

**4.2. Road Traffic Legislation (Amendment) Bill 2020 –
Clauses considered**

Mr Harmer to move.

The Speaker: We now turn to Item 4.2. on our Order Paper, the Road Traffic Legislation (Amendment) Bill in the name of Mr Harmer. I call on Mr Harmer to move clauses 1, 2 and 3, please.

3020 **Mr Harmer:** Thank you, Mr Speaker.

Clauses 1 and 2: these clauses give the Bill its short title and provide for it to come into operation on one or more dates appointed by the Department by order.

Clause 3 briefly introduces the amendments made by the rest of the clauses in Part 2.

I beg to move that clauses 1, 2 and 3 stand part of the Bill.

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The Speaker: Mr Baker.

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

3030 **The Speaker:** Unless any Member wishes to speak, I will put the motion that clauses 1, 2 and 3 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries. I call on Mr Harmer to move clauses 4 to 10.

3035 **Mr Harmer:** Thank you, Mr Speaker.

Clause 4 amends section 3A, causing death by careless driving while under the influence of drink or drugs, by inserting a paragraph 3A(1) that introduces a new basis for the commission of the offence created by that section. That new basis is the presence in one's body at the time of the incident in question of a specified controlled drug the proportion of which in the person's

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blood or urine exceeds the prescribed limit for that drug.
The remaining clauses also deal with drugs driving. Clause 5 inserts a new section 5AA, driving or being in charge of a mechanically propelled vehicle with a concentration of specified controlled drugs above specified limits. This section creates a new offence of driving, attempting to drive or being in charge of a mechanically propelled vehicle on the road or other public place

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at a time when the person in question has had in their body a specified controlled drug in a proportion exceeding that specified limit.
The section specifies the limit for each of the drugs to which the section relates and also specifies defences available to the accused.

Turning to clause 6, it amends section 5B, by the substitution of 'preliminary breath test' for 'breath test', this being a more accurate description of the test to which the section relates. The clause concludes by extending subsection (2) to serious driving offences as defined in clause 30.

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Clause 7 inserts a new section 5BA, preliminary drug test. This provides for the administering of a preliminary drug test by a constable in specified circumstances. The test is a procedure where a specimen of sweat or saliva is obtained and tested as per the subsection.

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Clause 8 amends section 6, provision of specimens for analysis. This clause extends the locations where a requirement to provide a specimen breath may be made by a constable in the course of investigating whether a serious driving offence has been committed. An offence now includes those under section 5AA, driving or being in charge of a mechanically propelled vehicle with a concentration of specified controlled drugs above specified limits. The clause continues by empowering a constable to arrest without warrant a suspected offender who fails to provide a specimen when being required to do so.

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Clause 9 amends section 7, choices of specimen of breath, by clarifying which specimens of breath must be used.

3065 Finally, clause 10 amends section 7B, detention of persons affected by alcohol or a drug, by inclusion of an offence under the new section 5AA and clarifies subsection (2).

I beg to move that clauses 4 to 10 do stand part of the Bill.

The Speaker: Mr Baker.

3070 **Mr Baker:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I call on Mr Hooper to move amendments 1 and 2, please.

3075 **Mr Hooper:** Thank you very much, Mr Speaker.

The first amendment outlines the provisions in respect of drugs testing with those for alcohol breath tests. So the amendment aims to include as a prerequisite for a constable to require somebody to take a preliminary drug test that the constable has a reasonable suspicion that the individual is committing what is referred to currently in the Act as a specified offence. So this
3080 this refers to the list of driving offences that are set out in the Act itself.

This would be the same prerequisite as applies for alcohol breath test and it makes sense to me to align the two together; not to mention that a constable really should have to have reasonable suspicion that an offence is being committed before being able to require a person to undertake a preliminary drugs test.

3085 It occurs to me as I move this amendment that the language in the Bill may have changed. The language 'specified offence' has been amended. I am not quite sure how this did not get picked up in drafting but it may be something to look at following the sitting.

The second amendment is in relation to the preliminary drugs test itself and is designed to ensure that a constable has the power to arrest without warrant a person who they have
3090 reasonable cause to suspect has failed a preliminary drugs test. I find it somewhat strange that this power exists in respect of failing an alcohol breath test but was not originally being proposed in the Bill in relation to a preliminary drugs test. Without this amendment, the clause seems to provide that a person could only be arrested without a warrant if they refused to take a drugs test, but not if they took one and breached the prescribed limits.

3095 Finally this section of the amendment adds in a defence for a person who is a hospital patient, in exactly the same way as this defence applies in respect of breath tests. So again aligning the alcohol and drugs provisions.

Mr Speaker, I beg to move amendments 1 and 2:

Amendments to clause 7

1. Page 18, line 16, in subsection (1) of the new section 5BA insert between "applies" and the comma –

«and a constable reasonably suspects the person in charge of the mechanically propelled vehicle has committed a specified offence whilst the vehicle was in motion».

2. Page 19, lines 34 to 37, for subsection (10) of the new section 5BA substitute the following –

«(10) A constable may arrest a person without warrant if –

(a) if –

(i) the person fails to undertake a preliminary drug test; and

(ii) the constable reasonable suspects that the person has a drug in his body or is under the influence of a drug; or

(b) if as a result of a preliminary drug test he has reasonable cause to suspect that the proportion of drug in that person's blood exceeds the prescribed limit, but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.».

3100 **The Speaker:** Thank you, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.
I would like to second the amendments.

3105 **The Speaker:** Thank you very much.

Now, any Member wishes to speak? Okay. In which case, I will put the question that amendments 1 and 2 in the name of Mr Hooper be approved and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, amendments 1 and 2 are carried.

3110 I put to the House that clauses 4 to 10 as amended stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Harmer to move clause 11.

3115 **Mr Harmer:** Thank you, Mr Speaker.

Clause 11 substitutes new section 7C, use of specimens in proceedings for an offence under section 3A, 5, 5A or 5AA, is extended to proceedings for an offence under new section 5AA, driving or being in charge of mechanically propelled vehicle with concentrations of specified control drugs above specified limits.

3120 I do beg to move that clause 11 do stand part of the Bill.

The Speaker: Mr Baker.

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

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The Speaker: If no Member wishes to speak, then I will put the question that clause 11 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clause 12, Mr Harmer.

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Mr Harmer: Thank you, Mr Speaker.

Clause 12 amends section 7E which provides definitions. The amendments reflect the changes made early in this Bill in relation to drugs and alcohol.

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

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The Speaker: Mr Baker.

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

3140 **The Speaker:** I put the question that clause 12 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clauses 13 to 18, Mr Harmer.

3145 **Mr Harmer:** Thank you, Mr Speaker.

Clause 13 repeals and replaces section 20, duty of driver or rider of a vehicle on occurrence of an accident.

3150 If an accident occurs where a person other than the driver or rider of the vehicle sustains a personal injury, an animal is killed or injured or any relevant property is damaged, then the driver or the rider of the vehicle must not only stop but keep the vehicle stationary nearby for as long as reasonably necessary to provide information such as name and address to anyone who has reasonable grounds to require it. This extends to include vehicles that are not mechanically propelled.

3155 Clause 14 repeals and replaces section 24, protective helmets. This section extends from motorcycles to vehicles generally in regard to the Department's power to make regulations about the wearing or sale of protective helmets. Vehicles which may be subject to the regulations include motorcycles, side cars, quadricycles and animals ridden as vehicles, which at present fall outside the scope of the section.

3160 Clause 15 amends section 28, prohibition of driving motor vehicles elsewhere other than the roads. This substitution of new subsection (1) is substantially the same, with the exception that it removes the reference to the Highways Act 1986.

3165 Clause 16 repeals and replaces section 29, use by Department and others of vehicles and appliances on footpaths. This clause authorises the Department or a local authority to use its vehicles and appliances on bridle paths, cycle paths or cycle tracks, in addition, as at present, to their use on footpaths or footways. The section is also extended to statutory undertakers.

3170 Clause 17 repeals and replaces section 30, vehicles prohibited on footways and central reservations. This provision extends prohibition on driving on footways to include riding on them. However, the Department is now empowered to by order exempt prescribed vehicles from this prohibition. This clause will specifically prohibit cycling on the pavement but will enable the Department to permit cycling on pavements in specified locations.

3175 Finally clause 18 repeals and replaces section 33, construction etc, and use. It now contains two subsections, the first of which is identical to the original section 33. The subsection (2) is new, its purpose being to provide that no Tynwald procedure applies to an order made under any of the specified provisions.

I beg to move that clauses 13 to 18 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Now, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

3185 I have some concerns on clause 14 which I would like to cover in detail. I also have some concerns about clause 16.

3190 If I look at clause 14 first, no other European country has enacted compulsory cycling helmet legislation for all users, and many of these countries have much higher numbers of cyclists. For example, in Denmark, where nine out of 10 people own a bicycle, cycling accounts for a quarter of all commuting trips and Danish women cycle more often than men. Forty four percent of Danish secondary pupils cycle to their school, and the capital region of Denmark estimates that there are one million fewer sick days due to the fact that so many of their inhabitants cycle.

3195 Why am I giving these statistics about Denmark? Well, the reality is that in Denmark, in the cities, only 27% of all cyclists wear a helmet. And if you look elsewhere, in Holland, which is widely regarded as the safest cycling country in the world, very few people wear cycling helmets there. Some people do if they are going fast or racing or on steep off-road tracks, but the vast majority do not wear a cycling helmet in the safest cycling country in the world.

We do not have cycle helmet data for the Isle of Man but my observations indicate that over 90% of all cyclists on our roads already wear a helmet. As such, I would like to understand what problem this clause is trying to fix.

3200 Hon. Members, unfortunately in recent years there have been a number of cyclists killed or seriously injured on Manx roads. These victims were wearing cycle helmets. Tragically, their polystyrene hats did not save them. The reality is that for some cycle collisions a helmet offers some protection, but the experience here and elsewhere is that a helmet makes little difference when a cyclist is hit by a car or a lorry driver.

3205 I am not saying not to wear a helmet. I always wear a helmet whilst on the bike and I would encourage other users to do so. Most Manx cyclists already wear a helmet, but they are very conscious that it is not a panacea. Making it illegal to ride a bike without a helmet is not a sensible way forward.

3210 This is a complex question which has been considered by many countries recently as cycling has seen a resurgence in popularity across Europe. No other European country has enacted compulsory cycle helmet legislation for all users.

3215 Australia and New Zealand are the only two major countries in the world which have cycle helmet laws. Unfortunately, they have seen a decline in cycling as a result. In some states of Australia, there has been a 33% decline in cycling to work and a 55% decline in cycling to the shops. So there are big drops in cycling as a result of cycling helmet laws.

3220 May I remind Hon. Members that it is an agreed Programme of Government priority to increase active travel participation. We agree that the health benefits can be transformational. GPs talk about active travel as a wonder drug which is more effective for many than pharmaceuticals. Various studies across the world have concluded that the health benefits from cycling exceed the losses from accidents.

3225 The most interesting paradox in this whole debate is that countries with helmet laws – Australia and New Zealand – have higher rates of injuries per kilometre than countries with low helmet wearing rates. So why is this? I am not really sure, Hon. Members. As I already said, I wear a helmet. But there are some interesting studies which show that drivers tend to give cyclists without helmets more space and time than those cyclists that are wearing helmets. The drivers tend to pass wider and slower for cyclists who are not wearing a helmet. What is clear is that considerate driving improves safety for cyclists more than a polystyrene hat. If the Road Traffic (Amendment) Bill aims to protect cyclists from injuries, then it would be in my opinion much better to focus on overtaking legislation.

3230 You might remember Chris Boardman, the Olympic and Tour de France cyclist. He came to the Island a few times when the International Cycling Week brought many visitors in the past. Chris is now a safety campaigner and he is also the Cycling and Walking Commissioner for Manchester. He is an acknowledged expert in this field. Chris Boardman says he will not promote helmets because it is not in the top 10 things that governments can do to really help
3235 keep people cycling safely. It is not even in the top 10.

It might feel counterintuitive, but mandatory helmets are a mistake. There is lots of research which backs this up, and that is why many other governments who have looked at this have backed off and they have not legislated.

So Hon. Members, I suggest that this clause needs a rethink and I will be voting against it.

3240 In terms of clause 16, I would like to understand a bit more from the Minister about the offence of cycling on a pavement. Is he really saying that small children, perhaps in residential estates, should not cycle on the pavement? Is that what we want?

I would appreciate a response on both those points which are important as we look to improve both cycling participation rates but also safety of cyclists on this Island.

3245 Thank you.

The Speaker: Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

3250 Just a few words in support of the Hon. Member for Middle, also known as the Hon. Member for cyclists. I do actually want to support him on clause 14. I think it is a well-intentioned clause.

3255 It means well but I think we need to listen very carefully to the words of the Hon. Member, in the sense that they really are not necessary. They are to be encouraged in many circumstances and to be worn, but whether they should be deemed as a legal requirement is altogether another matter.

So I shall be joining the Hon. Member for Middle in voting against clause 14, Mr Speaker. Thank you.

The Speaker: Thank you.

3260 If I could just ask Mr Shimmins if he is also intending to divide separately on clause 16 as well – if you could perhaps put a message in the chat box please, so I know how to deal with that when it comes.

Mr Peake.

3265 **Mr Peake:** Thank you, Mr Speaker.

I too will be supporting my friend and colleague from Middle. I do not think that legislation is required in this. People do want to wear a helmet and we do not want to put people off. We are in a very important time at the moment to try and encourage people onto cycles and we would be much better off sharing the space considerately and people considering cyclists and people also wearing a cycle helmet when they want to, but also not to legislate it. It would be ridiculous to criminalise people just for the sake of not wearing a helmet on a cycle.

Thank you very much, Mr Speaker.

The Speaker: Thank you.

3275 Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

3280 I just really want to try and throw a bit of balance back into what is a rather one-sided debate. The statement that no other countries have these kinds of cycling laws in place is a little bit disingenuous. I think there are a lot of places around the world that have cycling laws in place in respect of helmets. Whether they are effective or not, I think that is definitely a sensible thing to be debated.

3285 It is interesting to note, in some of those remarks there, that cycling wearing a helmet is not even in the top 10 of things – but is it the 11th? Is it the 99th thing we could be doing? Looking on the Cycling UK website, they themselves are opposed to helmets being mandatory but they acknowledge that cycling accounts for around 7% to 8% of head injuries for which children are admitted to English hospitals, but acknowledge that a quarter of these injuries could be to parts of the head that a helmet might protect. So that is 2%, possibly, of all head injuries in English hospitals for children could have been helped with a helmet.

3290 So I do not know if the evidence is quite as clear cut as the Hon. Member for Middle has made out.

3295 The reason that I felt compelled to speak on this is that I have been involved in bike accidents with a car. One of my close friends from my school time was involved in a serious accident with a car and I can assure the Hon. Member that the helmet as a result of that crash was like a watermelon that had been dropped off a skyscraper. I really find it difficult to accept that actually if he was not wearing that helmet, that could very well have been his skull. So I am very hesitant when people who have a clear interest and desire to not promote some of these policies which may work, which may not, but to take such a definitive view at this point I think is somewhat irresponsible.

3300 So I welcome the Department leaving the door open to this in future, but I tend to agree that maybe mandatory is not the right place to go as a first step. So I would appreciate the Minister's comments on this, but I think the clause that enables this to happen in the future, should the evidence warrant it, should be welcomed.

3305 **The Speaker:** Mrs Barber.

Mrs Barber: Thank you, Mr President – Mr Speaker, sorry! I'm getting carried away.

3310 Just to add, hopefully, a little bit of balance, my thoughts around this specifically relating to the cycle helmets: one of the things that I think would be a challenge is that children ... and I say this as having been one myself, when I was in my early teens, I would put the helmet on faithfully as I left the house and get down the road and take it off, unaware really of why it was so important. My parents certainly drilled it in, and I wonder where the responsibility lies there and are we suggesting then we would pursue parents? How do we go down that road?

3315 I think certainly adults are able to make that decision themselves. From my perspective, I think that the research I have seen – and I was initially someone who would have supported mandatory helmet wearing for cyclists – however having read the research, I am less supportive of that. The reason partly for that is because the person who stands to lose the most is the person who is making the decision and they do not stand to impact any other road user negatively by that person being injured. Therefore I think the vast majority of people who do cycle are responsible, they do wear helmets and I think that we should really focus on education and supporting those people in terms of knowing what purchases to make, making sure people understand why and we should be doing that from a very young age. So for me that is very important.

3320 The other point I would like to make around the cycling on pavements is: one of the things that put me off cycling once and for all was when I could no longer cycle on the pavement and they introduced £20 fines – it was when I lived in the UK – and I just felt that I was never going to be safe on a road so I stopped cycling. Now, I do not want to see that for my children. I want them to feel confident growing up and being able to get used to cycling in a more comfortable environment but also having great respect for people who are walking and using the pavement who do not have the opportunity to enter the road. So I think it is far more about education rather than a very blunt instrument.

3330 So I am not totally against an enabling clause, because I also recognise this can include things like horse riders and so on, but I do think we need to be very cautious about the route we may be going down with this, because I do not think it is so cut and dried as the intention would seem to indicate.

3335 **The Speaker:** Thank you.
I call on the Minister to reply.

3340 **Mr Harmer:** Thank you, Mr Speaker.

3345 I would like to contend with the Hon. Member for Middle about the MHK for cycling; it is something I am passionate about, but I would point out that clause 14 is not really for cycling – I think the Member for Douglas East pointed this out – it is more of a general provision and more appropriate for quads and riders of those that are propelled by horse riding and so forth and a number of other different vehicles that come into place from time to time. I think it is important to have that provision so that we can meet the challenges head on.

Obviously any provision will have to be set up fully in regulations. It would have to have detail and it would have to be approved by Tynwald. But I think it is absolutely right as a very passionate cyclist, that we make that provision.

3350 Correct me if I am wrong, but actually I do not think it is clause 16 where the Hon. Member for Middle has some concerns. It is actually clause 17 which is the cycling on pavements. What that is very much at the moment ... there is a complete grey area and it is neither whether it is legal or illegal. So actually this is one area that we need to make sure that there is clarity. It needs to be very clear of what status the pavement is. The legislation is very grey and this allows it to be very clear what is allowed and what is not.

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3360 What the Department will bring forward is obviously regulations to specify that where pavements ... and where we do want to share space and where they will be permitted. But what this is not to do is it is not about saying no to all cycling on pavements. Obviously there are some pavements that are very, very narrow and it is completely inappropriate. But there are other areas that are part of the Active Travel Strategy, we need to actually specify that you *can* do. At the moment it is grey and it could be subject to legal challenge. What I want to do is give families and small children the confidence that they are able with confidence to cycle on those pavements.

3365 I certainly was quite used to seeing and being unsure about, personally, cycling on pavements. I think it is much better to give people the education and the confidence that these particular pavements are absolutely fine and right for cycling, whereas some where there are barely inches of width it is absolutely not the right thing for cycling.

3370 Regarding helmets, I think, as I say, it is not really aimed at cycling. It is aimed at a general ... the quad bikes and so forth.

3370 So with that, Mr Speaker, I would beg to move all of those amendments and say probably we should separate clauses 14 and 17.

Thank you, Mr Speaker.

The Speaker: Thank you, Minister.

3375 In which case what I will do in the first instance is I will take clauses 13, 15, 16 and 18. These are clauses which people have not commented on and I will take those first. So I put first the motion that clauses 13, 15, 16 and 18 stand part of the Bill and I would presume the motion will be carried unless any Member indicates dissent, which they should do now please.

3380 No dissent being registered on those, I put next clause 14, which is about helmets. Right, a division is called: I will call on the Clerks to run the vote.

Voting resulted as follows:

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Boot
Mr Cannan
Mrs Corlett
Miss Costain
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Skelly
Mr Thomas
The Speaker

AGAINST

Mrs Caine
Mr Callister
Mr Peake
Mr Robertshaw
Mr Shimmins

The Speaker: With 18 for, 5 against, the ayes have it. The ayes have it.

We turn then to the vote on clause 17 and that was about vehicles on footways and central reservations. Again, I will call on the Clerks to run the vote, please. Please take your cue then.

Voting resulted as follows:

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Miss Costain
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Skelly
Mr Thomas
The Speaker

AGAINST

Mr Peake
Mr Shimmins

3385 **The Speaker:** Hon. Members, with 21 votes for, 2 against, the ayes have it. The ayes have it. Having dealt with that section, I think that takes us up to clause 19. Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

3390 Clause 19: this provision will be brought forward only with the agreement of the Department of Home Affairs and the Chief Constable, but remain part of the Bill. It repeals and replaces three sections.

3395 Section 42, constables and authorised examiners – production of driving licences: this extends the power from constables to authorised examiners in the Department in specified circumstances to stop vehicles and require the production of a driving licence. Those circumstances are extended to events taking place in public places as well as roads.

Section 43, constables and authorised examiners – other powers: this extends the power currently only held by constables and authorised examiners of the Department to stop vehicles and require the driver to disclose a name and address and also of the registered keeper.

3400 Section 44, constables – information-gathering and arrest powers for serious driving and riding offences: this section extends powers from two specific offences to any serious driving offence.

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

3405 **The Speaker:** Mr Baker.

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

3410 **The Speaker:** If no Member wishes to speak, I will put the motion that clause 19 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clauses 20 to 24 inclusive. Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

3415 Firstly, clause 20 repeals and replaces section 46, owners of motor vehicles to give information to verify compliance with the requirement of compulsory insurance or security. It makes no substantive change, having redrafted any consequences of expressions that are now included in clause 30.

Clause 21 inserts a new section 47AA, enforcement of fines and vehicle duty. This clause makes provisions in line with the existing sections 47A and 47B of the Road Traffic Act 1985.

3420 The main features of this new section 47AA are as follows: a constable or a person appointed by the Department or by a court is empowered to seize and remove a motor vehicle if they have reasonable grounds for believing that its owner owes a fine, in respect of a motoring offence, the payment of which has been outstanding for at least 35 days. A person appointed by the Department is given like power when he or she comes upon a motor vehicle on the road and has
3425 reasonable grounds for believing that a current vehicle licence has not been displayed on the vehicle for over a month. A motor vehicle may not be released until the fees, charges or costs incurred in its seizure and retention have been paid together with the fine or vehicle duty, as the case may be. If no such payment is made in full within 35 days, the vehicle may be disposed of and the proceeds used to meet the outstanding payment. The Department has the power to
3430 make further provisions by regulations regarding removal, retention or storage of seized vehicles and for their release, forfeiture or disposal.

Clause 22 amends section 47B, removal, retention, disposal and release, etc. of seized vehicles. This clause substitutes a new section 47B(2) placing a bar, except with the leave of the court, on civil claims arising in connection with the seizure of vehicles.

3435 Clause 23 repeals and replaces section 47C offences. A person commits an offence if they remove a notice, release a vehicle from an immobilisation device, obstruct a person exercising the function in relation to a seized vehicle or if they provide evidence that they know to be false or misleading.

3440 Finally, clause 24 amends the interpretive provisions with section 47D by adding therein the defined terms.

I beg to move that clauses 20 to 24 do stand part of the Bill.

The Speaker: Mr Baker.

3445 **Mr Baker:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I now turn to amendment number 3 and Mr Perkins to move.

3450 **Mr Perkins:** Thank you, Mr Speaker.

This amendment proposes to re-number, or should I say re-letter, the lines in the Bill for ease of denotation. On page 35, lines 10, 13 and 16: for the respective numbering denoted as (i), (ii) and (iii) substitute respectively (a), (b) and (c) for simplification.

I beg to move this amendment standing in my name:

Amendments to clause 24

3. Page 35, lines 10, 13 and 16: for the respective numbering (i), (ii), (iii) substitute, respectively, (a), (b), (c).

3455 **The Speaker:** Mr Moorhouse.

Mr Moorhouse: I beg to second the amendments.

The Speaker: Thank you very much.

3460 Now, does anyone wish to speak? No? In which case I put the amendment number 3 in the name of Mr Perkins and I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the ayes, aye ayes and aye aye ayes have it!

3465 I then put to you that clauses 20 to 24 inclusive do stand part of the Bill as amended by amendment 3, and I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, clauses 20 to 24 inclusive stand part of the Bill.

Clauses 25, 26 and 27, Mr Harmer.

3470 **The Speaker:** Thank you, Mr Speaker.

Clause 25 amends section 48, forgery of documents, etc. This provision includes the forgery of a professional driver's card.

3475 Clause 26 amends section 49, false statement and withholding material information. This provision substitutes a new section 49(4) which makes no substantive change, together with a new section 49(5) in respect of a professional driver's card.

Finally, clause 27 repeals and replaces section 50, issue of false evidence of insurance or security. This simply substitutes a new section 50 in order to reflect the interpretative provisions of clause 30. Again, no substantive change has been made.

I beg to move that clauses 25 to 27 stand part of the Bill.

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The Speaker: Mr Baker.

Mr Baker: I beg to second.

3485 **The Speaker:** If no Member wishes to speak, I put the motion that clauses 25, 26 and 27 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent has been registered. The motion therefore carries.

Clause 28, Mr Harmer.

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Mr Harmer: Thank you, Mr Speaker.

Clause 28 inserts a new section 53A, driving disqualification where vehicles are used for the purposes of crime. This provides for a driving disqualification where a vehicle was used for the purposes of crime.

3495 I beg to move that clause 28 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second.

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The Speaker: If no Member wishes to speak, I put the motion that clause 28 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent which they should do now. No dissent being indicated, the motion therefore carries.

Clause 29, Mr Harmer.

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Mr Harmer: Thank you, Mr Speaker.

Clause 29 amends section 68, certain vehicles not to be treated as motor vehicles. This provision substitutes new section 68(1) which enables the Department to specify by regulations mechanically propelled vehicles that are not motor vehicles for the purpose of the Act. This provision will cover new technologies vehicles, such as Segways and e-scooters.

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

The Speaker: Mr Baker.

3515 **Mr Baker:** I beg to second.

The Speaker: Thank you, Mr Baker.

3520 If no Member wishes to speak I will put the motion that clause 29 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent has been registered. The motion therefore carries.

Clause 30, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

3525 Clause 30 substitutes a new section 72, general interpretation provisions. This new section defines general interpretive expressions and inserts definition for 'authorised insurer' and requires that such a person must be authorised to carry on motor insurance businesses anywhere in the British Isles, Gibraltar or an EU member state, and must provide relevant information to the Motor Insurers' Bureau database.

3530 Certain new definitions are inserted that arise in conjunction with amendments made elsewhere by the Bill.

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

The Speaker: Mr Baker.

3535 **Mr Baker:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

3540 If no Member wishes to speak, I will put the question that clause 30 stand part of the Bill and I presume that the motion will be carried and unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clauses 31 and 32, Minister.

Mr Harmer: Thank you, Mr Speaker.

3545 Clause 31 inserts three new sections. Section 73A, safety regulations: this section enables the Department to make safety regulations with respect to road traffic, road transport or related matters.

Section 73B, regulation of professional drivers: this provides for the regulation of persons who drive vehicles of prescribed classes for professional purposes.

3550 Section 73C, liability of directors of body corporate: this provides that where a body corporate is convicted of contravening construction and use regulations, its directors are in certain specified circumstances guilty of the same offence and are liable personally for the penalty prescribed for it.

3555 Clause 32 amends section 74, power to make, and Tynwald control over, regulations, orders, etc.: the inclusion of a new section 74(3)(b), which extends Tynwald approval to orders made under specified sections and otherwise omits references to provisions that are either repealed by this Bill or confer no power to make orders.

I beg to move that clauses 31 and 32 do stand part of the Bill.

The Speaker: Mr Baker.

3560

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

The Speaker: Thank you.

3565 If no Member wishes to ... Oh, Mr Perkins.

Mr Perkins: Thank you, Mr Speaker.

3570 I would just like to request some clarification on clause 31 from the Minister, please; and the new section 73A. There is a bit where it says 'appropriate consultation with the OFT'. Does that mean that the OFT could ultimately object to the regulations if it feels it does not have the ability to enforce them?

3575 It seems a bit woolly to me. Obviously the OFT will comply with what they are asking, but it is very difficult because our experience is with white consumer goods rather than vehicles. If it was a crash helmet that is substandard, yes of course we would be delighted to intervene. But with regard to the mode of transport, etc. commercial vehicles are included, it quotes the Consumer Protection Act aimed at consumer goods and we have no experience outside this area, certainly with vehicles.

So I would just ask the Minister if he could please clarify that clause.

3580 **The Speaker:** Thank you.
Minister to reply.

Mr Harmer: Thank you.

3585 Yes, I can clarify that. Basically, in essence, it is recognised that this is just with respect to safety and it is recognised that the Department shall work with the Office of Fair Trading to ensure there is no repetition of enforcement powers in relation to safety and related issues. So what this provision does is purely about safety and makes sure that we do not overstep or go to areas that are defined by the OFT.

With that I beg to move.

3590 **The Speaker:** Now, I understood from Mr Perkins' comments that he was seeking clarification rather than requesting a separate vote. So I will put the motion that clauses 31 and 32 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 33, Mr Harmer.

3595

Mr Harmer: Thank you, Mr Speaker.

3600 Clause 33 amends Schedule 2, construction and use of vehicles and equipment in various ways. Firstly, regulations under paragraph 1(1) are empowered to provide that the testing and inspection of a vehicle may include its being driven or drawn and may take place on the premises where it was situated, but without the consent of the owner of the premises, if it is reasonably suspected that the vehicle was involved in an accident.

3605 Secondly, paragraph 1 is further amended to allow regulations on the construction and equipment of vehicle provisions to allow for vehicles and the conditions under which they may be used by disabled persons.

3610 Thirdly, intentional obstruction of a person authorised to test or inspect a vehicle under regulations is made an offence.

3610 Fourthly, provisions of the ADR – which is the European Agreement concerning the International Carriage of Dangerous Goods by Road – that are applied by regulations but which are subsequently amended or replaced in later editions of the ADR will apply automatically in the Island with substantially the same modification that are made to the original provisions by the regulations.

Finally, the power in paragraph 6(i) to prohibit the driving of unfit vehicles is extended to those tested, inspected or examined under the Road Transport Act 2001.

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

3615

The Speaker: Mr Baker.

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

3620 **The Speaker:** If no Member wishes to speak, I will put the question that clause 33 stand part of the Bill and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clauses 34 and 35, Mr Harmer.

3625 **Mr Harmer:** Thank you.

Clause 34 extensively amends Part I and Part II of Schedule 3. As far as Part I is concerned, regulations under paragraph 2 are empowered to provide that motorcyclists taking a driving test must wear prescribed clothing.

3630 Paragraph 2 is amended to include enabling provisions requiring that a person completes a prescribed minimum number of hours of supervised training before they can take a driving test.

Paragraph 4 makes certain substantive changes. A declaration accompanying an application for a driving licence must now state, in a case where an applicant is not suffering from a relevant disability, whether the applicant is suffering from a prospective relevant disability, as defined.

3635 Provision is inserted requiring the Department to include in a licence the driving conditions to which the holder is subject in a case where the Department is satisfied that the person in question is suffering from a disability that presents a danger to the public if these conditions are not complied with. If the Department is satisfied that a person is suffering from a prospective relevant disability, it may grant a licence for a shorter period.

3640 It is made an offence, firstly, to make a false declaration to obtain a licence; secondly, to drive a motor vehicle contrary to any limitation or condition included in a licence; and finally, to omit to return a licence to the Department when required to do so under the provisions included in paragraph 4.

3645 New paragraphs 4A and 4B are inserted — the first requires that an application to renew a licence to drive large passenger or heavy goods vehicles or combinations must be accompanied by a certificate from a medical practitioner that the applicant is fit to drive them; and the second requires that an applicant for a licence who is aged 75 or over must have passed a prescribed eyesight test.

3650 Paragraph 5 is amended to enable the prescribing of the fees payable to medical practitioners under the paragraph. It also requires such persons to have regard to the medical advice issued by the Driver and Vehicle Licensing Agency in Great Britain when exercising their functions under it.

3655 Paragraph 6 is amended so that the prescribed restrictions to which a provisional licence holder is subject are extended to persons driving a vehicle by virtue of a provisional entitlement conferred by a full licence. It is made an offence to contravene any of the prescribed restrictions. Paragraph 6 also empowers regulations that prescribe the clothing to be worn by motorcyclists taking a course of compulsory basic training.

Provision is inserted in paragraph 6B to the effect that newly qualified drivers shall at an earlier date cease to be subject to the restrictions applying to them if they pass a prescribed course of driving instruction.

3660 Paragraph 9 is substituted to provide for the revocation of a licence if an eyesight test is failed and also inserts an offence of not returning a revoked licence forthwith to the Department when required to do so.

In paragraph 10, terminology in subparagraph (1) is modified and in subparagraph (2) is omitted.

3665 Now turning to the amendment of Part II, which is disqualification, paragraph 11(1A)(b) and (3) are amended, and (3C) inserted, so as to cater for disqualification in connection with an offence under the new section 5AA(1)(a) and (2), drug driving provisions.

Provision is inserted in paragraph 12 reducing from 12 points to 6 points or over the number of penalty points leading to the disqualification of a provisional or newly qualified driver or to

3670 the revocation of the licence, as the case may be. The effects of the disqualification or the revocation are specified.

Paragraph 20(4), which relates to the delivery of a licence to a court, is extended to persons prosecuted for an offence involving discretionary disqualification. Paragraph 20(8) is substituted so as to specify the period during which an endorsement on a licence remains effective when a
3675 licence holder has been convicted of certain offences involving drink or drugs.

Paragraph 22 is modified to enable the Department to amend Schedule 3 by regulations subject to Tynwald approval.

Other amendments to Schedule 3 are made which are ancillary, consequential or incidental by nature.

3680 Now turning to clause 35, it makes drafting improvements to Schedule 4, driving instruction. No substantive change is made there.

I beg to move that clauses 34 and 35 stand part of the Bill.

The Speaker: Mr Baker.

3685

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

The Speaker: Thank you.

Turning to amendment 4 on your Order Paper, Mr Perkins.

3690

Mr Perkins: Thank you, Mr Speaker.

I would like to amend page 52, lines 22 and 27: in sub-clause 19, for the respective numbering (i) and (ii) please substitute respectively letter (a) and letter (b) for the purposes of good housekeeping.

3695

Thank you, Mr Speaker.

Amendment to clause 34

4. Page 52, lines 22 and 27, in sub-clause 19, for the respective numbering (i), (ii) substitute, respectively, (a), (b).

The Speaker: Thank you.

Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker, I would like to second.

3700

The Speaker: Thank you.

Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

3705

In terms of clauses 34 and 35, and whilst we are on the subject of driving licences and instruction, I would like to draw to the attention of the Minister that the driving test does not contain any guidance or test on how to safely overtake a cyclist.

This is a serious omission. Unfortunately this is a real life danger with poor overtaking of cyclists, a feature every day on Manx roads. Tragically not long ago, a man with a young family was killed whilst cycling to his place of work by a driver who had just passed their driving test.
3710 That test did not contain any guidance on how to safely overtake a cyclist.

Will the Minister review the content of the Manx driving test and instruction to ensure that this important content is added?

3715

The Speaker: Thank you, Mr Shimmins.

Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

3720 I wonder whether the Minister could just describe in a little more detail the difference between a prescribed disability and another disability which together become relevant disability and in turn could in certain circumstances become a prospective relevant disability. It is quite complicated and a little clarity would be appreciated in his summing-up remarks, Mr Speaker.
Thank you.

3725 **The Speaker:** Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

3730 Really I was just going to come in on those comments made by the Hon. Member for Douglas East. The Minister did talk a lot about disability and different types of disability here. I note that further on in the Bill, the Minister is repealing a section of the Equality Act in relation to disability. I just want to check that the changes that this Bill is making in respect to disabilities have actually been run by the Government's Equality Adviser and actually everything in here is going to be okay.

3735 **The Speaker:** I call on Mr Perkins if he wishes to say anything in regards to his amendment?

Mr Perkins: No thank you, Mr Speaker.

The Speaker: In which case I call on the mover to reply.

3740

Mr Harmer: Thank you, Mr Speaker.

3745 Regarding overtaking of cyclists, I completely agree with the Member for Middle regarding that. It is in the Highway Code but unfortunately often it is not always observed. However, in the previous clause – in clause 31 – it does allow the Department to make safety regulations and safe overtaking of cyclists would be and can be one of those regulations actually considered. So that would fall into there. Obviously further consideration in terms of tests and really making us all cycle aware, I fully endorse and fully support that and that will be able to be done.

3750 In terms of and just taking Mr Hooper's point last, yes, one of the one of the key issues here is that very much in the scrutiny of this Bill, two things that have happened are both Brexit and equality legislation and this has been pulled through and referenced to the Equality team with respect to that legislation, so it does actually comply fully with that.

3755 Regarding the sort of disabilities that Mr Robertshaw was talking about, a relevant disability is any condition which is even prescribed in regulations or any disability where driving is likely to be a source of danger to the public. Prospective disabilities are any medical condition that because of their progressive or intermittent nature may develop into relevant disabilities in time – for example, Parkinson's disease and early dementia. A driver with a prospective disability may be granted a driving licence for up to three years, after which the renewals require further medical review.

With that, Mr Speaker, I beg to move.

3760

The Speaker: Thank you.

I put the first amendment in the name of Mr Perkins. I presume that that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

3765 I put to you clauses 34 and 35 as amended and presume that the motion will be carried unless any Member indicates dissent, which they should do now. Again no dissent being indicated, the motion therefore carries.

I call on Mr Harmer to move clauses 36 to 39.

3770 **Mr Harmer:** Thank you, Mr Speaker.

Clause 36 amends Schedule 5, third-party liabilities. There a number of changes, including enabling the Department to make regulations regarding the use of information obtained from the Motor Insurance Bureau Database. This clause also repeals provisions considered redundant and substitutes interpretive provisions and improves definitions.

3775 Clause 37 amends Schedule 6, prosecution and punishment of offences. The amendments to the table are a consequence of other changes in the Bill, such as the changes in relation to drug driving. Fines have been converted from values to levels to ensure that fines remain relevant and appropriate. New entries are inserted in consequent provisions elsewhere in the Bill and others are amended on grounds that they are mistakenly working or otherwise. The penalties
3780 for certain offences are also increased.

Clause 38 amends Part IV of Schedule 6, alternate verdicts. This amendment is to add relevant penalties consequent on clause 5, drink and drug driving.

And finally, clause 39 makes a consequential amendment of the Police Powers and Procedures Act 1998.

3785 On that basis I beg to move that clauses 36 to 39 do stand part of the Bill.

The Speaker: Thank you.

Mr Baker.

3790 **Mr Baker:** Thank you, Mr Speaker.

I beg to second.

The Speaker: Thank you.

Now I call on Mr Hooper to move amendments 5 and 6, please.

3795

Mr Hooper: Thank you very much, Mr Speaker.

These amendments are relatively straightforward. Both amendments are to align the penalties of the Bill it is proposing in relation to failing a drugs tests and driving under the influence of drugs with those for alcohol, and also to ensure that a custodial sentence is an
3800 option available to the courts for these new offences, in the same way it is for current similar offences under the Act.

In light of comments made in the previous debate around potentially somebody being locked up for speeding, it has given me cause to review some of the penalties that this Act brings in and also that already exist under the Road Traffic Act and the Road Traffic Regulations. I actually
3805 struggled to find anywhere where someone could be convicted and sentenced to a prison term for speeding and it does make me wonder, in line with some of these changes that I am proposing here, whether the Department really does have a handle on what offences actually exist and what the various penalties are, and maybe a more thorough review is called for seeing as it seems to be unclear in people's minds as to exactly what some of the punishments can be
3810 for driving offences on the Island.

Thank you, Mr Speaker. I beg to move:

Amendments to clause 37

5. Page 63, subsection (37), in the table that appears immediately below line 6, for the fourth column entry in respect of "5AA(1)(a) and (2)" substitute «6 months or level 4 on the standard scale or both».

6. Page 63, subsection (37), in the table that appears immediately below line 6, for the fourth column entry in respect of "5AA(1)(b) and (2)" substitute «3 months or level 4 on the standard scale or both».

3815 **The Speaker:** Thank you.
Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker. I would like to second the amendment.

3820 **The Speaker:** Thank you.
Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

I welcomed the Minister's comments around clause 31 and the introduction of new safety regulations.

3825 But I also look at the offences list and the penalties that are contained in clause 37, and I just wanted to make Hon. Members aware that in November last year the Irish government and parliament agreed a new law to help reduce the number of cyclists who have been killed or seriously injured by car or lorry drivers.

3830 So now in Ireland if a driver dangerously overtakes a cyclist they face an automatic fine of €120 and three penalty points. This move followed a number of extensive discussions on various policy options which were debated in the public arena, and they were brought forward jointly by the Irish police, the Department of Transport, the Road Safety Authority and the Attorney General who was very interested in actually how difficult this was with some of the earlier proposals but then became very supportive of this measure. The Irish police hope that the
3835 increased penalties for dangerous overtaking, alongside the very creative educational measures in terms of marketing and a PR campaign will change driver behaviour because the Irish authorities understand that the biggest risk facing cyclists is aggressive drivers.

Also, on speaking, I should just confirm for Hon. Members that cyclists are not legally obliged to wear a helmet in Ireland.

3840 So I guess the question I would like the Minister to consider is will he adopt a similar measure to the Irish dangerous overtaking regulation and fixed penalty offence here on the Isle of Man?

The Speaker: I firstly call on Mr Hooper to see if he wishes to respond with regard to his amendment?

3845 **Mr Hooper:** No.

The Speaker: No, thank you very much.
Minister to reply.

3850 **Mr Harmer:** Thank you, Mr Speaker.

From the questioner regarding overtaking cyclists, as I said, I do think it is an area that does need to be looked at; particularly in the Highway Code it is not permitted. We did look at Irish legislation and whether it could be easily transferred. Unfortunately it does not look to be as
3855 simple because they have different common law etc. However, that is something obviously that needs to be looked at. What I would also say is that education – which was one of the points there – is going to be absolutely vital and continues to be vital to make sure that there is that safety.

So with that, I beg to move clause 37 in my name.

3860 **The Speaker:** I put the motion that amendments 5 and 6, in the name of Mr Hooper, be approved. I will presume that that motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

3865 I then put to you clauses 36, 37, 38 and 39, as amended. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Mr Harmer, clauses 40 and 41.

Mr Harmer: Thank you, Mr Speaker.

3870 Clause 40 briefly introduces the amendments made by the rest of the clauses in Part 3.

And clause 41 amends the section traffic regulation orders, firstly, by repealing a redundant provision, secondly, by enabling traffic regulation orders to provide for the charging of fees and finally by exempting vessels being used by the emergency services from complying with traffic regulation orders in an emergency unless the order specifically provides otherwise.

3875 Mr Speaker, I beg to move that clauses 40 and 41 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: Thank you, Mr Speaker.

3880 I beg to second.

The Speaker: Thank you very much.

3885 If no Member wishes to speak, I will put the question that clauses 40 and 41 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated, the motion therefore carries.

Clause 42, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

3890 Clause 42 amends section 2, overnight and weekend waiting of certain vehicles while substituting new subsection 1 and 2 which enable the Department by regulation to define vehicles clearly in modern terms and language and to also clearly define geographically where restrictions apply.

I beg to move that clause 42 do stand part of the Bill.

3895 **The Speaker:** Mr Baker.

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

3900 **The Speaker:** Now, if no Member wishes to speak, I will put the question that clause 42 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clauses 43 to 45 inclusive, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

3905 Clause 43 inserts a new section 2B provision or restriction of use of vehicles on roads in certain classes, the purpose of which is to regulate the use of caravans on the Island's roads, which the Department was instructed to do by Tynwald. The section enables orders subject to Tynwald approval to be made prohibiting or restricting the use of vehicles on or off roads, either throughout the Island or in prescribed locations.

3910 Clause 44 substitutes a new section 37, temporary prohibition or restriction of traffic on roads. This provision enables the change to be made from temporary prohibition or restriction of traffic on the road subject to Tynwald approved regulations.

3915 Clause 45 inserts a new section 9A, temporary alternative school crossing, this makes provision for alternative school crossing locations where currently prescribed permanent locations cannot be used for a temporary period, such as during roadworks.

Mr Speaker, I beg to move that clauses 43 to 45 do stand part of the Bill.

The Speaker: Mr Baker.

3920 **Mr Baker:** Thank you, Mr Speaker, I beg to second.

The Speaker: Now, if no Member wishes to speak I will put the motion that clauses 43, 44 and 45 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

3925 Mr Harmer, clauses 46 to 49.

Mr Harmer: Thank you, Mr Speaker.

3930 Clause 46 amends section 11, regulation of off-street parking places. The change means that a registered owner or keeper of vehicle used in the commission of a specified offence may be deemed liable for the offence. This is, however, only where there is insufficient evidence to establish whether the resident owner or keeper of the vehicle was the driver when it was used to commit the offence. The onus is then placed on the registered owner or keeper to prove on balance of probabilities that they were not the driver at the relevant time. On so proving the registered owner or keeper is entitled to an acquittal.

3935 Clause 47 substitutes a new provision in section 14, designation of on-street parking places. Firstly, this enables the removal of the vehicles from designated on-street parking places in an emergency and secondly, relates to civil claims in regard to the exercise of Departments or Chief Constable's function under this section.

3940 Clause 48 amends section 14A charges at and regulations of on-street parking places, this enables overstay charges to be prescribed in cases where the initial period of parking has been preceded.

And finally, clause 49 amends section 14B, offences relating to designated parking spaces. This makes it an offence to leave your vehicle in a suspended designated parking space.

3945 Mr Speaker, I beg to move that clauses 46 to 49 stand part of the Bill.

The Speaker: Thank you.

Mr Baker.

3950 **Mr Baker:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I call Mr Perkins to move amendments number 7 and 8, please.

3955 **Mr Perkins:** Thank you, Mr Speaker.

Amendment to clause 46: on page 67, lines 32 and 33, in the insertion of the specified sub-clause (1), for the respective numbering (i) and (ii) please substitute the letters, respectively, (a) and (b).

3960 And coming to clause 47, on page 68, lines 26 and 28, in the insertion of specified sub-clause (1), for the respective numbering (i), (ii), again please substitute, respectively, the letters (a), (b).

Thank you, Mr Speaker.

Amendment to clause 46

7. Page 67, lines 32 and 33, in the insertion specified in sub-clause (1), for the respective numbering (i), (ii) substitute, respectively, (a), (b).

Amendments to clause 47

8. Page 68, lines 26 and 28, in the insertion specified in sub-clause (1), for the respective numbering (i), (ii) substitute, respectively, (a), (b).

The Speaker: Mr Moorhouse.

3965 **Mr Moorhouse:** Thank you, Mr Speaker. I would like to second.

The Speaker: Thank you.

If no one wishes to speak, I will put first the amendments in the name of Mr Perkins, amendments number 7 and 8, and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the amendments therefore carry.

3970

I therefore put clauses 46 to 49 stand part of the Bill, as amended. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

3975

Clause 50, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

3980

Clause 50 amends section 17, emergency traffic signs. This enables emergency traffic signs to be placed on roads in extraordinary circumstances, such as the use of explosives at a quarry or in other prescribed circumstances.

I beg to move that clause 50 do stand part of the Bill.

The Speaker: Mr Baker.

3985

Mr Baker: I beg to second.

The Speaker: Thank you.

3990

If no Member wishes to speak, I will put the motion that clause 50 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clause 51, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

3995

Clause 51 inserts a new section 19A, unlawful defacement of traffic signs and street furniture. This makes it an offence to deface traffic signs or other street furniture. On conviction a court may, in addition to imposing a penalty, order an offender to pay any cost incurred as a result of the defacement.

I beg to move that clause 51 do stand part of the Bill.

The Speaker: Mr Baker.

4000

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

The Speaker: Thank you.

4005

I put the motion that clause 51 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clauses 52 and 53, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

4010 Clause 52 amends section 22, speed limits general. This imposes an increased maximum fine for speeding in a residential area, road works area, or school zone.

Clause 53 substitutes a new section 27, exemption from speed limits. This exempts the fire brigade and police and ambulance services from speed limits, as well as the coastguard and civil defence for specific reasons, and adds clarity to the provision.

4015 I beg to move that clauses 52 and 53 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second.

4020

The Speaker: If no Member wishes to speak, I put the motion that clauses 52 and 53 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 54, Mr Harmer.

4025

Mr Harmer: Thank you, Mr Speaker.

Clause 54 amends section 28, badges for display on motor vehicles used by disabled drivers. This enables regulations that the disabled persons' badges issued by a jurisdiction outside the Island can be recognised here. The offence of failing to produce a badge for inspection will now apply on or off roads and is extended to a request made by a traffic warden or parking controller or constable.

4030

I beg to move that clause 54 do stand part of the Bill.

The Speaker: Mr Baker.

4035

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

The Speaker: Thank you.

If no Member wishes to speak, I will put the motion that clause 54 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

4040

Clause 55, Mr Harmer.

Mr Harmer, have we lost you?

4045

Mr Harmer: I am here. Technology!

Clause 55 inserts a new section 28A, wrongful use of disabled persons' badge. This makes it an offence to misuse a disabled persons' badge.

I beg to move that clause 55 do stand part of the Bill.

4050

The Speaker: Mr Baker.

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

The Speaker: Now, if no Member wishes to speak, I will put the motion that clause 55 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. In which case, no dissent being received, the motion therefore carries.

4055

Clause 56, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

4060 Clause 56 substitutes a new section 33A, parking controllers. This enables the Department to appoint parking controllers to exercise the functions of a constable under Schedule 5A in relation to offences specified by the Department by order.

The Department will also be empowered to employ, as parking controllers, employees of an employer, i.e. third parties, and to delegate its powers of appointment to local authorities.

4065 I beg to move that clause 56 do stand part of the Bill.

The Speaker: Mr Baker.

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

4070

The Speaker: Thank you.

If no Member wishes to speak, I will put the question that clause 56 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

4075 Clause 57, Mr Harmer.

Mr Harmer: Thank you.

Clause 57 inserts a new section 33B, use of ANPR technology. This provides for the use of automatic number plate recognition (ANPR) technology by the Department or the Chief Constable for the purposes of detecting, preventing or facilitating the prosecution of traffic offences and other offences pertaining to or involving the use of a motor vehicle.

4080 I beg to move that clause 57 do stand part of the Bill.

The Speaker: Mr Baker.

4085

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

The Speaker: Thank you.

4090 If anyone wishes to speak? Otherwise, I will put the question that clause 57 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clause 58, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

4095 Clause 58 inserts a new section 35B, certain vehicles not to be treated as motor vehicles. This provides for certain vehicles such as technology vehicles – such as electric scooters – not to be treated as motor vehicles.

Such vehicles will be defined in regulations to be approved by Tynwald.

4100 I beg to move that clause 58 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second.

4105 **The Speaker:** Thank you very much.

If no Member wishes to speak, I will put the question that clause 58 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clause 59, Mr Harmer.

4110

Mr Harmer: Thank you, Mr Speaker.

Clause 59 supplements the interpretative provisions in section 38.
I beg to move that clause 59 do stand part of the Bill.

4115 **The Speaker:** Mr Baker.

Mr Baker: I beg to second.

4120 **The Speaker:** Thank you.
Mr Perkins, amendment number 9, please.

Mr Perkins: Thank you, Mr Speaker.
Amendment number 9 refers to page 77, line 3 and line 8 for the respective numbering (i), (ii) please substitute, respectively, the letters (a) and (b).

4125 I beg to move:

Amendment to clause 59

9. Page 77, lines 3 and 8, for the respective numbering (i), (ii) substitute, respectively, (a), (b).

The Speaker: Mr Moorhouse.

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

4130 **The Speaker:** Thank you very much.
If no Member wishes to speak, I will put first the amendment number 9 in the name of Mr Perkins be approved, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being received, the motion therefore carries.

4135 Clause 59, as amended. I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 60, Mr Harmer.

4140 **Mr Harmer:** Thank you, Mr Speaker.
In view of the complexity of Schedule 5, liability of vehicle owners in respect of certain fixed penalty offences, and 5A, fixed penalties, clause 60 enables the Department to make regulations to amend them.

4145 Any such regulations are subject to Tynwald approval.
I beg to move that clause 60 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second.

4150 **The Speaker:** Thank you.
If any Member wishes to speak? Otherwise I will put the question that clause 60 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

4155 Mr Harmer, clause 61.

Mr Harmer: Thank you, Mr Speaker.
Clause 61 amends the section 39 power to make orders and regulations by supplementing regulations and orders that require Tynwald approval.

4160 I beg to move that clause 61 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: Thank you, Mr Speaker.

4165 I beg to second.

The Speaker: Thank you.

4170 If any Member wishes to speak? Otherwise I will put the question that clause 61 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clause 62, Mr Harmer.

Mr Harmer: Thank you.

4175 Clause 62 substitutes a new Schedule on temporary notices. This provides alternative options to publicise temporary notices, enables the Department to substitute, revise and update the provisions in place of an existing provision, subject to Tynwald approved regulations.

I beg to move that clause 62 do stand part of the Bill.

The Speaker: Mr Baker.

4180

Mr Baker: Thank you, Mr Speaker.

I beg to second.

4185 **The Speaker:** Any Member wishes to speak? Otherwise I will put the question that clause 62 stands part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clause 63, Mr Harmer.

4190 **Mr Harmer:** Thank you, Mr Speaker.

Clause 63 substitutes a new Schedule 2 procedure for making certain orders that may be prescribed. The Department may make regulations prescribing the procedure to be followed when making orders in relation to the Schedule.

I beg to move that clause 63 do stand part of the Bill.

4195

The Speaker: Mr Baker.

Mr Baker: Thank you, Mr Speaker.

I beg to second.

4200

The Speaker: I put the question that clause 63 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 64, Mr Harmer.

4205

Mr Harmer: Thank you, Mr Speaker.

Clause 64 amends Schedule 4, penalties for offences under this Act. This prescribes the maximum fines for new offences inserted by the Bill, and increases the maximum fines for speeding up to level 3, which is £2,000.

4210 I beg to move that clause 64 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second, Mr Speaker.

4215

The Speaker: Thank you.

If any Member wishes to speak, otherwise I will put the question that clause 64 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

4220

Clause 65, Mr Harmer.

Mr Harmer: Thank you.

Clause 65 amends schedule 5A, fixed penalties. This specifies a number of new fixed penalty offences, the nature of which is in keeping with those already specified.

4225

I beg to move that clause 65 do stand part of the Bill.

The Speaker: Thank you.

Mr Baker.

4230

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

The Speaker: I put the question that clause 65 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

4235

Clause 66, Mr Harmer.

Mr Harmer: Thank you Mr Speaker.

Clause 66 makes consequential amendments to the Disabled Persons (Badges for Motor Vehicles) Regulations 2002.

4240

I beg to move that clause 66 do stand part of the Bill.

The Speaker: Mr Baker.

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

4245

The Speaker: If any Member wishes to speak? Otherwise I will put the question that clause 66 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

4250

Clauses 67 to 72, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clauses 67 to 72 are amendments to the Local Government (Miscellaneous Provisions) Act 1984.

4255

Clause 67 briefly introduces the amendments made by the rest of the clauses in Part 4.

Clause 68 amends section 2, power to remove vehicles, and consequences of provisions made later in this Part.

4260

Clause 69 inserts a new section 3A, power to remove vehicles causing offence. This enables an appropriate authority to remove a vehicle from a road or public place in a specified circumstance if, having received a complaint, it is satisfied that the vehicle is in such a neglected condition that its presence makes it offensive to the public to remain there.

Clause 70 amends section 4, custody of vehicles, as a consequence of clause 68.

4265 Clause 71 substitutes four new sections, 5 to 8. The four new sections are: section 5, enforcement of fines and vehicle duty and the payment of fees, charges and costs; section 6, retention, disposal and release etc. of vehicles; section 7, indemnity; section 8, interpretation.

These four sections clarify and provide definitions in relation to the enforcement of fines and retention to those vehicles. They make similar provision to those contained in clauses 22 and 23; and in section 47B which is amended by them, interpretative provision is also made.

4270 Finally, clause 72 repeals Schedule 1, the result of which will enable an appropriate authority to move a parked vehicle, or a constable to require the moving of the vehicle by the person in charge of it, if any statutory prohibition or restriction is being contravened.

Mr Speaker, I beg to move that clauses 67 to 72 do stand part of the Bill.

4275 **The Speaker:** Thank you.
Mr Baker.

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

4280 **The Speaker:** Now, if any Member wishes to speak to any of those clauses? Otherwise I will put the question that clauses 67, 68, 69, 70, 71 and 72 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 73, Mr Harmer.

4285 **Mr Harmer:** Thank you, Mr Speaker.

Clause 73 amends the Licensing and Registration of Vehicles Regulations 2015 to enable the Department to provide information held on the vehicle licence and register to prescribed officials and to any person appearing to the Department to have reasonable cause for making that application.

4290 I beg to move that clause 73 do stand part of the Bill.

The Speaker: Mr Baker.

4295 **Mr Baker:** I beg to second.

The Speaker: Thank you.

I put the question that clause 73 stand part of the Bill, and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

4300 Clause 74, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 74 lists four different primary enactments and the extent to which each of them is repealed.

4305 I beg to move that clause 74 do stand part of the Bill.

The Speaker: Mr Baker.

4310 **Mr Baker:** Thank you, Mr Speaker. I beg to second.

The Speaker: I put the question that clause 74 –
Oh, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

4315 I know that the Minister commented earlier about the disability provisions in the Act but going through the Equality Act itself and looking at this particular provision that is being repealed, this is the provision within the Equality Act that, subject to any regulations and any exemption, the operator of a private hire vehicle must comply with a request to carry a disabled person and an assistance dog or wheelchair. And again I just am not clear where in this new Bill that provision is being replicated, so I cannot see that provision being replicated within this Act.

4320 I would just appreciate some clarity from the Minister as to where that regulation, that law that is being repealed, is going to sit going forwards? I cannot see it in the Act before us.

The Speaker: Minister to reply.

4325

Mr Harmer: Thank you, Mr Speaker.

I will have to come back to the Member. But as I say this Bill has been through the whole equality process and so forth.

Thank you, Mr Speaker.

4330

The Speaker: Mr Hooper, you wish to interject?

Mr Hooper: Yes, please, Mr Speaker.

4335

Unfortunately, I do not think it is good enough. We are repealing a piece of Equality law here, a very specific piece of Equality law, and the Minister needs to be able to satisfy this House that the law that is being repealed is being adequately replaced. I think it would be entirely and completely irresponsible of this House to agree to a clause repealing a piece of legislation that is quite important, without absolute clarity that either the legislation is no longer required or it is being replaced in an adequate form elsewhere.

4340

I am very uncomfortable with being asked to approve these repeals without knowing for certain what the situation is.

Mr Harmer: Mr Speaker?

4345

The Speaker: Yes, Minister.

Mr Harmer: I can confirm they are within the Equality Act.

Thank you, Mr Speaker.

4350

The Speaker: In which case I put the question that clause 74 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now. Dissent being indicated, I call on the Clerks to run the vote.

If you could just wait, and take your cue from the Clerk starting the vote. Thank you.

Voting resulted as follows:

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mr Boot
Mrs Caine
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Moorhouse

AGAINST

Mrs Barber
Mr Callister
Miss Costain
Mr Hooper
Mr Shimmins
Mr Thomas

Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Skelly
The Speaker

4355

The Speaker: Thank you.

With 17 votes for, 6 against, the ayes have it. The ayes have it.