident but require statement. They are sensible default positions 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 states that references to Tynwald Day or the special sitting of Tynwald Court will cover when the sitting is to take place in a particular year and 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 1976 Interpretation Act.

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 a licence within seven days you are still obliged to renew your licence even if you have not done so within seven days.

Mr Speaker, I beg to move that clauses 41 to 51 stand part of the Bill.

**The Speaker:** Mr Quirk.

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

**The Speaker:** I put the question. Clauses 41 to 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 54 provide for interpretation of offence provisions. 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 clarifies that if an offence is created by a 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.

Clause 54 provides for the liability of officers of bodies corporate.

Clause 55 introduces the concept of a standard scale of fines for offences which are punishable summarily. This will in future enable fines to be increased *en bloc* to deal with changes in the value of money.

Subsection (1) defines the maxima for the various levels on the standard scale.

Subsection (2) provides that a reference in a Manx enactment to fine of a specified level on the standard scale is a reference to the level on the scale in subsection (1).

Subsection (3) provides a power for the Council of Ministers to vary by order, subject to Tynwald approval, the standard scale, having regard to changes in the value of money.

Subsection (4) aligns existing maximum fines to those on the scale, other than those fixed by reference to a daily rate.

Subsection (5) increases the fines to which subsection (4) applies to the next upward level in the scale above the existing maximum fine in force on the commencement of the provision.

Subsection (6) contains a reserve power for the Council of Ministers to prescribe a different maximum from that which would otherwise apply under subsection (5).

Subsection (7) increases certain very high fine maxima to mirror the changes made by the section and expresses them as multiples of level 5 on the standard scale.

Subsection (8) provides a general maximum for fines on summary conviction of £5,000, but it does not apply by virtue of subsection (9) if the fine is a daily one, or if a maximum penalty in excess of £5,000 already applies when the section comes into operation.

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 easy-to-read shorthand for stating penalties in legislation.

Mr Speaker, I beg to move that clauses 52 to 57 stand part of the Bill.

**The Speaker:** Mr Quirk.

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

**The Speaker:** I put the question. Clauses 52 to 57: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 58, sir.

**Mr Watterson:** Mr Speaker, 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.

Clause 60 makes similar provision for service of documents on bodies corporate and other associations.

Clause 61 makes provision for electronic service, not covered in the 1976 Interpretation Act. Updated provision for electronic service of documents beyond that provided in the Electronic Transactions Act 2000 is critical to effective 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 emails 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.

Clause 63 provides for service by prepaid post.

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 of 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 the requirement to complete a form is not obligatory if the information requested is not relevant for any purpose of the form. Importantly, clause 66 specifies, 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 driver's 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.

Clause 67 provides that words and expressions used in public documents have the same meanings as 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.

Mr Speaker, I beg to move that clauses 58 to 68 do stand part of the Bill.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, sir.

**The Speaker:** I put the question. Clauses 58 to 68: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 69.

**Mr Watterson:** Mr Speaker, 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. 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 provision 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.

Clauses 72 to 75 provide for exercise and delegation of the 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.

Mr Speaker, I beg to move that clauses 69 to 75 do stand part of the Bill.

**The Speaker:** Mr Quirk.

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

I beg to second, sir.

**The Speaker:** I put the question. Clauses 69 to 75: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 76.

**Mr Watterson:** Mr Speaker, 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 acting in that position, they can exercise the powers of the office without requiring a personal delegation.

Clause 77 provides for 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.

Clause 78 enables the Civil Service Commission or the Chief Minister or another 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 the deputy must be suitably qualified.

Clauses 81 to 85 deal with the power to charge fees. These are simply a modernised re-enactment of the 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's concurrence.

Clause 84 sets the 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.

Mr Speaker, I beg to move that clauses 76 to 85 stand part of the Bill.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, sir.

**The Speaker:** Mrs Cannell.

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

On page 45, clause 80 – deputies, the power to deputise – I am just wondering... If this legislation goes through and gets Royal Assent, then it will make the formality of perhaps deputising someone to act in the name of the Chief Minister, for example... It would make it legitimate in law for that to happen, so that a deputy can be appointed in the absence of the Chief Minister – or indeed a deputy can be added in the absence of any Minister of any Department, according to the wording of this.

I am just wondering: if this makes it lawful, what is the position now? Is it *unlawful* to actually deputise? There is no power, is there, in legislation currently to actually deputise someone to take on the role as Minister, other than a power within the Council of Ministers Act? So I am just wondering: will this rectify a deficiency that we currently have in law; and what do we currently have in law?

Thank you.

**The Speaker:** Mover to reply.

**Mr Watterson:** Yes, certainly at the moment there is already the power under legislation for somebody else to exercise the functions of an office. So, to take a recent example, during the indisposition of the Chief Minister the Treasury Minister was authorised to exercise some of the functions of the Chief Minister that were not otherwise provided elsewhere by law. So, for example, a function that cannot be delegated in that respect would be under the Interception of Communications Act, where that Act says that in the absence of the Chief Minister the Minister for Home Affairs deals with interception of communications warrants. But it is perfectly legitimate at the moment for the Chief Minister to delegate that to another Minister and for a Minister to delegate it to another Member of a Department to exercise their functions in their absence. Indeed, this is done on a regular basis and is done either by standing delegation or by delegation on an as-you-go basis, depending on the desire of the Minister.

So it does currently happen at the moment and it is currently legal. This basically, I think, possibly explains it and sets it out in a clearer way – in a way that maybe has not been done before, and hence the wording may be new to Hon. Members.

I beg to move.

**The Speaker:** I will take clauses 76 to 79 inclusive. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 80: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 81 to 85 inclusive: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 86.

**Mr Watterson:** Mr Speaker, clauses 86 to 94 provide for powers relating 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 the 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 the 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 the 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 office 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 the 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 whatever 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.

Mr Speaker, I beg to move that clauses 86 to 94 stand part of the Bill.

**The Speaker:** Mr Quirk.

**Mr Quirk:** Thank you, Mr Speaker.  
I beg to move, sir.

**Mrs Cannell:** Beg to *second*.

**The Speaker:** I put the question. Clauses 86 to 94: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 95.

**Mr Watterson:** Mr Speaker, 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.

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 the Act. Public document-making powers are delegable to the Chief Minister and appointment powers are delegable to any Minister or to appropriately qualified civil servants. These delegations are under the Council's supervision. They can be limited and conditioned and are recoverable at any time.

Clause 98 provides for the general regulation-making powers of the Council of Ministers, a 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.

Mr Speaker, I beg to move that clauses 95 to 98 stand part of the Bill.

**The Speaker:** Mr Quirk.

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

**The Speaker:** I put the question. Clauses 95 to 98: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 99.

**Mr Watterson:** 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 that enactment.

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

Clauses 104 to 106 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.

Clause 107 makes miscellaneous amendments and corrections to the rest of the Manx Statute Book, mainly in consequence of the other changes made by the Bill or the Legislation Bill 2015.

Mr Speaker, I beg to move that clauses 99 to 107 do stand part of the Bill; and should I not get the opportunity, may I thank my seconders throughout the process of moving these two Bills and Hon. Members for their assistance and co-operation in moving them.

**A Member:** Hear, hear.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, Mr Speaker, and I thank the Minister.

**The Speaker:** There is an amendment to clause 107 in the name of Mr Skelly.

**Mr Skelly:** Gura mie eu, Loayreyder.

This amendment makes a change to the European Communities (Isle of Man) Act 1973 as a consequence of a change in the meaning in all Manx legislation of the term 'statutory provision'.

Until now, it has included any provision in an enactment of the UK Parliament or an instrument of the legislative character under such an enactment which applies to the Island. This causes some tension in the construction of UK legislation applied to the Island, and accordingly the present Bill limits the meaning of 'statutory provision' to provisions of Manx Acts and Statutory Documents made under them. Without the amendment to the European Communities (Isle of Man) Act 1973, we would need to pass new primary legislation on each occasion when an EU obligation required an amendment to be made to UK legislation applying to the Island. The present amendment merely preserves the *status quo*.

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

*Amendment to clause 107*

*Page 59, after line 26 insert —*

*'(7) In section 2A of the European Communities (Isle of Man) Act 1973 —*

*(a) in subsection (1) for "the provisions of any other statutory provision" substitute "any other rule of law applying to the Island,"; and*

*(b) in subsection (3) for “repealing or amending any provision of any statutory provision (other than this section)” substitute “repealing, amending or modifying, in its application to the Island, any rule of law (other than this section)”.*

**The Speaker:** Mr Henderson.

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

**The Speaker:** Does the mover wish to reply? In that case, we shall vote on the clauses.

First of all clauses 99 to 106 inclusive: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 107. First of all, the amendment in the name of Mr Skelly: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 107 as amended, then: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members. That brings us to the end of the clauses stage of that particular Bill.