

Road Traffic and Highways (Miscellaneous Amendments) Bill 2011
Clauses considered

5.2. Mr Gawne to move.

The Speaker: We turn now to the Road Traffic and Highways (Miscellaneous Amendments) Bill.

It might be helpful if I advise the House that the mover is not moving clauses 38, 41, 45, 52 and 56 this morning. I think I have got that right, Mr Gawne, but please advise the House if that is not the case.

Therefore, I call the Hon. Member for Rushen, Mr Gawne, to move clause 1, please.

Mr Gawne: Gura mie eu, Loayreyder.

Just in relation to those clauses that I will not be moving, clauses 38 and 56 are in relation to the transfer of functions of traffic wardens and as we have a Transfer of Functions Order going to Tynwald next week, it was felt that it would not be necessary, or hopefully will not be necessary, to move those two clauses.

Also, in relation to clauses 41, 45 and 52 in relation to highways improvement lines, Members will be aware that there are a number of amendments, some of which I feel have some considerable merit. Therefore, it was felt that the Department needed to go away and have another think about that and, potentially, bring forward those three clauses in a future Bill. So, in effect, those three clauses are ditched as well at this stage.

However, moving on with clauses, clause 1 gives the Bill its short title.

I beg to move.

The Speaker: Mr –

Mr Houghton: I beg to second, sir.

The Speaker: I put the motion that clause 1 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 2, please.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 2 provides for the Bill to come into operation on one or more days appointed by the Department.

I beg to move.

The Speaker: Mr Houghton.

Mr Houghton: I beg to second.

The Speaker: I put that clause 2 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 3 introduces part 2, which makes amendments to the Road Traffic Act 1985.

I beg to move.

The Speaker: Mr Houghton.

Mr Houghton: I beg to second, Mr Speaker.

The Speaker: I put the motion that clause 3 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 4 inserts a new section, 1A, creating the offence of causing grievous bodily harm by dangerous driving.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks. *(Laughter)*

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

This amendment that I propose to put forward to Hon. Members this morning is purely a helpful measure and it is a helpful measure, insofar as the language that is being used in the Bill... that being, of course, the motoring offences leading to grievous bodily harm.

As I stated in the Second Reading of the Bill, to be helpful to the Minister and the Department, my comments and an awful lot of the public's understandings of GBH are that, of course, the grievous bodily harm is already set out quite clearly in the criminal law, which is a violent offence against the person. Already, Mr Speaker, offences can be disclosed now in legislation whereby someone can use a motor vehicle as a weapon to harm someone, and people have been prosecuted for this in the past. So we are dealing with an issue here to deal with motoring offences, and within the spirit of what is laid before this Hon. House in the Bill, I do feel the appropriate wording... and not to diminish the clause or the power of the Bill in any way whatsoever, sir... that the wording should be changed from the word 'grievous' to 'serious' bodily harm. That would satisfy the motoring offence and the fact that, of course, the public's understanding and the understanding, I have to say, in many courts in the future will be a clear understanding that it is a motoring offence, not an offence against the person under criminal law, sir.

I beg to move:

Page 2, line 2, in the inserted section 1A and in its marginal note for "grievous" substitute "serious".

The Speaker: Hon. Member, Mr Cregeen.

Mr Cregeen: I beg to second.

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I am more than content with the amendment. It takes language from a certain age into the modern age, so I think it is entirely reasonable to go along with 'serious', instead of 'grievous'. So I am happy to support the amendment.

I beg to move.

The Speaker: Hon. Members, I put, first, the amendment in the name of Mr Houghton to clause 4. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 5 applies the existing definition of 'dangerous driving' to the new offence.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

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

Clause 6, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 6 inserts two new offences of causing death and causing grievous bodily harm respectively by careless or inconsiderate driving.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

Following on from the Department and the Minister's support and the support of this Hon. House in changing the wording from 'grievous' to 'serious', I therefore beg to move, sir, that this following amendment follows through.

I beg to move:

Page 2, line 14, in the inserted section 2C and in its marginal note for 'grievous' substitute 'serious'.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second.

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

More than happy to support the amendment.

I beg to move.

The Speaker: Putting the amendment in the name of Mr Houghton: those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6, as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 7 inserts a section defining 'careless or inconsiderate driving'.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 7 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Gawne, please.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 8 inserts the offence of causing death by driving when the person is unlicensed, disqualified for driving or uninsured.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion 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 Gawne: Gura mie eu, Loayreyder.

If I may, clauses 9 and 10.

The Speaker: Clauses 9 and 10, by all means.

Mr Gawne: Clauses 9 and 10 extend the exception to the ban on motor racing and cycle racing, respectively, to occasions where it is permitted by, or under, any other enactment, instead of just under the Road Races Act 1982.

I beg to move that clauses 9 and 10 stand part of the Bill.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker.

The Speaker: Putting clause 9 first, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 10. All in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 11 makes specific provision to enable the Manx Highway Code to be adapted from that having effect in Great Britain.

I know Hon. Members will have received a letter from my hon. colleague, Mr Karran, who unfortunately is not able to join us today, in relation to aspects of policy which are not actually directly covered by the Bill. In essence, this gives us the power to do what we are already doing, which is adopting the UK highway code, but it also allows us to lay the Highway Code before Tynwald, rather than ask specifically for Tynwald approval.

I think it has been felt that having Tynwald approval for something... a document, which is effectively a guidance note for drivers, is perhaps excessive. Tynwald will have the opportunity, if they choose, to debate the matter if they choose to pick up the laid before document or Highway Code, but it was felt that it was entirely reasonable to deal with it in that way, rather than having to go through the process of a debate in Tynwald.

So that was the thinking behind this and, as I say, it actually enables the Department to use the UK Highway Code if it chooses, whereas at the moment, we do not actually have that power.

The Speaker: Mr Crookall.

Mr Crookall: Mr Speaker, I beg to second and reserve my remarks.

The Speaker: Mr Cretney, Hon. Member.

Mr Cretney: Just in the absence of the Hon. Member for Onchan, Mr Karran, I did – I am sure other Members have as well – take the opportunity to read the e-mail which was sent to us. Could I just ask the Minister to clarify whether there will be any additional financial implications as a result of this?

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

Yes, there would be a very modest additional financial implication, were we to choose to go down that route. What the Bill does is give us the option to have a stand-alone Manx Highway Code or to adopt wholesale the UK one. So that will be a decision that we can take at that time.

From my personal perspective, I think the cost, which is in the region of a few thousand pounds, is well worth the additional – what is the word I am looking for? (**A Member:** Benefit.) – benefit to the overall identity and culture of the Isle of Man by having our own stand-alone Highway Code. We have certainly seen in the past how close our ties with the United Kingdom are, and certainly the United Kingdom seem to be going along with their scissors, chopping away at those ties. I personally think it is a good thing for us to have clearly identifiable Manx-based guidance for Manx people.

The Speaker: I put the motion that clause 11 stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Clause 12, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 12 inserts four new sections concerned with the seizure, retention and disposal of vehicles and related matters.

Section 47A gives power to a constable to seize a motor vehicle if he or she believes it was being driven without insurance, has had no tax disc for at least a month, or was being driven by a person who was disqualified from holding a driving licence, otherwise held no driving licence, was driving unaccompanied, when he or she should have been accompanied, or who was at the time committing a serious driving offence connected with drink or drugs. There is power for the constable to immobilise the vehicle concerned.

Section 47B gives power for the Departments to make further provision, by regulations, as to the removal, retention or storage of seized vehicles and for their release for disposal.

Section 47C creates offences in connection with the new provisions and section 47D provides definitions of terms there used.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Watterson.

Mr Watterson: Just to ask the Minister, if the individual was found not guilty of any of the offences suspected under the clause, whether they will effectively not be charged the penalties that are associated with the seizure, retention etc of the vehicle.

The Speaker: Mr Gawne to reply, please.

Mr Gawne: Gura mie eu, Loayreyder.

My understanding of this is that if the person is not charged, then the vehicle will be returned. Certainly, there is an appeals mechanism, there is appropriate mechanism described in the legislation, which explains how vehicles are to be disposed of. So that is certainly my understanding, but I will clarify if that is not the case, and come back at Third Reading.

I beg to move.

The Speaker: I put the motion that clause 12 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 13, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 13 inserts a new provision into section 53, enabling the punishments set out in schedule 6 to be varied by order.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 13 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 14 amends section 55 to take account of substitution of the provisions in part IV of schedule 6 about alternative verdicts.

I beg to move that clause 14 stand part of the Bill.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

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

Clause 15, please.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 15 amends section 63 about inquiries, so that they are conducted by a person independent of the Department.

I beg to move clause 15.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 15 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 16.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 16 adds the new provision inserted by clause 13 to section 74, so that Orders made under that provision require Tynwald approval.

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

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 16 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 17.

Mr Gawne: Clause 17 amends the provisions in schedule 2 to empower an examiner appointed by the Department to stop vehicles on roads when a constable in uniform is present. It becomes an offence to fail to stop as required.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 17 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 18. Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 18 revises the disqualification provisions in schedule 3 so as to increase the minimum period of disqualification for the more serious offences to two years.

In the case of certain offences, where the person is intoxicated or fails to provide a specimen when required to do so, the minimum disqualification period is increased to up to five years.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.

It is not my intention to move the amendment standing in my name on the Order Paper. However, I do want to use this opportunity to raise the issue of graduated... with alcohol... graduated penalties in terms of disqualification from driving and I think, perhaps, while I have no problem with the principle of a higher penalty for higher levels of blood alcohol, I do think, perhaps, the top end is set rather high and we should be looking to other forms of punishment.

I am not using this to say that people who are a menace on the road should not be given long driving bans but, as a routine measure, if people are going to go through, for example, a drug rehabilitation programme, if they show reasonable remorse and there are other mitigating factors, five years, automatically, is a long time for people to be without their licence and whether we can look more imaginatively in future at whether it would be restorative justice – whether it be community service or ways of punishing people – other than taking their licence off them for such a long period of time, I think is worthy of further debate and worthy of further consideration. I hope the Department will take that on board, because there is not just a social impact, the impact

on the individual, who may live quite some way away from his workplace and, with the greatest respect to the Member from Douglas South, Mr Cretney, may not necessarily live in areas served by frequent public transport.

There is a significant issue for people, who can really have their whole lives seriously affected by those sorts of provisions, so I do not intend moving the motion, but I do hope that this is something the Department will give further consideration to, down the line, when it comes to a more wholesale review of its legislation in terms of road traffic.

The Speaker: Mr Gill.

Mr Gill: Thank you, Vainstyr Loayreyder.

I think the only test I would ask the mover to address is that of proportionality. It is the essence of what my colleague in Rushen, Mr Watterson, has just described, I think. Five years is an extremely long time – and, obviously, that is a matter for the courts to determine and I take no issue with that. However, the tendency for somebody who is given a disproportionate sentence to ignore that sentence and, in this case, to drive without a valid licence becomes greater with the disproportionate length of the disqualification.

I wonder if the mover could advise us what consideration he made of that thought and how that is reflected in the clause before us, because I do think it is an important one, and it is very easy to have pet crimes that we come down on really tough to show just how tough we can be sometimes. Drink-driving is certainly one of those offences that has taken that attention over the last decade and more. I just wonder if we are going even further down that line of thinking, without being cognisant of the downfalls that might attend to it.

Let us not hear the, ‘Oh, you’re in favour of letting drink-drivers off’. No I am not. I am saying let us have law which is proportionate, let us have law which is actually effective, and let us have law which will be respected even by those who are found to be guilty of it and, in facing up to their guilt, they will realise that they have been treated fairly and proportionately. I hope that the clause does that, but I am not convinced of it at the moment, sir.

The Speaker: Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

In moving my third amendment to this Bill, changing the word for ‘grievous’ to ‘serious’ bodily harm, as a consequence to the flow of the Bill, sir, I beg to move:

Page 12, line 1, for ‘grievous’ substitute ‘serious’.

The Speaker: Mr Cregeen.

Mr Cregeen: I beg to second.

The Speaker: Hon. Member for Castletown.

The Chief Minister: Thank you, Mr Speaker.

I just want to put another side to the points that have been made by the Hon. Members for Rushen, Mr Watterson and Mr Gill. I do think it is proportionate. Under the other offences, where somebody’s alcohol level is exceeding the levels that are set out there, they could be banned for two or three years under the present law, but they could also be imprisoned under the present law. This provides an option that, in fact, if somebody has excessive levels of alcohol – and we are talking here about excessive levels – somebody who really is well and truly drunk gets in a vehicle and drives it... we are saying that if they do that and they take that action then, in fact, they can be banned for five years. They may or may not go to prison within that context, as well. I do think it is something we should get right. It is a privilege to have a driving licence, not a right, and therefore, if you have that privilege, you also have a responsibility to the wider public to take care, if in fact you are consuming alcohol.

I believe that we endeavour to try and get this legislation as reasonable and proportionate as we can, because you have some extremes where they say we should ban people who actually just drink at all, to the other extreme where people would allow it to be far more flexible, and I do think that this is a move in the right direction. I do believe giving the courts greater powers where somebody has excessive alcohol levels, and therefore the courts can go up to five years, is proportionate.

Don’t forget, the courts will judge the case on its merits and have greater flexibility and can take that into account. I believe that this will be welcomed by the vast majority of the public, sir, so I support it.

The Speaker: Mr Houghton, do you wish to reply, sir?

Mr Houghton: No, sir.

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I think that there have been some very important points made here. I am very grateful to my colleague, Mr Watterson, and indeed to Mr Gill, for raising these issues. The Department has given considerable consideration to this, which is why I think that what we have in the Bill is absolutely reasonable and absolutely the right thing to do.

What we are talking about here is moving from a three- to a five-year maximum. I think that, bearing in mind the level of alcohol that we are talking about here, you would have had to be doing some pretty serious drinking to reach that sort of level. The medical advice and the road safety advice is that the levels that we are talking about, you are likely to be 200 to 300 times more impaired than if you just had a little bit more than you should have done. This is not about someone who has gone out the morning after a hard night's drinking and is caught under drink-drive legislation; this is someone who is seriously drunk and really should not be anywhere near a vehicle.

There are issues in terms of how we deal with people in society like that and whether more help needs to be given to ensure that we can try and wean people off alcohol. I know my colleagues in Home Affairs are working on those sorts of issues. I think this is proportionate. I think it is reasonable. It is not reasonable to allow people to be driving on our roads in that sort of state, and there has to be a very severe and very serious penalty associated with that.

Again, very happy to agree with the Chief Minister. I think he put the other side of the argument; also happy to support Mr Houghton's amendment and I beg to move.

The Speaker: Hon. Members, I first put the amendment in the name of Mr Houghton. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

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

Clause 19, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 19 amends schedule 4 so as to enable various provisions relating to paid driving instruction to extend to classes of motor vehicle other than motorcars and so as to cater for instruction to learner drivers given by car dealers to be treated as paid instruction.

The exemption that applies to Police instructors is extended to members of the Fire Brigade who provide driving instruction.

In particular, it introduces a new procedure whereby the Registrar may serve a stop notice on a person if he or she considers that the person is giving instruction unlawfully and certain conditions are satisfied. If the person gives instruction to a person other than a close relative in contravention of a stop notice, it is an offence. The provisions with respect to appeals against a decision of the Registrar are revised to include appeals against the service of stop notices and to provide for the appeal to be conducted by an independent adjudicator appointed by the Appointments Commission.

The provisions and examinations and tests of ability to give driving instruction are slightly revised so as to reflect the current tests used.

There is also some revision of the provisions about the time period that must elapse before another examination or part of it may be attempted and about examinations or parts of them that were not properly conducted.

I beg to move clause 19.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.

I believe from discussions with the officers of the Highways Division that this whole clause has basically been brought about because of a single case of one individual providing paid instruction and the Police believing that they have insufficient powers to deal with it. In the interests of public awareness and public safety, will the Minister be willing to name and shame the individual giving paid instruction, who is not authorised to do so?

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

I am in support of the spirit of this clause, sir. It is just for absolute clarification, if the Minister can give, that instructors who provide unpaid instruction – unpaid in any way, shape or form – in someone else's car or his own vehicle or what have you, still does not have to be a registered driving instructor with the Department, sir?

The Speaker: Mr Gill.

Mr Gill: Yes, I think, just further to that by Mr Houghton, sir, the issue I have which I do not think has been clarified here is you are not allowed to... You are allowed – I am allowed, you are allowed, Mr Speaker – as a private person, to provide paid instruction to a close relative, to your spouse or civil partner, or a child of such person, child or parent or spouse and civil partner, your grandchild, your grandparent and your brother or sister or your uncle or your auntie. That is fine, but I think you would be pretty ill advised to do that, frankly, having taught my... (*Laughter*)

Mr Malarkey: – daughters?

Mr Gill: Having given unpaid instruction to my daughters, it always ends in tears and they are usually mine.

Mr Houghton: Damaged your car!

Mr Gill: But what is 'paid'? That is the first point: what is paid? If they pay for the petrol, is that a form of payment? If, when they get through their test, they pay you... 'Oh, I've bought you...' Not a bottle of wine, because now you would not want to be banned from driving with it, (*Laughter*) but if they buy you a suitable gift, is that a payment in kind? (*Interjection*) I appreciate you think that is nothing –

Mr Houghton: You give them the car key, that is more like it.

Mr Gill: – but the more likely scenario, Mr Speaker, is I decide to provide that same service for my best friend's children, on the basis that he returns the favour to me, if indeed it is a favour. Is there a form of payment in the middle of that? Does that preclude that age-old practice going on? I think that would be very retrospective if it did. It would not be a move forward.

I absolutely believe that if you want to be properly instructed, you should go to a proper instructor, (**A Member:** Hear, hear.) but there is an element of the basics of driving where you can find a suitably safe area where you can just go through the very basics and save that individual something like £25 an hour. It might not seem like a good deal at the time, but I am sure many of us in this House have been through that experience. I just wonder if the mover could advise us if this Bill will... although he has not made it clear in his introduction, but I am sure he will in his summing up, what effect on that arrangement, i.e. me providing instruction which may be paid in terms of the petrol is paid for, or it may not. In either scenario, does this impact on that occurring?

If it does, I really think that we should think very long and hard about whether we should embrace that, not least because there are other clauses that were before us that have been removed and will come back, and part of this clause, even at this late stage, the Minister might care to reflect on if the scenario I paint is actually one which would occur. Is that something we want to actually take that decision on? Maybe he could come back with it. I do not know what his response will be. I am sure it will be very thorough and very comprehensive and I hope it will cover those points to the satisfaction of the House. If it does not, I really think we should think long and hard about supporting this.

The Speaker: I call on Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I am not sure how thorough and comprehensive you can be, inasmuch as saying this clause actually applies to paid instruction. It *does not* apply to unpaid instruction –

Mr Gill: Or to payments.

Mr Gawne: – or to payments, my little colleague to my left says. What payment? Well, I would not have thought that petrol in a vehicle, if you are going for a drive in a vehicle and you happen to be sat in the

passenger seat and someone else is sat in the driver's seat and you are going for a drive along the road, that is not payment, the fact that they are using your petrol.

I know that it is the right of every Member to be as pedantic and picky over points as they choose to be, but there comes a point beyond which I think that is reasonable. I do think we are getting over pedantic on this one. Yes, the law is the law and it is important to clarify. I am clarifying that to my best knowledge – and I can only do it on that basis – I have spent a lot of time going through this Bill with my officers. I understand what the enforcement issues are and that situation described by my hon. colleague, Mr Gill, would not be covered by this particular provision, so you can go out and drive in a car with whoever you particularly want to, as long as you are not being paid to provide instruction, as in 'paid money' and crates of wine or whatever else you want to talk about. Perhaps if you were paid by way of being given two or three cans of petrol to use at a later stage, maybe you could describe that as a payment, but I think we are getting into the level of ridiculousness.

What we are actually about here is trying to make roads safer, trying to ensure that people who are undertaking, effectively, black-market businesses, pretending to be driving instructors and trying to avoid the requirements to have proper qualifications to give lessons, we are trying to avoid them, effectively, being able to flout the spirit of the legislation. That is what this clause is about, it is not about the situation described by my hon. friend, Mr Gill, it is about trying to ensure that our roads are safer by ensuring that when you go for paid instruction, you know that paid instructor is qualified and capable of undertaking that role.

I beg to move.

The Speaker: Hon. Members, I put the motion that clause 19 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 21 makes a number of amendments to the table in part I of schedule 6, which lists offences, prescribes their respective penalties and provides for endorsement –

The Speaker: Excuse me, Hon. Member – are you moving clause 20?

Mr Gawne: Sorry, did I say – ?

The Speaker: You said '21'.

Mr Gawne: I did, you are right. *(Laughter and interjections)* Wishful thinking – apologies!

Clause 20 amends schedule 5, so as to require a person to be insured against third party risks by an insurance company authorised to carry on motor insurance business anywhere in the British Isles or in the European Union whereas, at present, the insurer must be so authorised with respect to the Island or the United Kingdom.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Gill.

Mr Gill: Could the mover advise us what is the need behind this provision, sir, to extend it, as I have heard it, to the European Union? I am sure he will be in a position to tell us that. What was defective about the arrangements beforehand and what is the requirement, the need to extend it in the manner we have heard, and sir?

The Speaker: Mover to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I think in relation to this clause, the point I suppose that we are trying to address here is that we have some concerns about legislation which applies to the Isle of Man at the moment, potentially people using European insurers, that there could be some problems there and this clause actually endeavours to ensure that, in the future, we have no issues, no concerns, about how people are insured going forward. I will endeavour to clarify that if I am mistaken, but certainly that was my understanding.

The Speaker: I put the motion that clause 20 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 21.

Mr Gawne: Gura mie eu, Loayreyder.
Clause 21 makes a number of amendments to the table in part I of schedule 6, which lists offences, prescribes their respective penalties and provides for endorsements and disqualification and other relevant matters. Entries are included for the new offences created by the Bill. Some penalties are increased and some entries amended as a result of other changes made by the Bill.

The table in part II is amended to vary the penalty points that attach to the offence of speeding.
Part IV is replaced with more comprehensive provision with respect to alternative verdicts.
I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Quirk.

Mr Quirk: Mr Speaker, I beg to move at this point an amendment to clause 21.
The amendment inserts into the table the clause of a lesser alternative offence of causing death by careless or inconsiderate driving, so that it is among the lesser alternative offences that may be considered by the courts, in the event that the principal offence of causing death by careless driving under the influence of drink or drugs is not proven.

The amendment reflects an omission in the Bill.
Mr Speaker, I beg to move the amendment in my name, sir:

*Page 23, line 37, in the table there inserted, opposite the entry in the first column insert in the second column –
'Section 2B (causing death by careless or inconsiderate driving)'.*

The Speaker: Mr Earnshaw.

Mr Earnshaw: I beg to second, Mr Speaker.

The Speaker: I call Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.
As the final consequential amendment, to the support of this Hon. House today, for the changing of the word from 'grievous' to 'serious', I beg to move the amendment in my name, sir:

Page 19, line 22, for 'grievous' substitute 'serious'.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second, and reserve my remarks.

The Speaker: I call Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.
More than happy to support both of those amendments.
I beg to move.

The Speaker: First of all, dealing with the amendment in the name of Mr Quirk: those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

The amendment in the name of Mr Houghton. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

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

Mr Gawne: Gura mie eu, Loayreyder.

Clause 22 introduces part 3, which amends the Road Traffic Regulation Act 1985.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the question that clause 22 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 23.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 23 makes a new provision prohibiting double parking and parking adjacent to a dropped footway, cycle path, cycle track or verge. These provisions are made enforceable, as if imposed by an Order under section 1 of the 1985 Act.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Watterson.

Mr Watterson: Has the Minister been in contact with the Police about this issue, as it seems to me from my observations that sometimes they just do not want to get involved in parking matters: it seems to be somewhat beneath Police officers? Has the Minister discussed this with either the Chief Constable or the Minister for Home Affairs, about how it is going to be enforced?

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

The Hon. Member will be aware, as, indeed, all Hon. Members will be aware, of the Transfer of Functions Order going to Tynwald next week in which parking enforcement, parking control, hopefully will all come under the Department and I think that potentially answers the Hon. Member's question.

I beg to move.

The Speaker: I put the motion that clause 23 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 24, please.

Mr Gawne: Gura mie eu.

If I could move clauses 24 and 25?

The Speaker: By all means.

Mr Gawne: Clauses 24 and 25 amend sections 3 and 3A, so as to enable provision for road closures to be effected by notice instead of by order. In respect of closing of roads for filming, it will be permissible to suspend the parking of vehicles and to allow the parking of up to six vehicles by the film participants. The prohibition on the use of a road by through traffic is extended from 24 to 48 hours.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I wonder if the mover of the Bill would like to give us a little bit more explanation in terms of the provisions contained within clause 24. What will be the practical implications of changing the formula now of a road closing by order to one of road closing by notice? What are the practical implications? In what way will the public find that it is different and will, in fact, they be able to see that a road is going to be closed?

This business in (f), subsection (7), is this ordinarily acceptable that it is a Council of Ministers' decision that a road is closed and that their decision will continue to be held for up to six months? Does that, in fact, remove the right of the public or anybody else to object to a road closing for whatever reason? I just think the House and, indeed, the public would like a better explanation than perhaps the Minister has given thus far.

The Speaker: Hon. Member for Castletown, Chief Minister.

The Chief Minister: Thank you, Mr Speaker.

Just on that last point, it is already a provision that if a road closure is in force, or wished to be in force, in excess of six months, then my understanding is that that requires the Council of Ministers already to approve that. It is actually a safeguard to the public so the Department does not just close roads for extensive periods of time and therefore, by default, close a road permanently to the public. That is the basis of it, sir, and I am sure there is a provision where, if the Department wishes to extend it further, they have to come back to the Council of Ministers at a later date.

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I think there are two important points there raised by the Hon. Member for Douglas East, in relation to this. Effectively, the practical implications of this, particularly clause 24, are that, rather than every single road closure order becoming part of the statutes of the Isle of Man and therefore having to be treated as such, in future, road closures will be statutory notices, rather than actual parts of legislation. At the moment, every order has to be signed off by the Minister and that order, in essence, forms part of the legislation of the Isle of Man. So closing a road for a street party to celebrate Illiam Dhane would be part of the legislation of the Isle of Man. I do not really think that that is an appropriate thing for it to be. So, in effect, all we are doing, in changing this, is saying that, in future, road closure orders will not have to form part of the archive of legislation in relation to the Road Traffic Regulation Act 1985. This will not be part of the body of legislation that goes with that.

As far as practical implications, there will be absolutely no difference whatsoever, as far as members of the public are concerned. They have the same notification, it will be the same process, but rather than a specific order having to be signed off for every single road closure, we will have effectively a policy decision taken by the Department. So it is a different way of dealing with things. It is a notice, rather than an order.

The clarification by the Chief Minister, I think, dealt with the other point. It is a safety net issue to make sure that the Department's Minister does not end up closing every single road in the Isle of Man without any recourse to anybody. So it is effectively the safety net, as described by the Hon. Member for Castletown.

I beg to move.

The Speaker: I put the motion that clause 24 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

I put the motion that clause 25 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 26.

Mr Crookall: If I could move 26 and 27?

The Speaker: Yes. Thank you.

Mr Gawne: Clause 26 is consequential on the changes to sections 3 and 3A.

Clause 27 removes a redundant provision in section 7 that was covered by the Interpretation Act 1976.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Clause 26 first: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 27: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 28.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 28 amends and clarifies the provisions in section 15 regarding the placing of traffic signs. In the case of portable light signals, the consent of the Department is always needed.

I beg to move clause 28 form part of the Bill.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 28 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 29, sir.

Mr Gawne: If I could move clauses 29 and 30?

The Speaker: And clause 30.

Mr Gawne: Clause 29 amends section 17 so as to extend the power to place traffic signals in an emergency to a constable or person acting under the instructions of the Chief Constable.

Clause 30 is consequential on changes to sections 3 and 3A.

I beg to move both clauses.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the question that clause 29 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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

Clause 31.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 31 amends section 28 so that it is the Department of Social Care that is to issue disabled persons' badges in the form it considers appropriate, instead of the Department making regulations for the issue of the badges by the Department of Social Care in a form prescribed by regulations.

Also, a typographical error in this section is corrected.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the question that clause 31 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 32, sir.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 32 inserts a new provision into section 31 to enable the maximum level of fines in schedule 4 to be varied by order.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 32 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 33.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 33 substitutes a new section 33 providing for traffic wardens to be appointed by the Department of Infrastructure to carry out the functions conferred by, or under, that section under the direction of the Chief Executive of the Department.

Currently, traffic wardens are appointed by the Department of Home Affairs and act under the direction of the Chief Constable. The opportunity has been taken to revise the wording of the section slightly for reasons of clarity.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I call on Mr Malarkey.

Mr Malarkey: Thank you, Mr Speaker.

Could the mover just clarify, with the transferral of the traffic wardens from the Department of Home Affairs, who have superior powers to the present traffic wardens who are used to... or parking wardens, should I say. Is it still his intention to run two different types of parking and traffic wardens within the Department, or is he going to bring them all into line with the same authority and authorisation?

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I think it is important to note that the parking controllers that the Department employs have a particular role and traffic wardens have a different role. It may be that, in the course of future years, we will look perhaps to enhance the role of parking controllers, although I do feel that the current set-up actually works quite well. The issue, I suppose, that we are trying to resolve here is that we effectively have two Departments dealing with parking control issues and the idea, which I think is a fairly reasonable idea, is that we should have control over that sort of area in our Department – parking control in the Department responsible for keeping the roads clear and moving.

So the traffic wardens transferred from Home Affairs will retain their existing functions, because those functions are certainly enhanced in the functions provided by the parking controllers. So I think it is an important issue.

I beg to move.

The Speaker: I put the motion that clause 33 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 34.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 34 amends section 39 so that the orders described in clause 32 and those under section 33 require Tynwald approval.

I beg to move clause 34.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 34 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 35.

Mr Gawne: Gura mie eu, Loayreyder.

If I could do clauses 35 and 36?

The Speaker: Yes.

Mr Gawne: Clause 35 makes consequential amendments to schedule 1 about the notification of temporary traffic restrictions.

Clause 36: it is an offence to place traffic signs contrary to the provisions, the penalty for which is provided by the amendments to schedule 4 in clause 36.

Could I move clause 37, as well?

The Speaker: By all means.

Mr Gawne: Clause 37 amends schedule 5A in respect of the provision on the amount of fixed penalties, to enable an order to prescribe the penalty for offences under sections 11(3) and 14B(1).

I beg to move clauses 35, 36 and 37.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Gill.

Mr Gill: Could the mover, in clause 36 where it talks about unauthorised placing of traffic signs, could he give a definition of what a traffic sign is? If that is like a turn left sign or no through road or something, that is fair enough. Is it any other sign, however, which might attract the attention or distract a driver – (**A Member:** For sale?) yes – for a particular event which is not related to the movement of traffic, but nonetheless is on the carriageway? I hope that is not pedantic. I would hate to trouble the Minister with pedantry, sir.

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

No, I do not believe that is pedantic, I think that is an important point. Clearly, signs that are not traffic signs need to have planning permission to be on or about the roads in any case, and certainly that is something the Department is looking into in a different part of the Department, actually how we deal with the placement of advertising in the countryside and signage that seems to spring up on our hedges from time to time.

As far as the definition of a traffic sign, it is basically a sign that is in relation to traffic, either directing traffic or warning traffic, so that is what a traffic sign is about. There is a serious point to this part of the legislation. Signs can cause quite severe injuries. In fact there was one very severe case recently, where it was not an incorrectly placed sign, it was a sign placed and as a result of a motorbike rider colliding with the sign, very serious damage was done to that motorbike rider. So it is important to make sure we get the signs in the right place and even when we do get them in the right place we can cause some problems, but it is important to make sure we do get them in the right place. The Highways Department, whether you like the highways design engineers or not, do have quite some considerable expertise in knowing where to place signs and how to place them and I think it is important that we get them right.

Likewise, the Police, who are now authorised under a previous clause to place signs on the highways, will have the appropriate level of training and knowledge to ensure they are placed in the right place.

So, with that, I beg to move the three clauses 35, 36 and 37.

The Speaker: Putting clause 35 first, all those in favour, please say aye; against, no. The ayes have it. The ayes have it.

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

Clause 37: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Turning now to clause 39, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause... where are we? Clause 39 amends the Highways Act 1986. It basically introduces part 4, which amends the Highways Act 1986.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 39 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 40.

Mr Gawne: Gura mie eu, Loayreyder.
Clause 40 inserts section 7A, providing for the recovery of expenses, where the Department has incurred excess cost due to heavy traffic on a highway.
I beg to move that clause 40 stand part of the Bill.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Mr Watterson.

Mr Watterson: Thank you.
I think this is one of the clauses that I raised concerns with at the consultation stage. I have to say, I do not particularly feel I have got a good answer to the questions I put.

The concern I have is for historical uses of roads – for example, the Bride Road out to the Point of Ayre, which has long been used for extraction of gravel and access to the tip, has had a long history, for example, of heavy goods vehicles on it. What it looks like we are doing here is applying additional charges to users of that road for that purpose. There does not appear to be the grandfather rights that exist, and that we would hope would exist, in these sorts of circumstances, so that if a road has been historically used for that purpose, they can continue to use it unencumbered for that purpose.

I am just concerned here... I have got no problem with it going forward. If, for example, the road down to Cregneash or the Sound is, all of a sudden, going to start being used by heavy goods vehicles on a regular basis, then, yes, they should be charged extra for that. My concern is primarily for historical use and the reassurance that we are not going to be imposing a new stealth tax on business, just for using the roads in the same way that they have done for quite some time. So that is my concern with this.

The response I got from the Department merely stated that it is a permissive power. That does seem equitable that, if an operator is causing more than average damage to a road, he should be liable to pay the extra cost. So there was not an awful lot of consideration given to the concerns I had about retrospectivity or established use of a road. So I just wanted to raise that point with the Minister.

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.
I think it is fair to say that there has not been an extensive reply given to the Hon. Member for Rushen, and I apologise for that, but that is not to say that there has not been extensive consideration of the matter by the Department. Certainly, we have considered it and, in essence, the clarification, or the reassurance, that the Hon. Member is seeking is absolutely right.

There is no intention, on the part of the Department, to use this as a new tax to try and increase the funds for the Department. What we, though, are about with this clause is trying to resolve a situation which I know the Hon. Speaker knows all too well about in his own constituency. There is a specific example there but there are other examples around the Island, but this is one we have certainly been dealing with recently, whereby a new operation starts up and effectively destroys a relatively small country road, and the Department, effectively, is left to pick up the pieces. What we are endeavouring with this is to introduce a mechanism by which the Department can actually charge for destruction of highways in this way.

It is possible for the work to be undertaken by said operator in a way which would be less damaging to the highway and in those circumstances, the Department clearly would not be looking to recover expenses, but where, in effect, an operator is, for want of a better word, having a laugh and really just destroying the highway with total disregard for the public purse, then I think it is reasonable for the Department to have that power.

I hope that reassurance is sufficient for the Hon. Member. It is certainly not about... (**A Member:** Established use.) Yes. In effect, established use, I think, is something that the Department is going after with this. What we are about is, in new cases, to stop people pretty much wilfully destroying the highways.

I beg to move.

The Speaker: I put the motion that clause 40 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
We turn to clause 42, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 42 inserts section 32B, enabling a local authority, after consultation with the Department, to enter into an agreement with a building owner for the provision of walkways. Detailed regulation-making powers are also included.

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

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker and reserve my remarks.

The Speaker: I put the motion that clause 42 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 43.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 43 substitutes a new section 38, providing for the temporary closure of highways for the purposes of entertainment. The new section provides for the temporary closure of highways by public notice.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker and reserve my remarks.

The Speaker: I put the motion that clause 43 stand part of the Bill. Those in favour, say aye, against, no. The ayes have it. The ayes have it.

Clause 44.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 44 amends section 51, to enable the Department to cut, lop or fell vegetation that is overhanging, or is likely to fall onto, a highway, road or footpath, if there is immediate danger, or the owner or occupier otherwise fails to do so within 14 days of being served a notice requiring him or her to do so. There is provision to recover the costs of the works from the owner or the occupier.

I beg to move clause 44.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker and reserve my remarks.

The Speaker: I put the motion that clause 44 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 46, Mr Gawne.

Mr Gawne: Gura mie eu.

Clause 46 is consequential on other changes in the Bill, with respect to regulation-making powers.

I beg to move clause 46.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker and reserve my remarks.

The Speaker: I put the motion that clause 46 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 47.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 47 inserts section 109A about agreements as to the execution of works made between the Department and a third party, whereby that other party pays some or all of the cost of the works, including, in particular, the costs incurred by the Department.

I have been made aware of concern from my hon. colleague, Mr Robertshaw, Member for Douglas East, in relation to (4) which basically says, in summary, notwithstanding all the rest, the Department reserves the right to carry out compulsory purchase, etc, if it so chooses to do. That is not a new power, that is the existing power the Department has. At the moment, the only way the Department can go about improvement of highways is through agreement with landowners or through compulsory purchase. That is the existing process.

This clause is really about allowing the Department to reach agreement with landowners and developers to do improvements to the highways in such a way that is beneficial to the taxpayer, but also to charge the developer for such works. At the moment a developer could come to us with a scheme and say we would like you to do this, it abuts the highway and it is going to benefit the people who are part of the development, or are going to be using the development, but it also benefits users of the public highway. At the moment, we cannot charge them for doing the work. We can do the work, but we cannot actually charge them for it.

Developers are entirely comfortable with paying for us, so this clause really resolves that particular issue and there is no sinister threat at the back of it, or at least I do not believe so, anyway.

The Speaker: I put the motion that clause 47 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

A Member: Mr Speaker, was it seconded?

The Speaker: I do not think I asked Mr Crookall –

A Member: I do not think you did.

The Speaker: – to second.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks. *(Laughter)*

The Speaker: Is that agreed, Hon. Members?

Members: Agreed.

The Speaker: Clause 48. Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 48 amends section 110 in order to widen the ability of the Department to recover expenses, so that the section goes beyond applying just to recovery from the owners of premises and modifies the interest-charging provisions to match those in the new section 109A, which we just moved in clause 47.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 48 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 49.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 49 amends section 115 so as to increase the maximum penalty for most of the offences under the Act from £1,000 to £2,500. It also enables the Department to vary the level of fines specified in the section by order requiring the approval of Tynwald.

My hon. friend, Mr Watterson, has just pointed out that there is a typographical error on line 31:

‘(a) in subsection (2)(b) for “£,1,000”...’

There is a comma between the pound sign and the ‘1’, which should not be there. So apologies for that. I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 49 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 50.

Mr Gawne: Gura mie eu, Loayreyder.
Clause 50 enables the Department merely to specify the form of documents under the Act, rather than having to prescribe them under regulations.
I beg to move that clause 50 stand part of the Bill.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 50 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 51.

Mr Gawne: Gura mie eu, Loayreyder.
Clause 51 amends schedule 1A so as to remove the requirement for the Department to have to make regulations setting out what it must do when constructing traffic restraint works.
I beg to move that clause 51 stand part of the Bill.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks

The Speaker: I put the motion that clause 51 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 53, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.
Clause 53 makes a minor consequential amendment as a result of the removal of regulation-making powers.
I beg to move clause 53.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 54.

Mr Gawne: Gura mie eu, Loayreyder.
Clause 54 makes changes to the provisions dealing with the Roadworks Code in schedule 4. In particular, these provisions enable the Department to step in and make good, or repair, a highway or bridge, including objects or equipment installed there, after undertakers have executed works, and make further provision with respect to the service of default notices.
I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 54 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 55.

Mr Gawne: Gura mie eu, Loayreyder.
Part 5 makes miscellaneous amendments and repeals.

Clause 55 amends the Petty Sessions and Summary Jurisdiction Act 1927. The penalty for the offence of 'furious driving' is made the same as that for 'careless or inconsiderate driving' for the Road Traffic Act 1985.
I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 55 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 57.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 57 makes amendments to the Road Transport Act 2001.

The limitation on the weight that may be prescribed in respect of the definition of goods vehicles under section 7 is removed and the definition expanded to include not just motor vehicles and trailers constructed or adapted for use for the carriage of goods or to any combination of them.

A provision is added to section 10 to enable the Road Transport Licensing Committee to refuse an application for registration or an operator's licence under the Act unless prescribed requirements are met.

The Department is also given a power to make regulations authorising the Committee to refuse, suspend or revoke, any registration or licence on health grounds. The opportunity is also undertaken to update references to UK and EU legislation.

In relation to the goods vehicles issue, I have been approached by a number of Members who have some concerns that someone, perhaps with a relatively small trailer, taking a few bush trimmings to the civic amenity site for disposal, may be covered by the new regulations, or indeed people with a small horsebox taking horses to shows or ploughing matches, or whatever they may wish, would also be covered. I should make it absolutely clear that that is not the intention of the Department. We are not proposing to go after home users. This is primarily about ensuring that commercial goods vehicles are up to standard and capable of being used for the appropriate purposes. Again, this is an important road safety matter and I think most, if not all, Hon. Members will support that principle. It is important, though, to re-emphasise the clarification: there is no intention of going after home users with relatively small trailers, or indeed horse people who want to transport their horses around the Island for pleasure uses.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker and reserve my remarks.

The Speaker: Mr Gill.

Mr Gill: Could I welcome the repeated reassurances from the mover about the intention of the Department? How would that intention actually be clarified by way of policy or by way of an edict within the Department?

We may, sadly, find ourselves with a different Minister in the Department, (**Members:** No!) less reasonable, less tolerant, less inclusive than Minister Gawne is, as we all know, and might have a different view. The intention today is all very well, but if the provision allows for the unreasonableness of the Minister he is guarding against – and I applaud him for that – how will the safeguard be applied to actually enshrine what the Minister has advised us today, sir?

The Speaker: Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Again, my hon. colleague for Rushen makes some important and very valuable points. First of all, the clarification given here, I think does count for something. It is important that all Members and indeed, Ministers bear that in mind. When Ministers give clarification and reassurance to the House of Keys, then that is a very serious thing that they are doing and I think that in itself should be sufficient.

However, I can give further comfort to the Hon. Member for Rushen, in that the Department is working up regulations, which I hope will be introduced before the end of this legislative session. Certainly we have drafts available already in the Department, should the Hon. Member wish to see them and it is absolutely clear in all the drafts and it is also clear in the consultation that the Department has undertaken, and the consultation

response on this issue, that the Department's intention is as I have described. So I hope that gives the reassurance the Hon. Member is seeking.

I beg to move.

The Speaker: I put the motion that clause 57 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 58.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 58 corrects a minor error in the Road Traffic Act (Amendment) Act 2006.

I beg to move.

The Speaker: Mr Crookall.

Mr Crookall: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: I put the motion that clause 58 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Finally, Mr Gawne, clause 59.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 59 repeals provisions made redundant by the Bill.

I beg to move clause 59 form part of the Bill.

The Speaker: Mr Crookall.

Mr Crookall: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the motion that clause 59 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members. That concludes the Item of 'Bills for consideration of clauses'.