

7. CONSIDERATION OF CLAUSES

7.1. Financial Intelligence Unit Bill 2015 – Clauses considered

Mr Watterson to move.

The Speaker: Please be seated, Hon. Members.

Having reached and concluded Item 6, we turn now to Item 7, consideration of clauses.

The first Bill is the Financial Intelligence Unit Bill and I call on the mover, Mr Watterson, to move clauses.

Mr Watterson: Mr Speaker, part 1 of the Bill, containing clauses 1 to 3, relates to the introduction to the Bill, and I would like to move these clauses together.

Clauses 1 to 3 give the short title of the Bill, commencement date and interpretation of certain terms within the Bill.

I beg to move that clauses 1 to 3 stand part of the Bill.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: Hon. Members, I put the question that clauses 1, 2 and 3 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Watterson: Mr Speaker, clause 4 establishes the Financial Intelligence Unit as a body corporate, and in schedule 1 makes provision for its constitution, functions, director, board and staff.

I beg to move that clause 4 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: I put the question. Clause 4: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Watterson: Mr Speaker, clause 5 sets out the general function of the Financial Intelligence Unit.

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

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg to second.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I had some notes given to me after the Second Reading stage and I think, under the general functions of the FIU, that I should raise them with the mover now, if that is all right. (**Mr Watterson:** Or earlier.) I am sorry, I should have tried to get them to him before this clauses stage.

Could the mover just explain ... Currently, as it stands, we already have a Financial Crimes Unit of the Isle of Man Constabulary and members of the Isle of Man Customs and Excise, both of which deal with the criminal offences either individually or jointly ... based on what appears to be ceasing and being replaced by a Financial Intelligence Unit. Is that the case?

If that is the case, if it is said that the unit is to be created, thus the cessation of the foregoing Constabulary and Customs, it has to be asked are the seconded members of the staff still remaining in their respective units – in other words, the staff roll, i.e. the current staffing numbers for police officers at 211? Will this be a reduction of ... whether the numbers are transferred?

Similarly with the Constabulary, could they have the same number of officers on paper, when in reality a number of them would have been transferred to this new unit? Thus, in the situation with this new unit, will they still be there to be available for other police requirements – the likes of the TT, Grand Prix and murder investigations?

Can he just explain: by joining the Financial Intelligence Unit, are they still part of the police service as far as the people who now go to this new Financial Intelligence Unit?

The question has to be asked about should all seconded police and customs officers be effectively replaced by additional personnel to replace the units to keep their entitlement of the allowed staff, i.e. the likes of the Police Force with its 211 officers.

The other issue that I think needs to be raised on the general function is the issue that, from reading the proposal, it seems that they are creating some super-being of investigation to the detriment of the basic man-in-the-street requirements. Will this superpower deem itself humble enough to be able to deal with the basic issue of the present Financial Crime Unit – such as dealing with basic cheque fraud, low-value fraud, red diesel infringements, evasion of excise duties – or will we be creating yet another level of where we end up with people ending up in a situation out in the public being told by public services ‘It is not a job for us’, so avoiding their responsibilities?

In the general functions, as far as this clause is concerned, can we have some assurance that we are not trying to create some sort of Isle of Man FBI or equivalent higher investigation unit? Maybe that is being a little bit unfair to them. What safeguards are we going to have if the situation as far as basic crime is concerned ... Will this be an excuse, by creating this new Financial Intelligence Unit, that we end up with the abrogation as far as the responsibility in respect of low-value crime? (**Mr Watterson:** No.) Where this super-unit is going to deal with the low-volume ... who is going to deal with the low-volume crime? Who will be responsible? Will it be the new Financial Intelligence Unit, or will it be the old Financial Crime Unit, if there is going to be still ... that to be the case?

And of course, obviously, this situation as far as dealing with the priorities ... Whilst the finance sector is the most important part of the economy of the Isle of Man, and I totally agree that ... I can understand why this has to be developed, but I just want to know, under the general functions of the FIU, that we are not going to end up with a situation where we end up with officers who are not in any Financial Crimes Unit, and ordinary officers on the street and customs officers who do not have the experience or the expertise in order to do the low-volume sort of stuff that maybe would not be cast on a national basis, so making sure that the public does not end up in a situation of losing out.

There was talk in the explanatory memorandum that the cost for creating this new unit is allegedly neutral and no one is actually saying where the finance is coming from to pay for it, but one is concerned that with the likes of the general functions, will the police and the customs budget be cut in order to fund the functions as far as the new Financial Intelligence Unit is concerned? How does the Minister reconcile the fact of the cost to the taxpayer envisaged by this super-unit, and how will the low-level matters be considered if there is an issue as far as cost implications ... that the general crime things that need to be done will be dealt with? So I just would like to know, on the

general functions, that the remaining police and customs officers ... Will there be a reduction in budget for them to deal with the more day-to-day issues of financial crime?

I would also be interested to know exactly ... with the establishment exactly what this super-unit is going to do as far as ... Is it just going to do merely the intelligence gathering, or is it going to actually be proactive and conduct investigations resulting in arrests? And what assurances can we have that in the general functions, as far as the Financial Intelligence Unit, it does not just end up being another quango and appear as empire-building locally and overseas with no real benefit as far as the Island is concerned, allowing for the fact that I understand the financial problem we have got and the issues of standards outside have pushed this proposal?

As far as the general functions and this clause are concerned, the proposed structure of this unit, the seconding of police and customs, which will effectively remove them from their serving units is especially concerning, considering the issues of where do they stand as far as internal discipline codes are concerned.

Mr Watterson: Have you read it?

Mr Karran: Whilst not being a serving member of the Police Force, will they end up with this Financial Intelligence Unit being more akin to the Treasury than the Police Force as far as that is concerned? And what will be the situation as far as people working for the Financial Intelligence Unit? Will they be under the same stringent disciplinary codes that are practised at the present time, as far as the police and customs officers are concerned? Or will this new super-unit have some different proposals as far as that is concerned?

I think it is important that these points need to be clarified. I think also when we talk about ... I could go on to clause 6 at a later date, but because it is the general functions ... we are creating this super-unit where it is currently believed that there are insignificant funds available at the moment to undertake the requirements of financial investigations on previous failures. For example, I am sick of having people complaining to me about Louis Group persons, where there have been documented and questionable financial irregularities.

Mr Watterson: A point of order, Mr Speaker. I believe the Hon. Member may be straying into a live case.

The Speaker: Yes, would you confine your comments to the clause, Mr Karran, please.

Mr Karran: I am not going to raise the issue of a live case, but what I am concerned about, and I have tried to get away from this, is the fact that we have got a Financial Crimes Unit which is not properly funded and now we are going to have a Financial Intelligence Unit. What I am concerned about, Vainstyr Loayreyder, is ... I have got no problem with the principle that we have got to keep our international standards as far as an international finance sector, but what I am concerned about is that we do not end up creating an unnecessary tier of bureaucracy led by a director or board of governors and a number of chiefs and no indians. Because the problem I am concerned about, about the general functions, is I do feel that it is important that we do need to have costings as far as this issue is concerned, and what I am concerned about is that whilst I voted for the Second Reading of this Bill, I do think we need in *Hansard* some assurances that this Bill is not going to end up being to the detriment of the public as far as the justice system is concerned, because at the present time we have got a Financial Crimes Unit ... If it is going to stay, what duplication is going to happen? What staffing is going to happen? As we do have a number of people who are concerned that the present Financial Crime Unit has not got sufficient resources to do the job, how can you reassure us by setting up the general functions of the Financial Intelligence Unit that we are going to actually have the resources to create this new – some would say ‘quango’ – body to make sure that we have got the resources to enhance, not just end up doing another window-dressing exercise, where things

actually become less apparent as far as getting justice is concerned because of the problems of cutbacks.

I would be interested, in the general functions, if maybe at the Third Reading stage he could come back with the sort of costings that ... because none of this is passed in this legislation with the general principles of bringing this in unless it is well thought out and well costed, as far as the proposals. I know if it is the price of the financial sector, obviously it is a price that we have got to pay, and I am not arguing that point. What I am arguing is that I am fearful that the ... Some of us have complained bitterly about the problems with the Financial Crime Unit and making sure that that will be protected as well as ... and that will not be to the detriment to this Financial Intelligence Unit, and I would just like the mover to consider those points particularly, now and at the Third Reading stage.

The Speaker: I call on the mover to reply.

Mr Watterson: I appreciate that the Hon. Member has stood up and said that he has not had the opportunity to pass on those notes to me before now, which is a bit of a shame, but I am also concerned that whoever the notes have come from has not read the Bill, *(Interjection by Mr Karran)* and the speech also implies that the Hon. Member has not read the Bill. *(Interjection by Mr Karran)* Well, I have to say that the Hon. Member has raised issues about how the FIU's staff are going to be reporting through for line management purposes. Well, that is all here. It is in part 4, schedule 1 of the Bill, which was covered in the previous clause: how it is parred with the Public Service Commission; however, police officers will still be responsible for disciplinary matters back to the Chief Constable. It is all in here. I do not think it needs clarifying any more than a read of the Bill would clarify.

If the Hon. Member wants to send me those notes I will make sure he gets a response in writing ahead of Third Reading – although I cannot actually ahead of Third Reading, because of course I sent an email round to everybody last Thursday, that because of the timetable for Moneyval I am hoping to get Third Reading dealt with today. That was something that I raised with all Members last week and again at the presentation on Monday, to see if there were any concerns about that, because the timetable for Moneyval means that we would want to get Royal Assent for this prior to their visit, in order to make sure that we are able to have that recognised. But I will certainly make sure he gets answers to his questions, even if it is not by Third Reading. I will answer as many as I can now, anyway, because it is important that the answers are on the record, and to that extent I do agree with the Hon. Member.

This is about the separation of what is currently the Financial Crimes Unit. Part of that goes into this new body. Even the board of directors are not new staff. There are no lay members on this board. They are people already employed by Government, as will the staff be who move into it. As time goes on, I expect that there will be a better mix of staff on there, so that you will not just have police officers and customs officers but you may end up, say, dropping one out of one category and maybe employing an accounting or a lawyer or someone like that down the line as the FIU's needs change and evolve.

So there are no new staff, there is no new budget. Even the director post I think has been freed up from the Attorney General's Chambers, as I understand it, to provide the person who will lead the organisation. Those bits that remain and the low-level offences that the Hon. Member talks about will be dealt with by CID and the remainder of the police officers who are not going on to the FIU come back into CID and it will be them who will be dealing with the low-level cheque fraud and the other issues that he raises. This does, however, mean that they will be better able to focus on complex financial crime and the low-level things will continue to be dealt with by the Police and the CID unit at Police Headquarters.

I think a lot of those questions come back to those main threads, actually: no new money, reallocation of existing staff, reallocation of existing budgets, of course it will be proactive, of course it will investigate, and I have mentioned about Moneyval as well.

So, with that commitment to give the Hon. Member the answers for any detailed questions, I beg to move that the clause standing in my name stand part of the Bill.

The Speaker: I put the question that clause 5 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

Mr Watterson: Mr Speaker, clause 6 sets out the general powers of the Financial Intelligence Unit and defines 'appropriate person' in respect to clause 6(1)(a).

I beg to move that clause 6 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, seconded.

The Speaker: I put the question. Clause 6: all in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

Mr Watterson: Mr Speaker, the main purpose of clause 7 is to define who the Financial Intelligence Unit can share information with relating to financial crime within its possession and control.

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

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, seconded.

The Speaker: I put the question. Clause 7: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

Mr Watterson: Mr Speaker, clause 8 makes provision for general operational control and, through schedule 1 to the Bill, that the staff of the FIU and any other officers serving with the FIU are under the control and direction of the FIU. This means, for example, that any police officer serving with the FIU cannot be removed from the FIU to deal with other policing issues, as mentioned by the Hon. Member.

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

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg to second, reserving my remarks.

The Speaker: Mr Karran.

Mr Karran: Thanking the Minister for his highlighting, I am concerned that, whilst I totally agree we have got to do Moneyval and there is no question about that, I am concerned about the fact of

justice and the fact that ... what is the security we are going to have that the things that are more mundane, to do with basic fraud that is not to do with the finance sector, will not become a poor second as far as trying to sort those issues out, particularly with the fact that if we are going to see a detrimental effect as far as the Financial Crimes Unit, we are going to have ... You need experience for these things. If you put me down in front of a balance of accounts, and the likes of yourself being an accountant, obviously they are far better off with somebody like you looking at those accounts than the likes of me on that issue.

I totally agree we have got to get these engines going, but what I am concerned about is making sure that there is some sort of assurance that with this Financial Intelligence Unit there will not be a situation where there will be an abrogation as far as the low-lying fraud issues and the other issues that should be addressed, which I have raised in here today as far as my constituents are concerned.

I just feel that he needs to ... What assurances are we going to have that we are not going to end up with a super-duper situation and then find that the ordinary people's small – but significant to those individuals – fraud will not be resourced and paid for in order to get justice?

The Speaker: Mover to reply.

Mr Watterson: Yes, I am happy to give the Hon. Member that assurance. We are still at a stage in the Isle of Man, like many police forces across the United Kingdom, where we are still able to commit that every crime that is reported will be investigated. I appreciate that some of these require specialist skills, and where there have been significant investigations we will find other ways of funding them, and to some extent that is about joint working with us and other jurisdictions as well. But what the Hon. Member is saying about lower-level crime – it will still be investigated by CID and there will not be any reduction in the number of police officers as a result of this Bill.

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

Clause 9.

Mr Watterson: Mr Speaker, clause 9 provides that the Department of Home Affairs may issue codes of practice relating to the exercise by the Financial Intelligence Unit of any of its functions, but only after consultation with the FIU and any such persons as it feels appropriate.

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

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second, reserving my remarks.

The Speaker: Clause 9. I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

Mr Watterson: Mr Speaker, clause 10 defines some of the terms used in part 2 of the Bill and allows the Department of Home Affairs to be able to amend any of the definitions in clause 10(1) by order approved by Tynwald.

I beg to move that clause 10 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: Clause 10. I put the question: those in favour, say aye; against, no. The ayes have it.
The ayes have it.

Clause 11, please.

Mr Watterson: Mr Speaker, part 3 of the Bill, made up of clauses 11 to 17, covers the special powers of the designated staff of the FIU.

Clause 11 enables the FIU to designate members of staff as having the same powers as a constable or an officer of Customs and Excise.

I beg to move that clause 11 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second clause 11.

The Speaker: Mr Karran.

Mr Karran: Could the mover just tell us, as part of this Financial Intelligence Unit will there be people outside the Constabulary as far as this, and how do you make sure that the security as far as sensitive information ...? How do you deal with disciplining of people if they are to be part of this without things being leaked? Obviously, if it is a police officer or a ... I think a customs person to a lesser extent ... What safeguards are there to make sure that things are not being leaked as far as being in a privileged ... being part of this unit could be detrimental to individuals?

The Speaker: Mr Watterson to reply.

Mr Watterson: Yes, as mentioned earlier, anyone who is not a customs officer or a police officer will still be an employee of the Public Services Commission and will therefore have the same duty of confidentiality as other civil servants subject to the Official Secrets Act.

I am not sure at this stage whether there will be separate vetting requirements in terms of either security clearance or just a police check, and what level that would be for people working in this area, but they will be public servants and they will be employees of the Public Services Commission and that will be the disciplinary route that they would have to follow if any other person was suspected of leaking information at this unit, which of course would be highly damaging to the Isle of Man.

The Speaker: I put the question. Clause 11: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Watterson: Mr Speaker, clause 12 sets out the particular powers that are exercisable by a person designated by the FIU as a constable.

I beg to move that clause 12 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second, reserving remarks.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to ask the mover to maybe circulate at a later time ... I know he is going for suspension of Standing Orders for Third Reading, but the powers of a civil servant and the discipline code of a civil servant to the discipline code of a constable is chalk and cheese and I just want to make sure that this is going to be one of those important areas as far as helping your colleague next door to you, with Economic Development as far as the Island is concerned ... that there is that power to make sure that people realise that leaking this sort of information can have a detrimental effect on the biggest engine of the economy and there is sufficient ... I will not argue over the issue about the Third Reading, but I do feel that that should be circulated to Members and should be made aware to Members in another place when they are going through the procedures, to see whether there needs to be more tightening up as far as that is concerned.

The Speaker: Mover to reply.

Mr Watterson: I would give some assurance, though, to the Hon. Member that there are civil servants in the Cabinet Office and there are civil servants up at Police Headquarters who do handle sensitive information, who are dealing with warrants, interception of communications, policing functions, who are public servants, who are civil servants, and the amount of concerns, issues and complaints we have about this are notable by their absence. So I think it is very much about the recruitment practice for the unit, as opposed to solely piling in with a lot of extra bureaucracy in the legislation, to make sure that we get the right people in these posts.

The Speaker: I put the question. Clause 12: those in favour, say aye; against, no. The ayes have it.
The ayes have it.
Clause 13, please.

Mr Watterson: Thank you, Mr Speaker.

Clause 13 relates to people designated Customs and Excise officers by the FIU, rather than a constable.
I beg to move that clause 13 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second.

The Speaker: I put the question. Clause 13: those in favour, say aye; against, no. The ayes have it.
The ayes have it.
Clause 14.

Mr Watterson: Sir, clause 14 covers the requirement of a designated person of the FIU to produce evidence of this designation if requested to do so.
I beg to move that clause 14 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second clause 14.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, can I just ask about the issue of having to produce evidence of being a designated person. What will it be? Will it just be a warrant card, like you would have for the Constabulary? I have never dealt with somebody from Customs: do they have a warrant card? Or will it be on some other basis as far as the individuals concerned?

Can I just ask about the issue of ... How do you intend to deal with the issue of when you are doing undercover surveillance? I take it that the Financial Intelligence Unit will be doing that. How do you deal with trying to keep people's anonymity as far as the operations? Obviously, for people who are undercover it is very difficult on the Island to do so. These aspects of staffing really need to be looked at if we are going to make this unit really work.

The Speaker: Mover to reply – I beg your pardon, Hon. Member, Mr Robertshaw.

Mr Robertshaw: Thanks, Mr Speaker.

The Member for Onchan has asked part of the question that I had for the Minister, but the second part of it is that earlier on we were talking about the level of training given to persons with these additional powers as 'adequate'. I wonder, at some point later would the Minister be kind enough to circulate what that definition of adequate training is.

It is quite a powerful authority we are giving to somebody who is not a constable. We are transferring powers of a constable to other individuals and obviously they have got to be very carefully used, (*Interjection by Mr Karran*) so I would like to explore this issue of adequacy.

Thank you, Mr Speaker.

The Speaker: Mover to reply. Mr Watterson.

Mr Watterson: Amazingly – and it surprised me, as it might surprise other Members – we do actually conduct successful undercover operations on the Isle of Man with Isle of Man officers. However, there are other options for this as well. If it were so required, I could take perhaps a constable from a UK force and give them a warrant to act in the Isle of Man, and that person could perhaps operate undercover with greater anonymity than an Isle of Man officer. So that is one option.

In terms of the adequacy of training, again this is going to come back to the core skills of what we need. I think people with financial industry experience, people who are accountants, people who are lawyers are more likely to be the sort of people we are looking to recruit into the section rather than the way it has worked in the past, whereby police officers have come into this area, they have undertaken say a three-year stint in the Financial Crimes Unit and then gone off and become the custody sergeant or a neighbourhood policing sergeant, and then you get somebody else in who has got to learn things afresh. So some of the experience, some of the knowledge and some of the training will have been imported with the individual and some of it will need to be built on to make sure that they are sufficiently qualified to act in the roles that the FIU will throw at them. So I take the Hon. Member's point and I will see if I can add anything to that in writing after today's debate.

The Speaker: I put the motion that clause 14 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

Mr Watterson: Mr Speaker, clause 15 makes it an offence for anyone to prevent a designated person from the FIU exercising their powers and states the penalties for these offences.

I beg to move that clause 15 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Mr Speaker, I beg leave to second, reserving my remarks.

The Speaker: Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker.

It is a point that I have raised several times and other Members have raised several times in relation to Bills. This is a very important Bill for the Isle of Man and this section in particular is dealing with very serious crimes. In my view, the penalties are not heavy enough. Could the Minister perhaps tell us why these figures have been reached – because to me, we need a larger penalty than is produced in this particular Bill.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, following on from the Hon. Member for Ramsey, I have to say I would concede that the issue of the penalties ... I do believe that police officers and people dealing in this line of business, when you are talking about ... Sometimes when you talk of VAT fraud you are talking of ... I have somebody who is an ex-constituent, who was involved in £8 million worth of VAT fraud – not from the Isle of Man, but actually in the adjacent isle. So there is a big ante. I just think that the Minister should consider, with more violence on the way – we have seen more violence in society – that maybe there is a point that he needs to look at generally upping the custody and things for people who do assault police officers in the line of their duty. I know that you would go for attempted murder, but I do feel that we do need to make sure that people realise that in the Isle of Man officers are there ... and obviously we expect them to have the highest integrity but we also expect people to realise that we have zero tolerance as far as these officers dealing with, especially, organised crime. Maybe we do need to look at that in another place as far as upping the ante on that issue.

The Speaker: Mr Watterson to reply.

Mr Watterson: Thank you.

These offences here, in clause 15, refer specifically to things such as obstruction, impersonation and assault, and they are paralleled in other legislation.

I would be possibly the first to accept that a lot of other legislation I think was ... The fines were set in a Fines Act in, I think, the mid-1990s to set this £5,000 limit, which is used in much of our legislation for summary offences. In the UK they use scale points, and that is something that I would favour moving towards, but that is something that is going to have to wait until the Sentencing Bill and is probably going to be for my successor as Home Affairs Minister to bring through. However, a lot of the legwork for that has been done about increasing some of these penalties and looking again at how these sorts of penalties work in legislation.

Just to pick up on the Hon. Member for Onchan's point, yes, there are. Of course, these are about specific offences for dealing with officers of the Financial Intelligence Unit, and for more serious offences and more serious assaults, destruction of evidence and other things like that, there are of course separate offences already existing in law which will provide those sorts of protections and the right sort of penalties for more serious offences. But these relate specifically to obstruction of officers who may not be police officers, may not be customs officers, but who are acting in conjunction with the FIU, to give them that parallel protection.

The Speaker: I put the question. Clause 15; those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

Mr Watterson: Mr Speaker, clause 16 gives the Department of Home Affairs the ability to amend an enactment to amend the powers of a designated person, subject to Tynwald approval.

I beg to move that clause 16 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Mr Speaker, I beg leave to second, reserving my remarks.

The Speaker: Clause 16: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 17.

Mr Watterson: Mr Speaker, clause 17 sets out various defined terms used in part 3 of the Bill.

I beg to move that clause 17 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Mr Speaker, I beg leave to second, reserving remarks.

The Speaker: Clause 17: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 18.

Mr Watterson: Mr Speaker, clause 18 empowers the FIU to gain additional information from an initial provider of information, from someone who is identifiable from the initial information or a person whom the FIU reasonably believes to hold relevant information. The information gained is not necessarily admissible in criminal proceedings against the person other than in relation to an offence under clause 20 of the Bill.

I beg to move that clause 18 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Mr Speaker, I beg leave to second, reserving remarks.

The Speaker: Clause 18: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 19.

Mr Watterson: Mr Speaker, clause 19 sets out the criteria for making the request for information and gives the ability for the DHA, by order, to vary the categories of information in subsection (2) of this clause that may be sought.

I beg to move that clause 19 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: Clause 19: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 20, please.

Mr Watterson: Mr Speaker, clause 20 sets out that a person who fails to comply with a request, wilfully obstructs another person in complying with a request or makes or recklessly makes an statement that is false, under section 18(4) commits an offence. It also sets out the penalties for such offences.

I beg to move that clause 20 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: Clause 20: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 21.

Mr Watterson: Mr Speaker, clause 21 sets out various defined terms used in part 4 of the Bill.

I beg to move that clause 21 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Mr Speaker, I beg leave to second.

The Speaker: Clause 21: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 22.

Mr Watterson: Mr Speaker, part 5 of the Bill, consisting of clauses 22 to 28, deals with the use and disclosure of the information gathered by the FIU.

Clause 22 allows the FIU to use the information it obtains for any of its functions.

I beg to move that clause 22 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: Clause 22: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 23.

Mr Watterson: Mr Speaker, clause 23 empowers the FIU to disclose any information obtained in connection with its functions for any purpose permitted in clause 28(1) and, subject to clause 33, provides that such disclosure does not breach certain obligations of confidence.

I beg to move that clause 23 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second, reserving remarks.

The Speaker: Mr Karran.

Mr Karran: Can I just ask the Shirveishagh son Coishyn Sthie, the Minister for Home Affairs, about the issue of the disclosure of information by the Financial Intelligence Unit: what sort of safeguards are there if information is passed on to other jurisdictions?

Mr Watterson: Clause 33.

The Speaker: Mr Watterson to reply.

Mr Watterson: Mr Speaker, the main safeguard, of course, is in clause 33: the extension of the provisions of the Data Protection Act.

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

Clause 24.

Mr Watterson: Clause 24 covers disclosure of information by any person to the FIU. Again, this disclosure does not breach certain obligations of confidence.

I beg to move that clause 24 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second, reserving remarks.

The Speaker: Clause 24: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 25.

Mr Watterson: Mr Speaker, clause 25 imposes restrictions on disclosure.

I beg to move that clause 25 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: Clause 25: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 26.

Mr Watterson: Mr Speaker, clause 26 makes failure to comply with clause 25 an offence and details the penalties should such an offence be committed.

I beg to move that clause 26 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: Mr Karran.

Mr Karran: Can the Shirveishagh just explain that ... We could have a person who is a secretary or an officer of a company, who is not in our jurisdiction as far as it being an offence for failing to

comply with the restrictions: how do we deal with them, especially with us being an international finance sector? How do we deal with those sort of issues as far as that is concerned? I suppose the point is they have to do accounts for companies as far as the Companies Register is concerned, but the likes of these new private companies that do not have to file public accounts, how does he intend to use the powers on the Island if these people are not on the Island, in order to get the information as far as further disclosure on the operations that the Financial Intelligence Unit is concerned with? Will they be working with other jurisdictions off Island?

The Speaker: Mover to reply.

Mr Watterson: I cannot answer in great detail about extra-territorial enforcement of the provision – I would need to check that out further – but, obviously, if you are found guilty of an offence you could be found guilty in your absence and, of course, under section 26 on the Isle of Man that would then become a relevant offence to financial intelligence units in other countries. So, if you are holding an office such as a director or company secretary of a company, it would not be unreasonable for another jurisdiction’s FIU, or FSA equivalent, to look at those sort of offences and then see that they are relevant offences for the purposes of holding an office.

So I cannot answer the specifics of how it might be dealt with, but it would certainly be information that would be likely to be communicated for the exercise of its functions.

The Speaker: I put the question. Clause 26: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 27.

Mr Watterson: Clause 27 gives the DHA the ability, following consultation with the relevant parties, to amend by order any enactment relating to the disclosure of information.

I beg to move that clause 27 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second, reserving remarks.

The Speaker: Clause 27: all in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 28.

Mr Watterson: Mr Speaker, clause 28 defines certain terms in part 5 of the Bill.

I beg to move that clause 28 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: Clause 28: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 29.

Mr Watterson: Mr Speaker, the final part of the Bill, clauses 29 to 36, deals with miscellaneous provisions regarding prosecutions and regulations.

Clause 29 sets out the procedures for the prosecution by the Attorney General of offences or alleged offences relating to financial crime.

I beg to move that clause 29 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second.

The Speaker: Clause 29: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 30.

Mr Watterson: Mr Speaker, clause 30 imposes a duty on the Chief Constable and the Collector of Customs and Excise to keep the FIU informed of any information relating to crime or conduct on the Island that is relevant to the FIU's functions.

I beg to move that clause 30 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second.

The Speaker: Clause 30: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 31.

Mr Watterson: Clause 31 makes it a duty for certain persons specified in the clause to assist the FIU in the exercise of its functions.

I beg to move that clause 31 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second, reserving remarks.

The Speaker: Clause 31: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 32.

Mr Watterson: Clause 32 allows the DHA to make regulations and what they may contain, in accordance with the Act, subject to Tynwald approval.

I beg to move that clause 32 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second.

The Speaker: Clause 32: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 33.

Mr Watterson: Mr Speaker, clause 33 provides that nothing in this Act authorises a disclosure of personal data in breach of the Data Protection Act.

I beg to move that clause 33 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second.

The Speaker: Clause 33: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 34.

Mr Watterson: Clause 34 deals with the cessation of the Financial Crimes Unit (FCU) and the transfer of the property, rights, liabilities and staff from the FCU to the new FIU.
I beg to move that clause 34 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second clause 34.

The Speaker: Clause 34: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 35.

Mr Watterson: Mr Speaker, clause 35 provides for any expenses of the FIU and the DHA arising from the introduction of this Bill to be paid out of money provided by Tynwald.
I beg to move that clause 35 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg leave to second.

Mr Karran: This is just to raise the point that I raised on clause 5 – the issue of making sure that we will not end up with a situation ... I know we have got to do Moneyval and I know that we have to bring in this, but I am concerned that we have already got a very depleted Financial Crimes Unit at the present time. What I am concerned about is making sure that there is some way that their resources ... because I have had complaints with the Financial Crimes Unit in the past about issues, and they are not funded enough as it is.

What assurances can this House have that we are not going to end up with a situation where we end up with this super-duper intelligence unit looking after the big boys? There is a need, as far as the expenses are concerned, to make sure there is adequate money to make sure we maintain standards and actually improve the standards we have got at the Financial Crimes Unit at the present time.

Allowing for the fact that there will be a large amount of work designated to the Financial Intelligence Unit that has now been created, I am concerned that we might end up with the general public being the poor loser on this line, as far as crime is concerned, and I want to know what assurances we can have that we are not going to end up finding that everything is sucked out of that and we end up just doing little or nothing as far as the small man is concerned, and about a small financial crime that happens on the Island.

The Speaker: Mr Watterson to reply.

Mr Watterson: I am either having déjà-vu or that is the same speech as for clause 5.

I think I have given the Hon. Member as many assurances as I can right now. You have got to remember that sitting behind the creation of this unit is the Island's reputation in financial services –

Mr Karran: I agree with you.

Mr Watterson: – so that is what is going to give you the guarantee that this is going to be appropriately funded, because we cannot have our reputation sullied. The other side of that is about making sure that the man in the street still has his low-level crime investigated properly, and I have given a commitment on that as well. I have given a commitment that every crime reported is still being investigated on the Island, something that you will never get an assurance on in the United Kingdom, but that is one you will get an assurance on here. The staff who do not go into the FIU – and there are some staff who are not going into the FIU – are coming back to reinforce CID for exactly the reason the Hon. Member states.

So I am not entirely sure what more assurance the Hon. Member wants. You have had it twice. I will happily get up and give you it a third time at Third Reading, but I think I can do no more at this point than repeat what I already have.

The Speaker: Clause 35: those in favour, say aye; against, no. The ayes have it. The ayes have it. Finally, clause 36.

Mr Watterson: Mr Speaker, clause 36 provides for the Acts detailed in schedule 3 to be amended as set out in the schedule.

I beg to move that clause 36 stand part of the Bill.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I beg leave to second.

The Speaker: Clause 36: those in favour, say aye; against, no. The ayes have it. The ayes have it.