

## **1. Custody (Amendment) Bill 2016 – Third Reading approved**

Mr Coleman to move:

*That the Custody (Amendment) Bill 2016 be read a third time.*

**The President:** We continue this morning, Hon. Members, with the Custody (Amendment) Bill 2016. I call on the Hon. Member, Mr Coleman, to take the Third Reading.

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

In moving the Third Reading of this Bill, it is my pleasure to summarise the main objectives behind the Bill as follows: firstly, to transfer the Prison disciplinary adjudication function from the Independent Monitoring Board to persons to be known as Independent Adjudicators; secondly, to update the powers to make custody rules; thirdly, to modernise other provisions in the Custody Act such as those relating to Prison security, the release of detainees and the testing of detainees for drugs and other substances; and fourthly, to make consequential amendments to the Prisoner Escorts Act 2008, and make legal provision to support the work of court security officers.

Members were informed at the Clauses Stage last week of how the Bill had been further amended in the House of Keys, in respect of clause 8, to substitute the words 'terms and conditions of office' for 'tenure'

This is to ensure the appointment of an Independent Prison Adjudicator could be properly made under appropriate terms and conditions provided. A further amendment was made to enable the appointing body to be changed by order, and make some necessary consequential amendments to the Legal Aid Act 1985, that had been missed when the Bill was drafted.

In this Council, Mr Crookall moved a number of amendments to the Schedule in relation to CCTV, in order to align those provisions more exactly with human rights requirements. Mr Crookall also moved amendments to clause 15 in respect of the Prisoner Escorts Act 2008 to enable contracted staff to escort detainees between additional premises specified in an order.

During the clauses stage last week, Mr Turner enquired in relation to the Schedule as to why the list of prohibited articles mentions mobile telephones but not other transmitting devices. The simple answer is that this list in paragraph 1 of the Schedule follows a similar list in the equivalent legislation enacted in the UK.

By way of reassurance, I would draw your attention to the fact the provision also enables other articles to be added to list B by means of custody rules; so we could list the likes of walkie-talkies or other transmitting devices that might become the latest means of illicit communication to attempt to bring into the Prison.

I would also draw your attention to paragraph 6(1)(b), which makes it an offence to transmit, or cause to be transmitted, any image or any sound from inside an institution by electronic communication for simultaneous reception outside the institution. The criminal penalties set out in sub-paragraph (5) are appropriate. The action of bringing in or taking out unauthorised articles or making unauthorised transmissions would also constitute offences against Prison discipline. I am satisfied, having consulted the officer of the Department in attendance, we have this matter covered. As with all legislation designed to meet operational needs, we will keep the legislation in relation to Prison security under review.

Madam President, I would like to correct something I said last week. We *do* intend in the future to empower the Prison to jam signals but, due to legal complexity, have not promoted the necessary legislation through this Bill.

Subject to reference back to the Keys in respect of the Council Amendments, the Bill has completed its legislative passage through the Branches and it only remains for me to thank Mr Henderson and Mr Crookall for seconding the various elements of this Bill – and Mr Crookall in

particular, for moving the amendments to the Schedule and to clause 15, and to thank Hon. Members for their support.

Madam President, I beg to move that the Custody (Amendment) Bill be read for the third time and be returned to the House of Keys to consider the amendments made by Council.

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

**Mr Crookall:** Thank you, Madam President. I beg to second and reserve my remarks.

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

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

I do thank the mover for his reply in regard to my query regarding mobile phones being prohibited and his explanation of what can be done; because, if Hon. Members recall, my query was that it did not appear to ban other transmitting devices where communication could be made from legitimate devices that are brought in because they appear not to be banned, but the mover has explained that there is provision to ensure that those devices are covered under different provisions here and they do have the ability to add to those items when they are required to do so.

I do have a little bit of concern over – and I appreciate he said it is not within this, but it is plans coming forward and that is regarding jamming signals; because of course when you start jamming signals you can end up jamming your own signals, so it has to be, obviously, taken very carefully and of course they would have to know what sort of signals they are trying to jam, because a blanket jam on everything would mean that their own communications would not work.

So it is not a straightforward area and I think the best way to deal with these is to ensure that prisoners ... with the stringent checks that are done on persons and items being brought in and out of the facility, the best way is to ensure that those items do not get in in the first place.

I am sure the Member, who is the Member responsible for the Prison and the Department, has more knowledge of the operation of the Prison, but, to the outsider, I do find it quite remarkable how some of these prohibited items do actually get into the facility when there is the one door in and out and there is meant to be quite a stringent check.

So, to me, I think the way to deal with these things is to deal with it at the source and stop the items getting in in the first place. But I thank him again for answering the queries at this stage and the previous stages of the Bill, and will support the Third Reading.

**The President:** Care to reply, sir?

**Mr Coleman:** Yes, I thank Mr Turner for his remarks and I would not be indelicate enough to tell you how things actually get into the Prison!

**A Member:** Go on!

**Mr Turner:** I have no idea.

**Mr Coleman:** No, I will not.

Of course, we are not only speaking about signals to do with communication. There is a possibility that we could be dealing with having to jam signals to drones, which have been used in the UK for dropping things over the wall in prisons. Okay.

We also have walkie-talkies in use within the Prison, so selecting the wavelengths and how we do it or whether we need to have protected wavelengths – or codified – is very complex, which is why we have not brought it forward in here – because we are still working it out.

**Mr Turner:** That is my point!

**Mr Coleman:** But again, I thank Members for their support and I would like to move it through to the other place.

Thank you, Madam President.

**The President:** The motion is, Hon. Members, that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Motion carried.