



# LEGISLATIVE COUNCIL OFFICIAL REPORT

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# PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 29th January 2019**

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**Present:**

**The President of Tynwald (Hon. S C Rodan)**

The Lord Bishop of Sodor and Man (The Rt Rev. P A Eagles),  
The Attorney General (Mr J L M Quinn QC),  
Miss T M August-Hanson, Mr D C Cretney, Mr T M Crookall, Mr R W Henderson,  
Mrs M M Maska, Mrs K A Lord-Brennan, Mrs J P Poole-Wilson and Mrs K Sharpe  
with Mr J D C King, Clerk of the Council.

**Business transacted**

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# Legislative Council

*The Council met at 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

**The President:** Moghrey mie, good morning, Hon. Members.

**Members:** Moghrey mie, Mr President.

5 **The President:** The Lord Bishop will lead us in prayer.

## PRAYERS

*The Lord Bishop*

# Order of the Day

## 1. Charities Registration and Regulation Bill 2018 – Clauses considered

**The President:** Hon. Members, the business before us this morning is the clauses stage of the Charities Registration and Regulation Bill, to which there are a number of tabled amendments which we will consider in due time.

I call on the mover of the Bill, the learned Attorney.

10

**The Attorney General:** I thank Mr President.

With your agreement and of Council, I would like to move clauses 1 and 2 together.

**The President:** Is that agreed, Hon. Members?

15

**Members:** Agreed.

**The Attorney General:** Clause 1 gives the short title of the resulting Act of Tynwald.

20

Clause 2 provides for the Act to be brought into operation by one or more orders made by the Attorney General. The power includes provision to make consequential, incidental, supplementary and transitional provisions in connection with its commencement.

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

**Mrs Lord-Brennan:** I beg to second and reserve my remarks.

25

**The President:** Thank you.

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

Clause 3 is the interpretation clause, Mr Attorney.

30

**The Attorney General:** If I could come back to that later on.

**The President:** So we shall deal with clause 3, interpretation clause, later on.

35

**The Attorney General:** Thank you, with your leave.

**The President:** Clause 4.

40

**The Attorney General:** Mr President, with your leave, I would now move to Part 2, which comprises clauses 4 to 8 and makes provision as regards the definition of 'charity' and 'charitable purpose'.

Clause 4 restates the existing definition of 'charity', which is currently set out in section 14 of the Charities Act 1962 – and I will refer to that, as I speak, as 'the 1962 Act' – namely:

... an institution, corporate or not, which is established for charitable purposes, and is subject to the control of the Court in the exercise of the Court's jurisdiction with respect to charities but not including an ecclesiastical charity within the meaning of Schedule 3 to the Church Act 1992 or a trust of property falling within paragraph 1(2) of that Schedule.

45

As I explained during the Second Reading, the exemption from registration for ecclesiastical charities has its origin in the Public Charities Act 1922, which first created the requirement for charities to register in the Isle of Man.

50

Ecclesiastical charities are those set out in Schedule 2 to the Church Act 1992, which Act is concerned with matters regarding the Church of England. Exemption from registration in relation to specified religious charities which do not fall within the definition of ecclesiastical charities but which hold property or funds of the Church of England, the Roman Catholic Church, the Methodist Church, the United Reformed Church and the Society of Friends, is currently provided by the Religious Charities Regulations 1999, made under section 2(3) of the Charities Registration Act 1989.

55

A similar power to make regulations exempting charities from the requirement to register is contained in clause 10(3) of the Bill. The effect of the amendments tabled by the Hon. Member, Miss August-Hanson, is to remove the exemption for ecclesiastical charities from the Bill and, instead, to include it in the Religious Charities Regulations 1999. So, the ecclesiastical charities would continue to be exempt from registration but such exemption would be on the same basis as those of the other exempt religious charities, i.e. due to the exercise of the power to make exemption regulations as opposed to being exempt as a matter of course. Thus there would be a parity of treatment.

60

It may be helpful if I make clear that exemption from being on the register does not mean exemption from being regulated. This is because the powers of the Attorney General to act for the protection of charities contained in Part 8 of the Bill, which will re-enact existing statutory powers, including the power to institute inquiries and to seek orders from the court to remove or suspend trustees, to appoint replacement trustees and to take steps to control the use of funds, apply to all institutions established for charitable purposes and not just to those which are registered charities.

65

As I indicated during the Second Reading, it is not the purpose of the Bill to change the landscape concerning registration. The commencement provisions in clause 2(2) enable the Religious Charities Regulations to be saved, and it is presently the intention that they remain in operation notwithstanding the repeal of the 1989 Act.

70

Accordingly, the amendments tabled by Miss August-Hanson, if adopted in their entirety, will make no fundamental change to that landscape and, in those circumstances, I have no reason to

challenge them. On that basis, may I suggest, Mr President, that the amendments numbers 2 and 5, namely the amendment to clause 4 and insertion of the new clause, be taken together.

75 During the Second Reading, the Hon. Member, Mrs Poole-Wilson, asked about the rationale for making decisions about which religious charities can become exempted and which might not be exempted from registration. The power to make regulations exempting charities from the requirement to register, whether under the 1989 Act or the Bill, is not subject to any limitation or restriction on the exercise of the discretion. This is not expected, given the wide range of charities  
80 and the equally wide range of circumstances in which it might be considered appropriate to create exemptions from the requirement to register. There is no published description of the circumstances in which the power to create, or remove, an exemption from the requirement to register a religious charity. However, as the power to do so cannot be exercised arbitrarily, the rationale for the future exercise of the power must be informed by the existing exemptions.

85 Firstly, it is apparent from both the definition of ecclesiastical charities in Schedule 3 to the Church Act 1992 and the list of institutions set out in the Schedule to the Religious Charities Regulations that the exemption from registration is presently only in relation to property held for the purposes of the churches or religious bodies themselves, i.e. concerned with the provision and upkeep of the church buildings and the making of the necessary financial provision for the clergy and other officers, which are essentially matters of internal structure and organisation. So it is not the  
90 case that every charity connected with the Church of England, the Roman Catholic Church, the Methodist Church, the United Reformed Church or the Society of Friends is exempt from registration.

As regards the churches referred to in the Regulations, they are not operating in the Island on a  
95 standalone basis but, instead, are part of larger organisations with a clear structure and accountability. Accordingly, I would suggest that the existence, and degree, of financial oversight are matters that would be taken into account in considering whether to add or remove a particular religious charity from the list of those exempted from registration.

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

100

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

105 **The President:** I am going to invite Miss August-Hanson to move her amendment to clause 4 and I would invite Council to note that the other amendments, including the new clause, in the name of Miss August-Hanson are consequential on the amendment to clause 4 passing.

I would invite Miss August-Hanson as she moves this amendment to clause 4 to consider moving her new clause at the same time because this is a logical place to take it, if her amendment to  
110 clause 4 passes.

Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.

115 I would be very content to do that and also thank you to the learned Attorney General for what he said regarding the amendments as well that I am putting forward.

I did send a couple of communications to the Members of another place as well as the Members of this Council regarding the amendments that are being tabled at this point in time. So for the benefit of *Hansard* and for the public record I would like to just put that on record, as Members have already read it and seen it.

120 So, having spoken to the Bishop of Sodor and Man and other members of the diocese, which has no full list or recorded list of ecclesiastical charities – there are several hundred separate trusts apparently going back over a number of centuries – and indeed in the Central Registry I have talked to, they have never compiled or been given a list of ecclesiastical charities or of another denomination; I have talked to a member of the Ecclesiastical Committee, Michelle Norman, from

125 the Attorney General's Chambers as well, who has been extraordinarily helpful; and the drafter of  
the Bill on a number of occasions. I am assured by the diocese, particularly in relation to the  
amendments – so not in relation to any debate that would follow – and the Attorney General's  
Chambers, that the amendments that I look to move in Legislative Council today do not come at a  
financial cost to any denomination. So that is just specific to the amendments.

130 It is most likely that the original intention in the 1992 Act was to register charities with no  
previous oversight of their operations. Looking at the list of charities that are exempt in the 1922  
Act, it is a reasonable conclusion to come to. None of us are aware for sure, but with it having been  
1922 we are not going to because none of us were around at the time.

Since then, and in the drafting of a policy relating to the Charities Registration and Regulation Bill  
135 2018, there was no political will to change the landscape and make any reparation, if it is needed at  
all. There was no political will and therefore that is the reason why the Attorney General and the  
Attorney General's Chambers took the decision to place this particular exemption within the Bill –  
because without political will there is no impetus to make that alteration.

As there is no formal list of ecclesiastical charities on the Island, I would say that in relation to  
140 who, where, what, when, how and why ecclesiastical charities are registered and self-regulated by  
the Church of England could catalyse a level of serious undertaking of research by church volunteers,  
and I understand that that would take a great deal of time. But that is not what my amendments are  
suggesting is being done. The status of an ecclesiastical charity is not immediately obvious. It would  
prompt a question as to what an ecclesiastical charity actually is.

145 What I suggest in my amendments is not an overarching public policy. It may achieve two  
outcomes, should there be a consensus by Members of Tynwald as a whole to do so. So part one of  
those, my amendments, will simply put ecclesiastical charities, the Church of England, on to the  
same statutory footing as all other denominations. So that is creating a level playing field, a level of  
parity, across all faiths under the Religious Charities Regulations 1999. A trust of properties have  
150 been established for centuries by the Church of England and others have not; and to add to this, we  
look for substance and genuine link to the Isle of Man in the Charities Registration and Regulation  
Bill 2018.

Presently, the ecclesiastical charities are handled by the Diocese of York; the Roman Catholic  
Church is handled by the Liverpool Roman Catholic Archdiocese and Trustees Inc.; and the United  
155 Reformed Church and Society of Friends are also based in the UK; the Manx Methodist Church is  
based here, but again the Central Registry does not have any record of its charities.

So that, basically, would be an enabling implement essentially, with it not being in the primary  
legislation of this Bill, once ratified and becoming an Act, that we could then debate as to what the  
general consensus surrounding this particular topic of discussion might be.

160 Part two: if there is an appetite by Tynwald Members and if Government approves, the  
amendments that I put forward in part one would then pave the way for a more substantial policy  
debate much further down the line in Tynwald once the Bill, and if the Bill, is ratified. So if debate is  
agreed it may determine whether or not Members wish to link all charities into one combined  
register with the commencement date, so that all accounts are filed, contact details are collated  
165 comprehensively to understand an entity substance, and so that ecclesiastical charities and charities  
aligned with other religious denominations are not hampered by changes to legislation, but instead  
their ability to organise their lot may be improved by the measure and the Central Registries may  
have an understanding of exactly what charities exist on the Isle of Man outside of those within their  
current remit.

170 The benefit of change, if part one is approved alone, is that there would be a parity among the  
denominations. Part one and part two respectively would see an opportunity for us to hear  
Members' thoughts on whether or not there is interest in all charities across the Isle of Man being  
registered and regulated in the same way, so that we might better establish substance in connection  
to the Island and keep track of moneys based here.

175 I would be content for another Member of Tynwald down the line, or a Member of another  
place, to move this debate further, should Legislative Council agree. I am not precious about it so I

180 am more than happy for anybody else to table a motion for debate. What I will say is that if we would not accept businesses and other organisations to be self-regulated for any purpose, my curious mind asks why we are not looking at a more progressive model that consolidates Manx charity registers with others operating here and further afield.

185 Contrary to my argument for the amendments, I suppose – well, it is not particularly contrary to my argument for the amendments because at the end of the day they only open debate, but what I will say is that should part two be prompted and debate ensues, an outcome that amalgamates religious charities within the Bill, later to be an Act, would likely come at a cost to Treasury in both resourcing any extended remit to the Central Registry and may therefore have a financial impact.

190 However, I am simply presenting the possibility for debate on the matter at this point, rather than putting it into the ‘too hard, too complex or too difficult’ box. The drafter of the Bill perceives that there would be no further work needed outside of my amendments to outline pieces of legislation that follow amendments in Legislative Council being or not being approved if they are accepted. The only consideration might be to part two of the process in the Religious Charities Regulations 1999 down the line.

195 I sincerely hope that this does help to inform. I will add that as a Member of Legislative Council I do feel that it is right that if a Bill is brought before us before it is brought to another place, that they have the right to scrutinise our actions on information made publicly available and ask questions. So I would like to thank Members of another place for their messages of support and others for challenging me on the amendments that I am bringing before Council today. I feel it is right for me to point out that an Appointed Day Order would allow any amendments that follow these amendments as a result of debate in another place to come into force at a later date so that, for a number of reasons, this could be considered enabling rather than imminent and commencement provisions may allow for different parts to come in at different times.

200 If it is considered too onerous to register charities in the same way as all other charities on this Island are registered and regulated, perhaps we should be looking at the structure and landscape in a very different way. Is it right that we should have one rule for one and one rule for another? It raises questions on the point as to whether or not in part we should be going back to the drawing board should that be a discussion that may be brought up by a Member of Council down the line.

205 The registration officer at the Central Registry contacted one who had previously maintained the charities register; both confirm that we have never had a separate list for ecclesiastical charities or other religious charities. I am not entirely sure that is right on my own part, in my own opinion. I am told by the Attorney General’s Chambers as well that the UK is looking into the prospect of church commissions being regulated by the Charities Commission too. So if they are looking at it is there a reason as to why we would not do the same thing? We have put through an Equality Act, so should we be looking to place one religion above another in the registration and regulation of the third sector or in terms of exemptions? Is that the most progressive stance that we can take on this particular matter, because I am not entirely sure that it is?

215 I thank the Legislative Council for hearing me and I apologise for the length of my speech. I just wanted to ensure that we have on record what has been sent across to Members of another place and on this particular Council I would like the public to be able to read or have the opportunity to read whatever has been sent privately elsewhere.

220 Thank you. I would like to move my amendments and I am content, should those amendments be accepted, that the new clause be considered as well at the same time.

I beg to move:

*Amendment to clause 4:*

*Page 17, omit lines 29 to 32.*

*In consequence of this amendment, omit ‘(1)’ at the beginning of the clause.*

**The President:** Thank you.

In order to consider the amendment that has been moved, along with the clause, I require a seconder.

225 Mrs Maska.

**Mrs Maska:** I am pleased to second the Hon. Member's motion and I will speak at this time, Mr President.

230 I second it on the basis that I think some of the issues raised by the Hon. Member are important and raise questions that would be worthy of debate, not only in this Council Chamber but in another place by the elected Members. I thank the learned Attorney for explaining that if these amendments are adopted they do not change the landscape and I think that does clarify any unease I had myself. I felt that it was quite late in the day when these amendments came through and I was concerned that we might be raising issues that would have ripples that were much more far reaching.

235 I am comforted by the fact that there will be no fundamental change, but allow important matters to be modified by being included in secondary legislation, not in this Bill, primary legislation. And on that basis, Mr President, I back to second.

Thank you.

240 **The President:** Lord Bishop.

**The Lord Bishop:** Thank you, Mr President.

245 I thank the hon. mover for these amendments and I think I would say that whilst, in principle, I may not have an objection to them, I am surprised that they are issues that are raised at this stage, rather than having been brought up at the consultation period, which was quite significant. I am not sure I am entirely willing to accept so readily as the Hon. Member, Mrs Maska, does regarding the fact that this will not have an effect on the state of the landscape.

250 I think I would also have a concern about the concept of parity when not all religious denominations stand in a relationship of parity, given that one of them is the established Church and therefore has a legal status which will be more far reaching than others have.

Perhaps what I can offer to this discussion is some clarity on what ecclesiastical charities actually are. As the mover of the amendment said, she remains uncertain as to what an ecclesiastical charity actually is, and for us to be confronted yesterday with the prospect of looking to identify what ecclesiastical charities we have, how many there are and what they do, it is a significant question to turn round in such a short period of time.

260 But I would like this morning if I may, Mr President, just to offer some reflections on what ecclesiastical charities are and why in fact, I do believe that to register them under this Bill would duplicate existing legislation and, whilst not invoking immediately obvious financial disadvantage, would generate a range of second order effects that would, I think, be quite destructive.

The proposal also would reverse a policy which has informed church legislation for the last 30 years and that is to impose on ecclesiastical charities a statutory system of regulation which is parallel to but separate from the system applying to secular charities.

265 So if one were to consider the varieties of ecclesiastical charities which exist, the principal financial institution of the Manx Church is the Diocesan Board of Finance of the Diocese of Sodor and Man. That was originally established by statute in 1929 and is now constituted under Schedule 1 to the Church Act 1992. It has a number of financial functions in connection with the diocese but two are particularly relevant. It may act as trustee of any property or fund held for ecclesiastical purposes and it holds certain lands and endowments as custodian trustee on behalf of parishes. And in addition to funds acquired in its own name the Diocesan Board of Finance, the DBF, is now also trustee of funds formerly held by the Church Commissioners for the Isle of Man.

270 The main financial bodies at parochial level are the Parochial Church Councils (PCCs), which are bodies corporate established by the Church Representation Rules, with power to acquire and hold property and funds on trust. And the incumbent or the vicar or rector and the churchwardens of



each ecclesiastical parish may also acquire and hold property on trust. That function predates the  
275 creation of PCCs and most parochial trusts are administered by incumbents and churchwardens.

There are a few cases where property or funds are held for ecclesiastical purposes by other  
trustees. For example, St Ninian's Church is vested in a separate body of trustees and that fund,  
called the Squire Trust, until it was transferred to the Diocesan Board of Finance (DBF), was held by  
the Archdeacon and rural deans.

280 The Charities Registration Act 1986 provides for all charities, including ecclesiastical ones, to be  
registered but exempts ecclesiastical charities from the obligation to file accounts. That anomaly was  
removed by the Religious Charities Regulations 1999 which exempted the DBF, the PCCs and  
incumbents and churchwardens from the requirement to register. Those regulations also exempted  
certain nonconformist church bodies from the need to register and to file accounts. Although, as I  
285 say, I suspect the number of such bodies is significantly smaller.

The Church Act 1992 conferred power on the Diocesan Board of Finance to make schemes  
dealing with the administration and objects of ecclesiastical charities analogous to the power of the  
High Court in relation to secular charities and schemes made by the DBF need to be approved by the  
High Court or the Attorney General.

290 Ecclesiastical charities are subject to their own legal requirements for examination and  
presentation of accounts as follows: The Diocesan Board of Finance's accounts are subject to  
independent examination and must be presented to the Diocesan Synod; a PCC's accounts, including  
any trust accounts, are subject to independent examination and must be published and presented to  
the annual parochial church meeting with copies also sent to the DBF; an incumbent and  
295 churchwardens trust accounts are subject to the same requirements, except that independent  
examinations are required only if the annual income exceeds £25,000, which is the same limit as for  
secular charities; and the few church trusts which are held by trustees other than the above are not  
subject to any particular accounting requirements and in some cases they do not even handle any  
funds. That would be true of the trustees of St Ninian's Church. And where an incumbent and church  
300 wardens are responsible for parish burial grounds they hold legacies for the perpetual care of graves  
which in Manx Law is a charitable trust, and those funds are subject to audit or examination under  
the Audit Act 2006.

I think, Mr President, my suggestion therefore is that subjecting ecclesiastical charities to  
regulation under the Bill would, in nearly all cases, serve only to duplicate financial controls which  
305 already apply to them under church legislation. There are perhaps a few trusts which fall through  
the gap but they are not numerous or significant.

My other concern would be that the initial work of registering ecclesiastical charities would be  
enormous. There must be several hundred separate trusts; they go back hundreds of years in some  
cases. The task of identifying their trust instruments for the purpose of registration would take great  
310 expense and months or years of work by unpaid volunteers.

By way of example, when we recently asked the General Registry to supply copies of two court  
orders which set out the objects of a small parochial trust, the Registry charged £49 just for a search  
of the records.

315 There is a greater danger for unpaid officials in that they may be unaware that they are trustees  
and yet failure to register or to file accounts would render them liable to criminal penalties. You  
could imagine cases, indeed we have had cases, where the title to church property has had to be  
examined with a view to sale, and some or all of those identified as owners were unaware that they  
were the trustees of the property, for example, the incumbent and all of the churchwardens of a  
recently united parish.

320 And so, Mr President, I believe that the burdens laid on parochial and diocesan officials, such as  
churchwardens and members of the PCC, would ultimately be so onerous as to be of significant  
pastoral concern. And with these thoughts in mind, I wonder if I can ask for further confirmation  
that the proposed registration would indeed not have an effect of changing the landscape.

Thank you, Mr President.

325

**The President:** Thank you.  
Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

330 I found the Lord Bishop's information very helpful at this point.

In relation to the proposed amendment I have sympathy with the principle that Miss August-Hanson is bringing forward, i.e. that we do historically have a separate regulatory regime for ecclesiastical charities as opposed to secular charities, so I have sympathy with the principle that we should look to regulate in a similar way across all of our charitable organisations.

335 I also, though, have a lot of sympathy with the points that the Lord Bishop has raised in that historically we have a separate regulatory system under church legislation that has built up and that in practice will require an awful lot of work in order to dismantle that regulatory system and the legislation that sticks with it in order that the relevant charitable bodies could be regulated under this Bill and avoid duplication and confusion. So I think that is a very important point that the Lord  
340 Bishop has articulated.

In terms of these amendments my understanding, as explained by the learned Attorney, and I would be grateful if he would confirm this is correct, is that at this point by removing ecclesiastical charities as an exemption from this Bill but adding them to the Religious Charities Regulations 1999, which is the amendment 5, I believe, so the new clause, what we would in fact do is maintain the  
345 *status quo*. So to the Lord Bishop's concern, by putting ecclesiastical charities in the regulations, the 1999 Regulations, they would continue to be exempt from registration under this Bill. So we would not immediately create the problem that he raises as a potential concern. We would not set up a conflict and a lack of clarity and have dual regulation.

My understanding is that by moving the exemption out of primary legislation, this Bill, and  
350 putting it into secondary legislation, the regulations, what we would allow for in the future, once there has been further debate, once there has been an opportunity to look at the historic regulation of ecclesiastical charities and make any changes required, we would make it easier then to remove the exemption from their treatment under this new Bill. So that is my understanding of what would happen if we accepted these two amendments today.

355 My further thought, though, as the learned Attorney has pointed out, is that at the point this Bill was drafted and brought forward this wider issue of how we regulate ecclesiastical charities and the differences between those and secular charities was not a policy matter that was considered or debated. And so I think it is very helpful that Miss August-Hanson has brought forward these ideas to enable that debate.

360 My personal view is that this is an area that, having raised this issue, it might be helpful to allow Members in another place to have a full policy debate on this matter and determine, from an elected representative perspective, what the appropriate way forward is.

I have a lot of sympathy with where she is trying to take us – that we should have parity of  
365 regulation and approach. I recognise the realities are you cannot just do that: there is a history here and you cannot just simply change the regulatory landscape overnight. There is a broader policy question, I think, as well about the right way to go here and I think that is a policy matter that should be debated in another place.

So my instinct at the moment is not to support the amendments. Not because I do not think  
370 there is merit in them or that I do not personally have sympathy with the principle, but I think the bigger policy debate is an important one to have.

Thank you, Mr President.

**The President:** Mrs Lord-Brennan.

375 **Mrs Lord-Brennan:** Thank you, Mr President.

I would just like to clarify first of all, I think there was some question with the first two speakers from Council as to what an ecclesiastical charity is. That is defined in the Bill and it is given the

380 meaning of Schedule 3 to the Church Act 1992 which perhaps, I suppose, sets some context in that what we are debating here is part of a much broader matter, I think, that was beyond the original scope and intent of what the Bill was seeking to do, which was to really take on the updated heads of charity from the UK Act and also put on a stronger regulatory footing the charities that are already being regulated.

385 From my point of view, some of the communications on the amendments, they were received quite late in the day and from my own time to consider what has helped me, actually, is to draw back to look at what the principles of this are. I do agree with the principle of seeking parity, absolutely. I do not really see why there should be a reason to exclude one group of charities over another or to exclude or to make separate provision for a different religious group of charities. So of the treatments I absolutely support the principle.

390 I think we need to recognise the legal position which is that I do not think that the amendments put forward are actually quite dealing with the issue overall as we would like to if they are not going to change the landscape. There is perhaps other debate which needs to be had elsewhere which I hope will be helpful as we have debated it as Council.

395 I would be interested to know, to ask the hon. mover of the amendments, to see if there has been another way of identifying how to handle the matter; and I suppose I am taking on board the other way of that is by secondary legislation.

400 But I still think it does bring us back to the overriding point for me that, as the Legislative Council, obviously this Bill has started with us, I think ordinarily scope is for the Keys and I think that there are policy issues that need to be addressed, policy would come before legislation. So whilst it is good to have on the record, I feel I am almost kind of flagging this for debate elsewhere and for redress elsewhere, and if we can just keep to what the main purpose of this Bill is.

So I do not think I am going to support the amendments but I am taking on board the principle of it and I think that it would need to be looked at elsewhere and that would be the right thing to do.

Thank you.

405 **The President:** Mr Attorney.

**The Attorney General:** Thank you, Mr President, and I thank Hon. Members for their debate on this important issue.

410 If I could just briefly revisit where this Bill comes from, it was very much a technical Bill designed to better improve the regulation of charities on the Isle of Man. I will not repeat again the pressures that were taken into account from the point of view of Moneyval or any external inquiry or review of the Island's processes but it was very much designed to have a more efficient method of regulation and there was, as the Lord Bishop pointed out, extensive consultation on the Bill.

415 Out of that consultation no policy issues arose. I am quite sure that if policy issues had arisen, such as we are debating this morning, then the Council of Ministers may well have had a different view as to the method of taking this Bill forward and the shape that the Bill took. But it simply was prepared on the basis of the outcome of that consultation to address improvements to the current process for regulating charities and that is why it was handed to me on behalf of the Council of Ministers to bring it forward here.

420 Of course, things have moved on. There are now policy issues raised. I can repeat for the record again that the proposed amendments, to which I raise no objection, will maintain the *status quo*, and that is the important thing which I think has been mentioned again today. So to take the Lord Bishop's point, I can give him that confirmation.

425 Again, a very helpful explanation of the landscape as far as ecclesiastical charities are concerned at the moment, the fact of the matter is we have no idea, and I am sure the Lord Bishop has got no idea, as to how many charities there are out there in the context of the general description of ecclesiastical charities. Indeed when you look at the exemptions which were actually issued in 1999, the mere description of the Sodor and Man Diocesan Board of Finance, any parochial church council, incumbent or church wardens who are no doubt changing by the minute, or not perhaps by the

430 minute, but clearly on a regular basis and in the meaning of the Incumbents and Churchwardens  
 (Trusts) Measure 1964, which have effect in the Island, in respect of an interest to which the  
 measure applies. There are very general descriptions and you can imagine how many bodies or  
 organisations within the context of the Church of England would be captured if the regulation or if  
 435 they were not exempt from registration and the same applies to the Methodist Church, the United  
 Reform Church, there will be many people who would fall within the exemption currently under the  
 1999 Regulations.

So if there is to be a change of policy as a consequence of this debate or in another place, it  
 certainly needs to be looked at in a broader way than simply a narrow one at the moment of seeking  
 parity or whatever, because we do not know what the consequences will be. They would certainly  
 440 be significant, from my Chamber's point of view with reference to resources because currently we  
 have 696 charities on the register but which we are concerned about. We are dealing with an  
 average of 3.3 applications for registration a month, resulting in 2.6 regulations per month, so if we  
 take a broad view you can imagine then if we added to that having to deal with the many changes  
 that would inevitably happen in the context of the churchwardens or incumbents or whatever.

445 So as a matter of policy, no objection, I cannot raise an objection and I do not intend to because I  
 just take you back to the message which I started off from in the First Reading, repeated in the  
 Second Reading, I am here moving a Bill focused on the better regulation of charities and  
 maintaining the *status quo*. The policy is for this Council and the other place to address if they felt it  
 was appropriate. But I hope that confirmation is helpful to you.

450 The amendments tabled cause no concern with reference to maintaining the *status quo* which  
 we have at the moment.

**The President:** Mr Henderson.

455 **Mr Henderson:** Gura mie eu, Eaghtyrane.

I thank the learned Attorney General for his commentary there but, rather than waylay any  
 concerns, they have actually deepened concerns I have had with the amendments specifically. As  
 others have spoken, the principle behind the amendments, okay I get that. But the actual effect of  
 what they are seeking to achieve, though, I cannot support that because, again, as others have said,  
 460 and I have noted myself, that were are straying off the main focus of the legislation before us today  
 and we are broadening it out into other spheres which I do not think really is within our remit just at  
 the minute.

I am particularly concerned with the issues that the Lord Bishop has raised and unintended  
 consequences, which I can see flowing from this in quite numerous directions, to be honest,  
 465 Eaghtyrane.

The mover of the amendments says that it does not change the landscape. The Attorney General  
 is kind of happy with that, by what he is saying, that the landscape has not changed. However, I can  
 see the full consequences of these amendments.

470 If I can put it like this, Eaghtyrane, in uprooting the landscape and preparing it to be transported  
 to be changed, I do not think we should actually be considering the amendments with the effect that  
 they are going to have because they are opening doors onto the landscape or putting door handles  
 onto the landscape that will invariably invite inquisitive minds either here or in other areas to  
 explore and then we are into the full area of unintended consequences, as far as I can see.

475 The Bishop has outlined it quite clearly, from the ecclesiastical charities point of view, on the  
 amount of work that would have to be undertaken, especially with a charity that is two or three  
 hundred years old or a trust that is two or three hundred years old. He quoted a very cheap version  
 of a search. Some searches to have your terms registered, they take many hours or days or in fact  
 the original memorandum and articles and all the rest of it might have disappeared in the annals of  
 time. So there is an inordinate amount of work behind the scenes, I can see that. I am especially  
 480 cognisant, as I say, of unintended consequences when if we start changing or amending this  
 legislation to the point where it is going to affect church wardens and others in tiny inconsequential

trusts, smaller little charity funds and so on where people suddenly become unwittingly trustees and their pseudo directors, for want of a better terminology, and so on and the complications that go with that or find themselves in default of the law, then I think we need to look at that. For me, I am  
485 happy to progress the Bill as proposed in its straight format.

I think if there are issues with parochial charities, if I can call it that, then I think maybe that is something for the Attorney General and the Council of Ministers to return to on another day, to be treated as possibly a separate or connected issue.

But certainly I do not think we should be getting involved in a wider policy debate here. I feel if  
490 there are issues there we have flagged it up sufficiently here and it will be raised in the other place by the popular elected Members who can discuss that policy there as to whether they wish to make any further amendments and I am especially cognisant of Mr Baker's commentary over the weekend that was issued as well with his concerns with the amendment being brought forward this morning.

So taking all those things into the round, Eaghtyrane, I am minded to support the legislation as it  
495 stands.

**The President:** Mr Crookall.

**Mr Crookall:** Thank you, Mr President.

I will start off by just thanking the learned Attorney for his expert opinion and explanation of this  
500 Bill when we started out and certainly this clause; and also Miss August-Hanson for her explanation with regard to her amendment. I thank the Lord Bishop for putting his side of the case as well and where he is coming from.

I suppose a lot of questions have already been answered and the learned Attorney has given us  
505 some of those answers and I am sure in his summing up he will do the rest of it. I suppose all I am looking to do is to seek that at the end of this we have parity for everybody which is what we are looking for, and that there is no duplication involved for anybody, whether it be the Church in this case.

Just to mention the workload to trustees – whether it be on smaller charities not involved with  
510 the Church, they all take on that responsibility; and whether it be the Church or two or three that I work alongside, and I am sure we all do – they all realise or should realise the responsibility that they take on as trustees – and if they do not they should be aware of that.

So I just seek to get assurance that there is no favour or advantage being given to anybody here  
515 at the end of this Bill, whether it be the Church or whichever charities, and this Bill does what it is supposed to do.

Thank you, Mr President.

**The President:** Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President.

I would just like to share my observations. I would like to thank Miss August-Hanson for raising  
520 the debate, because as Mrs Maska said, the subject of parity is important and it needs discussing. But I also take on board the Lord Bishop's comments and observations about the complexity which is involved.

I think if we do not know how many religious charities there are on the Island, then we do need  
525 to find a way of finding this out. I think if accounts are already being drawn up on an annual basis by religious charities, by most of them anyway, it should not be unduly onerous for them to submit those accounts to some kind of central registry. I take on board the fact that the registry are currently charging £49 to do certain searches, but I wonder if perhaps in future this could be waived  
530 for religious charities.

Also if some trustees are not aware currently that they are trustees officially, they really do need to know that they are officially trustees. So again, this is something we need to look into. But, like Mr Henderson says, I think that there is need for policy debate but this is a debate for another place.

535 So although I do support the intention behind the amendments I will not be voting for them today  
but I look forward to further debate by the elected Members.

**The President:** Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

540 I just wanted to add to the remarks I made earlier that the reason I support the principle is  
because of something that Mr Crookall and others have touched upon: that regardless of whether  
you are a secular or an ecclesiastical charity, the need for transparency, the need to understand the  
responsibilities that go with your role effectively acting as a trustee, the need for the public to be  
545 able to see and understand what is being done with money that is for charitable purposes, those are  
very important and this Bill is designed to modernise and improve oversight for secular charities.

The concern I suppose, and why the principle is very worthy of debate, is because the historic  
nature of ecclesiastical charities and trusts, and the fact that we do not know how many there are  
and it is very difficult for individuals to know what their duties are, by the sounds of things, suggests  
that there is scope for modernisation here and perhaps that modernisation would ultimately result  
550 in ecclesiastical bodies being absolutely on a par with secular bodies. So that is why I support the  
principle.

However, in putting this Bill together I do not think anybody thought, 'Let's put everybody  
together at once'. So I think we are at risk of conflating accepting the amendments and thinking the  
whole landscape will change, which it will not. All I think it does is it puts ecclesiastical charities ...  
555 their exemption, and that exemption will continue; they will not be subject to this Bill. It would  
continue until such time as further work had been able to be carried out, which meant it was  
appropriate to remove that exemption and require them to be regulated under this Bill.

My personal view though is still that although I do not think the amendments themselves would  
cause a huge amount of disruption and change and cost for ecclesiastical charities, it is still  
560 important because it is a point of principle and policy that it is debated by our elected  
representatives; and I hope these amendments and this debate will be very useful to another place  
in their deliberations on this point, which was clearly not something that was considered at the point  
of drafting the Bill and the scope of the Bill.

Thank you, Mr President.

565

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

570 Just to echo the comments made by Mrs Poole-Wilson, but also to add that I think this has gone  
so broad that it is not just a matter for legislation in the Branches, but actually a matter of policy in  
parliament. So I think that perhaps we might – and I think I would like to see it debated in Tynwald  
and I am not sure ... there are perhaps other committees and bodies involved in this that might aid  
picking up that with the Ecclesiastical Committee.

575 So I think that it is not just a case of one Branch or the other, but both together talking about  
policy in Tynwald on this.

Thank you.

**The President:** Of course Tynwald Standing Orders do not provide for discussion of a matter  
currently before the Branches. (**Mrs Lord-Brennan:** Yes.) Policy normally is decided there, then it  
580 goes to the Branches in legislative form.

Miss August-Hanson, you do have the right of reply if you wish.

**Miss August-Hanson:** I would like to take that right of reply. Thank you, Mr President. I will be  
quite brief. I do not want to unduly go on and on.

585 I would like to thank Mrs Maska for seconding. I really do appreciate that, thank you, a great deal.

I suppose I had best start with thanking Mrs Poole-Wilson as well for her contribution. I understand entirely where you are coming from, and also in the same manner, thanking Mrs Lord-Brennan as well for her contribution, because I think you are on similar lines there and I can understand those entirely.

My amendments coming forward are in the most part to ensure that some form of debate occurs and then following that, if another place wishes to take up these matters then it is their prerogative to do so.

595 Just picking up on a point that has been made over the course of this debate, particularly in response to Mrs Lord-Brennan, the amendments allow for debate in Tynwald down the line, which would be part two of what I was explaining earlier. The amendments that are put down today for this Council sitting are simply just to allow or lay the groundwork to enable that debate down the line. It is not to determine policy. These amendments are certainly not to determine policy. All they are to do is just to lay that groundwork.

600 But if it is felt that these amendments would be best discussed in another place then I will be content for that to happen as well. So I appreciate my colleagues' concerns in that area and I would be happy for that to happen should it come about.

It is a strange thing, I think, when a Bill comes to Legislative Council first, but I do think that a level of debate on subjects in Legislative Council when a Bill does come here ... that it should feed in and potentially give those of another place the opportunity to think about various aspects of the Bill that we might pick up, I think is very important.

I would like to thank the Lord Bishop. I understand his position entirely and I know that it would create an awful lot of work in the second part should it be debated down the line. The amendments would not cause any onerous amount of workload in the meantime, but I do understand where you are coming from and I certainly do thank you for your thoughts. I do appreciate them.

615 I do respect the viewpoints of Council. In relation to debate elsewhere, Mrs Lord-Brennan asked if I am aware of another way that perhaps might be another avenue than the amendments that I have put forward. I am assured by the drafter that there is not and that this would be the best avenue to achieve what I talked about in relation to this. So to prompt debate down the line, this would be the best avenue for that.

The Attorney General, thank you for your contribution and for your advice. I do appreciate that and also the landscape as well – that it would not change. It is certainly the case there would be no alteration to the landscape of the way that charities are regulated or registered in relation to ecclesiastical charities. There would be no change if these amendments would go through. Again, it is simply laying groundwork for debate.

620 I would like to thank Mrs Sharpe as well for her comments. It would also be worth saying that the UK Charities Commission is quite keen between now and 2021 to look into how ecclesiastical charities and other denominations are regulated and registered, with the intention of finding out exactly what the landscape might look like should they take those on board.

625 **Mrs Sharpe:** Miss August-Hanson, would you give way for a second?

**Miss August-Hanson:** Of course, if Mr President allows.

630 **The President:** Hon. Members, the debate has closed.

**Mrs Sharpe:** Okay.

**The President:** Miss August-Hanson.

635 **Miss August-Hanson:** Thank you.

640 Thank you to Mr Crookall as well for his comments which are very much in line with my own actually and my own thought processes in relation to putting these amendments forward. I do believe in a level of parity among denominations on the Isle of Man. I am aware though and I understand the Lord Bishop's position in relation to the Catholic Church and its prominence on the Isle of Man, and I do respect that. But in relation to charities, at the end of the day we would not do this with businesses so the third sector, I really do not see why there would be any priority given to one charity over another in terms of exemptions. I have really no understanding why that might happen.

645 In terms of the Hon. Member from another place, Mr Baker, and also Mr Robertshaw, both of them sent a number of questions across to me. They were not citing any disagreement with my amendments one way or the other; all they were doing was asking questions and looking for clarity. I addressed those concerns and have since had no communications with them, although I am available should they wish to speak to me about it down the line.

650 In terms of trustees, it has been mentioned on a number of occasions that trustees should indeed understand and know whether or not they are a trustee of a charity, be that ecclesiastical or not. So I am not entirely understanding where the Lord Bishop is coming from on that particular point. The accounts should already be filed; ecclesiastical charities should not be exempt from that. I really do not understand why they would be.

655 So I suppose, in closing, what I would like to say is that my amendments being put forward before Council today are simply to enable a level of debate, either in another place or in Tynwald; they are to do nothing more than that. It is simply not to change the policy and how we do things, because the landscape certainly is not changing and would not change off the back of my amendments should they be approved; it is to allow and enable for debate and that is it.

660 I have been handed a note from a colleague which I will read out actually, that, 'Religious charities must register with the Charities Commission by 31st March 2021 in the UK.' So if they are to look at it then what would prevent us from doing so?

I will leave it at that.

Thank you, Mr President.

665

**The President:** Learned Attorney, do you wish to reply?

**The Attorney General:** Mr President, I do not think I can usefully add anything else.

670 **The President:** Hon. Members, we deal with clause 4. First, I will put the amendment in the name of Miss August-Hanson. Those in favour of the amendment to clause 4 say aye; against, no. The noes have it.

*A division was called for and voting resulted as follows:*

**FOR**

Miss August-Hanson  
Mr Cretney  
Mrs Maska

**AGAINST**

Mr Crookall  
Mr Henderson  
The Lord Bishop  
Mrs Lord-Brennan  
Mrs Poole-Wilson  
Mrs Sharpe

**The President:** Hon. Members, the amendment fails to carry, 6 votes against, 3 votes for.

I put clause 4 as it stands. Those in favour say aye; against, no. The ayes have it. The ayes have it.

675 As a consequence of that decision I shall not be calling on the Hon. Member to move her new clause or amendments that are in her name.

We move on now to clauses 5 to 7, Mr Attorney.



**The Attorney General:** Thank you, Mr President.

680 With your agreement I would like to move clauses 5 to 7 together.

The 1962 Act provides that ‘charitable purposes’ means ‘purposes which are exclusively charitable according to the laws of the Isle of Man’. As the only statutory provisions which describe charitable purposes are the Recreational Charities (Isle of Man) Act 1960 and section 2 of the 1962 Act, the primary description, and interpretation, of what is charitable under Manx law has been provided by the High Court, in particular in the judgments in *In re Costain (1961)* and *In re Ring (1962)*.

In considering the interpretation of ‘charitable’ in the Island, the court has primarily adopted the principles which had been developed by the English courts, albeit indicating that Scottish and Irish cases could also be treated as guides. There are no reported cases, however, in which either Scottish or Irish precedents have been considered. Thus, despite the learned Deemster having accepted *In re Ring* as substantially correct – the contention that the law of the Isle of Man:

... was more liberal in interpreting what was charitable, and in any event not narrower, than the interpretation which English law had put on the Statute of Elizabeth

– in practice it is the English courts’ interpretation to which regard has been had in cases to which the statutory provisions in the Recreational Charities (Isle of Man) Act 1960 and section 2 of the 1962 Act do not apply.

695 Prior to the enactment of the Charities Act 2006 (of Parliament), the definition of ‘charitable purposes’ had been developed entirely through case law having regard to the preamble to the Statute of Charitable Uses 1601, which is known as the Statute of Elizabeth. The preamble, which did not form part of the statute as it was not in the direct body of the Act, contained a list of purposes or activities which the State believed were of general benefit to society, and to which the State wanted to encourage private contributions.

700 The courts, in considering whether or not a particular purpose was charitable in law, have tended to look for an analogy between the purpose under consideration and the 1601 list, and to recognise the purpose as charitable if an analogy with the 1601 list could be found. This resulted in the classification by Lord Macnaghten in the *Pemsel* case, 1891, of charitable purposes into four principal heads, namely: (1) the relief of poverty; (2) the advancement of education; (3) the advancement of religion; and (4) other purposes beneficial to the community not falling under any of the preceding heads.

710 It is on this fourth head, having also had regard to the preamble, that the courts have relied in holding to be charitable, well recognised purposes such as the relief of elderly persons, the relief of ill-health, the care of animals and the preservation of the environment.

With the passing of the UK Act in 2006, these principal heads of charity were codified and expanded into a list of 13 descriptions of purposes, which preserved those purposes which had already been recognised as being charitable by the English courts as well as broadening the meaning of ‘charitable purpose’, in particular by including within the list ‘the advancement of amateur sport’.

715 Prior to the 2006 Act, such a purpose was only deemed to be charitable if it could be shown to fall within accepted charitable purposes, such as the promotion of education which would encompass sporting activities for children and young people, the promotion of public health or the provision of recreational facilities in the interests of social welfare.

720 Although the Manx courts can still have regard to English case law in determining whether a particular purpose can be said to be charitable where that purpose was deemed to be charitable in England and Wales prior to 2006, they cannot adopt a purpose which has only become charitable in England and Wales as a consequence of its inclusion in the statutory list. This means that a *bona fide* charity established in England and Wales may now be unable to carry out any activities in the Island.

725 In order to address this potential difficulty, clause 5 sets out a definition of ‘charitable purpose’ which requires the purpose to be one included in the list contained in clause 6, which includes all of the purposes which are presently applicable in England and Wales, as well as preserving the purposes recognised by the Manx statutory provisions to which I have already referred.

730 The new definition of ‘charitable purpose’ includes the requirement adopted by the 2006 Act of  
the UK that the purpose must be for the public benefit, as described in clause 7. Under the existing  
law, when the status – charitable or non-charitable – of an organisation established for the relief of  
poverty, the advancement of education, or the advancement of religion is being considered, the  
organisation’s purpose is presumed to be for the public benefit unless there is evidence that it is not  
for the public benefit. For organisations established for all other purposes, the opposite is the case.  
735 Subsection (2) abolishes this presumption and puts all charitable purposes on the same footing.  
Subsection (3) makes clear that the meaning of the term ‘public benefit’ is, and remains, that which  
has been developed under the common law.

Mr President, I beg to move that clauses 5 to 7 stand part of the Bill.

740 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

**The President:** Hon. Members, I put the question that clauses 5, 6 and 7 do stand part of the Bill.  
Those in favour say aye; against, no. The ayes have it. The ayes have it.  
745 Clause 8.

**The Attorney General:** Thank you, Mr President.

750 Clause 8 re-enacts the existing law which provides that it is an offence for an institution to hold  
itself out as being a charity unless it is a registered charity or a charity exempt from the requirement  
to register. One of the reasons for this is to prevent an institution from claiming, or appearing, to be  
a charity when it is not, in fact, established for charitable purposes. It is also to prevent a foreign  
charity from carrying on activities within the Island if it does not meet the criteria for registering as a  
Manx charity and, thus, be subject to regulation here. The existing penalties on conviction are being  
retained.

755 Mr President, I beg to move that clause 8 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

760 **Mrs Lord-Brennan:** I beg to second.

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

Part 3, clauses 9 to 15, Mr Attorney.

765 **The Attorney General:** Thank you, Mr President.

With your agreement I would like to move clauses 9 to 15 together as they all concern the  
continuation and maintenance of the Register and the Registration process.

770 Although the 1989 Act does provide a requirement for a charity in the Island to register by filing a  
‘statement’ in the General Registry (as did its predecessor, the Public Charities Act 1922), it does not  
provide the clear *vires* for the establishment and operation of a register which are necessary in a  
modern world. Accordingly, clause 9(1) provides for there to continue to be a register, to be kept by  
the Attorney General. The effect of this will be to combine the role of registrar with the Attorney  
General’s existing role as regulator, thus reflecting the position in England and Wales where those  
roles are combined in the Charity Commission.

775 The remaining provisions of clause 9 set out the information which must be contained in the  
register and enable the Attorney General to prescribe the particulars of the charity which are to be  
included.

Clause 9(3) provides that the register is public except to the extent prescribed by regulations  
made by the Attorney General under clause 9(4). This will enable the necessary balance to be struck

780 between the public interest and an individual's right to privacy. It will also enable all details about certain trustees to be kept private, for example, in circumstances where there is a genuine risk to them in being identifiable on a public register.

Clause 10 provides necessary clarity by imposing an express requirement to register. This clause also re-enacts the existing provision for the making of regulations to exempt any charity or class of  
785 charity from the requirement to register and preserves the requirement introduced by the Charities Registration Act 1989 that a registered charity have a substantial and genuine connection with the Island. Failure to register is an offence, with the penalties mirroring those which apply for an offence under clause 8.

Clauses 11 to 13 provide for the application for registration, the criteria for the determination of  
790 an application and the administrative steps to be taken on registration.

The reason why the matters set out in clause 12 are being considered in detail at the time of registration is to ensure that a charity coming onto the register is not only suitable for registration but, with the principle in mind that 'prevention is better than cure', that it, and its trustees, have the necessary powers and understanding of how they should be used so that the charity can operate  
795 successfully both in regard to the achievement of its charitable purposes and the meeting of the necessary regulatory requirements. This will also assist the public in having confidence in the charities sector.

Clause 14 provides that the Attorney General is not liable for the accuracy of any document submitted for inclusion on a register maintained under the Bill but provides a power to make  
800 inquiries to establish the accuracy of any information provided.

Clause 15 provides for the circumstances in which an institution must be removed from the register, which will enable the register to be an accurate record of the charities which are presently carrying on activities in the Island.

805 Mr President, I beg to move that clauses 9 to 15 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

810 **The President:** Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

In these clauses there is provision for regulations to be made with further detail, and it is just a question really as to whether there will be regulations coming forward, updated or new regulations  
815 in order to provide the detail underneath; and is the intention that they would be brought into operation at the same time as these operative provisions of the Bill?

**The President:** Mr Attorney.

820 **The Attorney General:** Mr President, I am happy to confirm that that is the intention.

We will be working on those and they will come into operation when the Bill becomes operative. That is the clear intention, sir.

**The President:** Thank you.

825 I put the question that clauses 9 to 15 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Part 4, clauses 16 to 23.

**The Attorney General:** Thank you, Mr President.

830 Again with your approval, I would ask that we deal with clauses 16 to 23 together as Part 4 sets out certain formal requirements.

835 Clause 16 requires that every registered charity have a written governing instrument, including those originally registered under the Public Charities Act 1922 or the 1989 Act. A lack of a written governing instrument can cause uncertainty as to the purposes for which a charity was established, as well as regards the powers of the trustees concerning its day to day management. In many instances, only the High Court can resolve such uncertainties, which has financial implications for the charity concerned as well as imposing a burden on the public purse, as the current Rules of the High Court require the Attorney General to be named as a defendant in respect of applications concerning charities.

840 Although adopting a written governing instrument should not be a complex task in most circumstances, particularly given the provisions set out in clauses 21 and 22, clause 16(2) provides that existing charities without written governing instruments will have a period of at least two years from the date the requirement comes into force in order to adopt one.

845 Clauses 17 and 18 make provision for the amendment of the governing instrument, including the amendment of a charity's objects. To ensure that a charity's governing instrument remains fit for purpose, except in a case where the High Court has authorised the amendment (in which case the Attorney General's views will have been considered), the Attorney General's consent must be obtained for any change to have effect. This does not apply in the case of a foreign charity, that is one established under the law of a country or territory outside the Island, as any change will be governed by the laws of the jurisdiction in which it is established, but the charity would be removed from the register if the effect of any changes was that the institution was no longer established for charitable purposes.

850 Clauses 19 and 20 make provision as regard the change to a charity's name, including preserving the existing power of the Attorney General to direct that a charity abandon a misleading or undesirable name. It will remain an offence to fail to comply with a direction, with the existing penalties on conviction being retained. As the purpose of the power is to ensure that an unsuitable name is changed, clause 20 will enable the Attorney General to change the name of the charity following a conviction.

855 The provisions in clause 21 will enable charities which registered prior to the Act coming into force to seek the consent of the Attorney General to amend their governing instruments, or to adopt a governing instrument, in circumstances where the only alternative would be to make an application to the High Court under the Charities Act 1962, to which the Attorney General would be a party. Enabling the Attorney General to give the necessary consent would make the process of adopting necessary change more straightforward and reduce the cost to both the charity concerned and the public purse. I can also indicate that I will be continuing the long established practice whereby officers in the Attorney General's Chambers provide assistance and guidance to charities concerning all their statutory requirements, including providing model documents and working with charities to ensure that their constitutional arrangements are fit for purpose. Clause 21 does not limit the court's powers under the 1962 Act and neither does it have any effect on the general principles which must be considered irrespective of whether the necessary approval is given by the court or by the Attorney General.

870 In the case of a charity which has been constituted under an Act of Tynwald, clause 22 enables the Attorney General to make an order, subject to Tynwald approval, amending the Act of Tynwald to effect the necessary amendments. This mechanism will be in addition to, and not in place of, the usual process for amending primary legislation.

875 To ensure that information on the register is kept up to date, clause 23 provides for the notification to the Attorney General of amendment to the various particulars of registered charities. The existing offence in the 1989 Act for non-compliance with the requirement to notify is retained, as are the penalties on conviction.

880 Mr President, I beg to move that clauses 16 to 23 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

885 **Mrs Lord-Brennan:** I beg to second.

**The President:** Mr Crookall.

**Mr Crookall:** Thank you, Mr President.

890 Could I just seek clarification from the learned Attorney? So if a charity has a written governing instrument, a constitution, and they wish to change that, they usually advertise that to its members and then at the following AGM those are changed; they do not become taken as changed until they have been submitted to the Attorney General's Chambers and agreed by yourselves?

895 **The President:** Mr Attorney.

**The Attorney General:** Mr President, I can confirm that that is the case and that is the case at present. So all amendments to a charity's constitutional documents have got to be approved by me at the moment and that has been repeated under the Bill.

900 **Mr Crookall:** Thank you.

**The President:** Mr Cretney.

905 **Mr Cretney:** Yes, could I ask on clause 16(2) why it is determined that two years will be the period?

**The Attorney General:** Mr President, we try to be as generous as possible in giving, certainly in mind of the smaller charities, as long a period of time acting reasonably to enable the small charities to tidy up their constitutional documents. The intention is that we will be writing to all of the charities on the Register to remind them of this requirement and we will work with them, Mr Cretney, to help them.

**The President:** Yes, Miss August-Hanson.

915 **Miss August-Hanson:** Thank you, Mr President.

920 Can I ask the learned Attorney General, I know that you have gone into some detail in relation to foreign charities but I wondered if you might be able to provide some clarity just around any mechanism that you might think of that would be appropriate in terms of fast tracking those that are already regulated by the UK Charities Commission; and if there is any mechanism to do that currently and should that mechanism then be used down the line following the implementation of this Bill into an Act?

**The President:** Mr Attorney.

925 **The Attorney General:** Thank you, Mr President.

930 The procedure for a foreign charity seeking registration on the Register in the Isle of Man currently, and in the future, will be that they have to complete the relevant form and provide the relevant documentation. I think I cited at the Second Reading that we had certainly turned one round, I believe, it was within 36 hours. But there are sometimes difficulties and they are simply: if we are not provided with the information which we require in a proper forum inevitably there will be delay.

There is not an actual mechanism but what I can assure you is that any charity seeking registration is dealt with as efficiently and as quickly as we possibly can. We have not faced any difficulties save for those instances where we have not been given the information we require.

935 **The President:** If Members are content I will take the vote on clauses 16 to 23 together. (Members: Agreed.) I put the motion that clauses 16 to 23 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Part 5, Mr Attorney.

940 **The Attorney General:** Yes, thank you, Mr President.  
With your agreement, I would like to move clauses 24 and 26 together, which both concern trustees.

Clause 24 defines a 'charity trustee' for the purposes of the Bill.

945 Clause 25 provides the automatic disqualification of a person for acting as a charity trustee in circumstances which give rise to concern as to his or her suitability to undertake such a role, given the degree of trust involved. Such circumstances include being convicted of an offence of dishonesty, being disqualified for being a company director, being an undischarged bankrupt, being subject to an order of the High Court removing or suspending him or her as a trustee of a charity, or being on the sex offenders' register.

950 At present, the mechanism for removing an unsuitable trustee is the obtaining by the Attorney General of an order from the High Court, which is administratively burdensome and imposes a cost on the public purse. The proposed automatic disqualification provisions, which mirror those which are in place in England and Wales, do not oust the jurisdiction of the court but, instead, will reduce the need to have to resort to it. A person acting as a charity trustee whilst disqualified will commit  
955 an offence and be liable, on summary conviction, to 12 months' custody and/or a fine of level 5 on the standard scale, currently £10,000.

As there may be circumstances where a person remains suitable to be appointed as a trustee of a charity notwithstanding the application of the automatic disqualification provisions, clause 25(4) enables the Attorney General to disapply the provisions in relation to any person where he or she  
960 considers that it is in the public interest to do so.

Clause 26 provides that a person who is disqualified for acting as a charity trustee is also disqualified for holding an office or employment with senior management functions in a charity.

Mr President, I beg to move that clauses 24 to 26 stand part of the Bill.

965 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

**The President:** I put the question that clauses 24 to 26 stand part of the Bill. Those in favour, say  
970 aye; against, no. The ayes have it. The ayes have it.  
Part 6, Mr Attorney.

**The Attorney General:** Thank you, Mr President.

975 With your agreement, I would like to move clauses 27 to 30 together, which concern charity accounts and annual reports.

Effective regulation of any sector requires the regulator to be provided with information from which problems, actual or potential, can be identified. In the case of charities, this is presently achieved by the filing of annual accounts at the Registry.

980 Clause 27 re-enacts the existing requirement for the filing of annual accounts, which may be subject to audit or examination depending on the charity's income. Supplementary provisions about auditors and examiners are contained in clause 28.

Annual accounts provide only limited information concerning the activities of a charity and, to improve transparency, clause 29 makes provision for a report on the activities of the charity to be filed at the time of filing the annual accounts. The information to be contained in the report will be  
985 prescribed, meaning that the reporting requirement can be tailored to reflect the size of the charity. It is not anticipated that the reporting requirement will place any significant burden on trustees, as

in most cases they are already required to report on the previous year's activities at their charity's AGM.

990 Clause 30 clarifies that, in the case of a foreign charity, i.e. one established under the law of a country or territory outside the Island, the requirement as to the filing of annual accounts and reports is in relation to the activities of the charity carried on by it in, or otherwise connected with, the Island.

Mr President, I beg to move that clauses 27 to 30 stand part of the Bill.

995 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1000 **The President:** I put the question that clauses 27 to 30 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Part 7, clause 31.

**The Attorney General:** Thank you, Mr President.

1005 Again, with your agreement I would like to move clauses 31 to 35 together, which are new provisions concerning charity mergers.

Clause 31 provides for a register of charity mergers to be kept by the Attorney General.

Clause 32 describes the circumstances which constitute a charity merger for the purpose of clause 31, namely where charity A ceases to exist having transferred its property to charity B, or where, following a transfer of their property to charity C, charities A and B cease to exist.

1010 Clauses 33 and 34 make provision in relation to the notification of a charity merger and the details to be entered onto the register of charity mergers.

The main purpose of creating a register of charity mergers is so that registered charities which have otherwise ceased their activities do not have to remain in existence, and subject to regulation, merely to be able to receive future gifts, such as bequests. Accordingly, clause 35 provides that, where a charity merger has been registered, the gift to a charity which has ceased to exist will take effect as a gift to the charity to which its property was transferred as a consequence of the merger.

Mr President, I beg to move that clauses 31 to 35 stand part of the Bill.

1020 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1025 **The President:** I put the question that clauses 31 to 35 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Part 8 and the Schedule, Mr Attorney.

**The Attorney General:** Yes, thank you, Mr President.

With your agreement, I would like to move clauses 36 to 39, which comprise Part 8, together with the Schedule, and they concern the regulation of charities.

1030 As well as re-enacting the existing powers under the 1989 Act of the Attorney General to obtain information as to the investments and property of a registered charity, clause 36 provides the power to obtain such other information as may be prescribed; for example, information concerning the charity's safeguarding policies, where relevant, and compliance with such policies. The application of clause 36 is extended to ecclesiastical charities and to trusts of property falling within paragraph 1(2) of Schedule 3 to the Church Act 1992.

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

Sorry, I will just continue. (**The President:** Carry on.)

1040 Clause 37 re-enacts the power of the Attorney General to institute inquiries into an institution which is, or purports to be, established for charitable purposes. The existing offence provisions and penalties are preserved.

Clause 38 makes new provision for the obtaining of search warrants in connection with an inquiry under clause 37, the detailed provisions concerning their obtaining and use being set out in the Schedule.

1045 Clause 39 re-enacts the existing powers of the High Court, on the application of the Attorney General, to make orders for the protection of charities and their property, such as for the removal or suspension of a trustee.

Now if I can beg to move that clauses 36 to 39 and the Schedule that they do stand part of the Bill.

1050 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

**The President:** Mrs Poole-Wilson.

1055 **Mrs Poole-Wilson:** Thank you, Mr President.

1060 Just in the context of our earlier debate, I just thought it was worth highlighting for the record that, whilst clause 36 expressly says that the section applies to ecclesiastical charities, the power of the High Court in clause 39 refers to institutions which is sufficiently widely defined under this Bill to encapsulate, I would think, ecclesiastical charities and numerous other organisations that could be regarded as a charity even though they may not be included in the definition of charity in the Bill.

So there does seem to be at least power to obtain orders and to take action to protect the property of a large range of institutions including, I would think, learned Attorney, if you could confirm, ecclesiastical charities.

1065 **The President:** Mr Attorney:

1070 **The Attorney General:** Mr President, yes, as I have mentioned and I am happy to confirm, there is no intention in the Bill to restrict the Attorney General's powers of inquiry into ecclesiastical charities. So that will remain as it is currently.

**The President:** Hon. Members, I put the question that clauses 36 to 39 and the Schedule stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1075 Part 9, Mr Attorney.

**The Attorney General:** Thank you, Mr President.

With your agreement, I would seek to move clauses 40 and 41 together; they both concern foreign charities.

1080 To ensure accountability within the Island of the activities of a foreign charity – that term being defined in clause 40 – clause 41 imposes a requirement that, if none of its trustees are ordinarily resident in the Island, a foreign charity must appoint a person resident in the Island as the 'responsible person', who will be responsible for the compliance by, or on behalf of, the charity in respect of all applicable statutory requirements. This will avoid the difficulties that can arise at present if none of the persons carrying on the charity's activities in the Island have the necessary authority within the charity to ensure, for example, that the annual accounts are prepared and filed, and that those persons that do have that authority are outside our jurisdiction.

1085 Mr President, I beg to move that clauses 40 and 41 stand part of the Bill.

**The President:** Mrs Lord-Brennan.



1090 **Mrs Lord-Brennan:** I beg to second.

**The President:** Yes, Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.

1095 I would just like to ask for some clarification again from the learned Attorney General, if it please him.

I wonder in terms of having that responsible person, say if a larger scale charity would come over to the Isle of Man, has a contract say with Government or with some other organisation, for a short-term period would they need to have all of that documentation with them or would they need to submit that beforehand or how would that work exactly, in terms of filing accounts?

1100 **The Attorney General:** As I earlier indicated, if that foreign charity was to seek to register in the Isle of Man as such they would have to complete the necessary application form and submit the relevant documentation. They would also have to appoint a person on the Island as a responsible person. I think that is appropriate in my view; it is obviously up to you. There ought to be somebody here on the Island responsible for ensuring that a foreign charity, no matter of its size or scope or reputation, complies with Isle of Man law.

**The President:** Miss August-Hanson.

1110

**Miss August-Hanson:** What documentation would they need to have with them on the Isle of Man while they are here?

1115 **The Attorney General:** While they are here they would have to submit in advance for registration through the format of the forms that the registrar required.

I am sorry it is crunching down to the detail. I do not know what the actual application form says but there will be documentation that has actually got to be filed which will lead to registration.

**Miss August-Hanson:** Okay. Thank you.

1120

**The President:** Hon. Members, I put clauses 40 and 41. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Part 10, Mr Attorney.

1125 **The Attorney General:** Thank you, Mr President.

Again, with your agreement, I would seek to move clauses 42 and 43, which concern appeals, together.

1130 The Bill increases the number of decisions which the Attorney General can make in relation to charities, including those which are related to the function of the registrar. It also provides for the Attorney General to be able to exercise certain functions which currently fall solely within the jurisdiction of the High Court, such as the approval of the adoption or amendment of constitutional documents.

1135 As a public authority, decisions of the Attorney General are subject to judicial review by the High Court by way of a doleance claim. In order to provide a more straightforward and cost-effective mechanism for challenge, however, clauses 42 and 43 provide for the creation of a Charities Tribunal to hear appeals in respect of decisions taken by the Attorney General.

1140 These decisions will not include those concerning the exercise of the Attorney General's regulatory powers, namely those set out in Part 8 and clause 51, which is my giving consent to a prosecution, as the legality of such decisions would be addressed in the relevant court proceedings. As is usual in relation to the decision of an administrative tribunal, a further appeal lies to the High Court on a point of law.

Mr President, I beg to move that clauses 42 and 43 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

1145

**Mrs Lord-Brennan:** I beg to second.

**The President:** I put the question that clauses 42 and 43 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1150

Part 11.

**The Attorney General:** Thank you, Mr President.

I now turn to Part 11, which comprises clauses 44 to 59.

1155

Clauses 44 and 45 concern the making of decisions under the Bill and, with your agreement, I would like to move those two together, Mr President.

Clause 44 imposes a requirement for a decision or direction which is subject to a right of appeal to be given in writing and to include a statement of reasons. This is in keeping with the status of the Attorney General as a public authority.

1160

As already stated, the Bill increases the number of decisions to be taken by the Attorney General in respect of charities. So that this does not become administratively burdensome, clause 45 enables the Attorney General to appoint a person employed as an officer in the Attorney General's Chambers to perform certain specified functions, namely those which are functions which relate to the maintenance of the register and the taking of certain steps by the charities. In practice, much of this work is presently undertaken by a senior lawyer in Chambers, in advising the current registrar or the Attorney General as to the exercise of their functions. Functions such as making an application to the court for the removal of a trustee, issuing a direction that the name of a charity be changed or exercising the regulation and inspection powers under Part 8 will continue to be exercisable solely by the Attorney General.

1165

For the purpose of any appeal, a decision of a person appointed under clause 45 is treated as if it were a decision of the Attorney General.

1170

Mr President, I beg to move that clauses 44 and 45 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

1175

**Mrs Lord-Brennan:** I beg to second.

**The President:** Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.

1180

I would just, again, like to ask for some clarity on a point.

There is a model of charitable incorporated organisations that were started in Scotland some time ago and have started to drum up a conversation, I suppose, in terms of England and Wales. And in front of me I have the constitution of a charitable incorporated organisation as only voting members are its charity trustees.

1185

Just for the sake of having it in front of me at the moment, I am going to explain briefly what that is: a charitable incorporated organisation is a new legal form of charity. It has been created in response to requests from the charitable sector. A new incorporated form of charity which is not a limited company or subject to company regulation, which falls within the Charities Act 2011, which forms the basic legal framework for one.

1190

It is a potential tool that achieves a number of ends, if I just explain a few of those for those who do not know what it is, but to give charities incorporated status with limited liability without going through the complexities of company legislation, giving tangible benefit to trustees from the new legislation over there potentially as a means of regularising the governance of all charities, to allow

1195 them to be incorporated into one register without layers of regulation potentially leading to  
company deregistrations as charities could have limited liability under that form and also reducing  
duplication of admin for government and for trustees, who currently deal with two sets of  
paperwork for the changes of trustees. That is before the duplications of other things like  
memoranda, articles and other such documents, lodging accounts where required.

1200 So has that been taken into consideration over the course of putting this Bill together, I wonder?

**The President:** Mr Attorney.

**The Attorney General:** Mr President, I thank the Hon. Member for her question.

1205 It might be helpful again if I repeat the purpose of this Bill was simply to look at the question of  
the better regulating and the actual process of registration of charities in the Isle of Man.

1210 There was never any intention to change the landscape of those who could apply to be registered  
on the charities register here. So in short answer, no. No consideration has been given to different  
models of charities for the Isle of Man. That is a matter of policy which was certainly outside the  
scope of this particular Bill and certainly was not a matter which was raised in the consultation  
which took place.

Thank you.

**Miss August-Hanson:** Thank you.

1215 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

1220 I feel I should point out that not all charities are corporations, they are not all companies and  
companies are certainly subject to greater requirements than the basic level of what has been laid  
out here. So I have not read or seen the document you have referred to there, but perhaps they  
were trying to deal with a different issue or particular set of issues relating specifically to companies  
and, with this, charities can take many forms, as I think we know.

**The President:** Thank you.

1225 Mr Attorney, anything to add?

**The Attorney General:** No thank you, Mr President.

1230 **The President:** I put the question that clauses 44 and 45 stand part of the Bill. Those in favour,  
say aye; against, no. The ayes have it. The ayes have it.

Clause 46.

**The Attorney General:** Thank you, Mr President.

1235 Clause 46 makes provision as regards the making by the Attorney General of regulations to carry  
the provisions of the Bill into effect. Tynwald approval is required.

Mr President, I beg to move that clause 46 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

1240 **Mrs Lord-Brennan:** I beg to second.

**The President:** I put clause 46. Those in favour, say aye; against, no. The ayes have it. The ayes  
have it.

Clauses 47 and 48.

1245

**The Attorney General:** Thank you, Mr President.

Clauses 47 and 48 deal with the winding up of institutions by the High Court and as to the invalidity of certain transactions of charitable companies.

I beg to move that clauses 47 and 48 stand part of the Bill.

1250

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

**The President:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 49.

**The Attorney General:** Thank you, Mr President.

Clause 49 makes provision as to the reference on a registered charity's correspondence and other documents to matters to be prescribed. This will enable charities to be required to include information such as a charity number, contact details and names of trustees on its correspondence and other communication methods such as its website, social media platforms and publicity documents.

Mr President, I beg to move that clause 49 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1270

**The President:** I put the question. Those in favour of clause 49, say aye; against, no. The ayes have it. The ayes have it.

Clauses 50 and 51.

**The Attorney General:** Thank you, Mr President.

Both of these clauses make provision with reference to offences.

Clause 50 re-enacts the existing offence of knowingly or recklessly furnishing any information which is false or misleading in a material particular.

Clause 51 sets out supplementary provisions in relation to offences under the Bill, including re-enacting a provision which makes certain persons connected with an institution, which is not a body corporate, liable for its non-compliance. In the case of an institution which is a body corporate, the necessary liability of persons connected with it is provided by section 54 of the Interpretation Act 2015. Thus, it is unnecessary to repeat them in the Bill.

Mr President, I beg to move that clauses 50 and 51 stand part of the Bill.

1285

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

**The President:** I put the question that clauses 50 and 51 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 52.

**The Attorney General:** Thank you, Mr President.

Clause 52 makes provision as to the delegation by charity trustees of their functions so that, notwithstanding that a particular charity is not constituted as a trust to which the provisions of the Trustee Act 2001 apply, only those functions which are described as 'delegable functions' in section

11(2) of that Act, i.e. those which may be delegated by the trustees of a charitable trust, may be delegated by charity trustees.

1300 Mr President, I beg to move that clause 52 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1305

**The President:** I put clause 52. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 53 and 54.

1310 **The Attorney General:** Thank you, Mr President.

Both these clauses concern information and record keeping.

Clause 53 makes provision as regards approved forms to be used for the submission of information; and clause 54 makes provision as regards the keeping of records by the Attorney General, and for their destruction.

1315

During the Second Reading, the Hon. Member, Mrs Sharpe, asked about the keeping of records in relation to charities which involve children. As the power to destroy information and documents concerning registered charities is discretionary, I can indicate that the nature of a particular charity and its activities could properly be taken into consideration when making a decision about the destruction of records and the length of time that they be retained.

1320 Mr President, I beg to move that clauses 53 and 54 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1325

**The President:** I put the motion. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Attorney.

1330 **The Attorney General:** Thank you, Mr President.

I turn now to clause 55 which, to enable the efficient use of public resources, empowers the Attorney General to enter into arrangements with the Registrar General for the provision of services in connection with the delivery of the Attorney General's functions under the Bill, which will enable the register to be hosted within the Central Registry, thus taking advantage of existing IT provision.

1335 Mr President, I beg to move that clause 55 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1340

**The President:** I put clause 55. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 56.

1345 **The Attorney General:** Thank you, Mr President.

Clause 56 makes provision as regards the refusal of unacceptable documents.

I beg to move that clause 56 stands part of the Bill.

**The President:** Mrs Lord-Brennan.

1350 **Mrs Lord-Brennan:** I beg to second.

**The President:** I put clause 56. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 57 to 59, Mr Attorney.

1355

**The Attorney General:** Thank you, Mr President.

These clauses provide for the disclosure of information between public authorities and the Attorney General for the purpose of enabling them to discharge their respective functions.

I beg to move that clauses 57 to 59 stand part of the Bill.

1360

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1365

**The President:** If we turn now to clause 3 which was deferred.

Mr Attorney.

**The Attorney General:** Yes, Mr President.

Briefly, as the substantive provisions of the Bill have now been adopted, we can return to clause 3, which sets out the interpretation of certain terms used in the Bill.

1370

As we stand now, I would beg to move that clause 3, as it is on the face of the Bill, stand part of the Bill.

**The President:** Mrs Lord-Brennan.

1375

**Mrs Lord-Brennan:** I beg to second.

**The President:** Mr Cretney.

1380

**Mr Cretney:** Mr President, I do not think we had a vote on 57 to 59. I think we went straight on to –

**A Member:** We did not, no.

1385

**The President:** I thought I put the vote.

**The Attorney General:** I thought we did.

**A Member:** We did not vote.

1390

**The President:** For the avoidance of doubt, I may be hallucinating, I thought I did –

**Mr Cretney:** I may be sleeping!

1395

**The President:** I put, for the sake of clarity – no doubt *Hansard* will tell the history of the case. *(Laughter)* I put that clauses 57, 58 and 59 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Attorney.

1400

**The Attorney General:** Clause 3, I have moved, sir, that it stands part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1405

**The President:** I put clause 3. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 60 to 68.

1410

**The Attorney General:** Thank you, Mr President.

Again, I ask to move these clauses together, which all provide for certain consequential amendments as well as for the repeal of the Charities Registration Act 1989.

If I could refer to the amendment tabled by the Hon. Member, Mr Henderson, at this point.

1415

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I am happy to second.

**The President:** Mr Henderson.

1420

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I wish to move an amendment at this juncture. It is at page (ii) of our Order Paper at new clause 2. It is number 6. There are two similar amendments. I am moving the first one labelled as number 6, and that is the wording I wish to move as my amendment. That is as a consequence of earlier amendments not being approved.

1425

It is a straightforward simple amendment, Eaghtyrane, which basically amends the Road Transport Act 2001 in respect of inserting the new Charities Registration and Regulation Act 2019 as opposed to the old Act of 1989. It basically makes both pieces of legislation speak correctly to each other.

1430

I beg to move:

*New Clause 2*

*Page 46, after line 31, insert the following new Clause (to be inserted as Clause 67)—*

*“NC2 Road Transport Act 2001 amended*

*(1) The Road Transport Act 2001 is amended as follows.*

*(2) In section 6(7) (exemptions for charities etc) —*

*(a) in paragraph (a) for “Charities Registration Act 1989”, substitute “Charities Registration and Regulation Act 2019”.*”.

*(b) for paragraph (b) substitute —*

*“(b) an institution which would be a charity but for section 4(2) of that Act;*

*(ba) an institution exempted, by regulations under section 46 of that Act, from the requirement to register;”.*”.

*Renumber Clauses 67 and 68 accordingly.*

**Mr Crookall:** I beg to second, Mr President.

**The President:** Mr Attorney.

1435

**The Attorney General:** I am very happy to accept the amendment, Mr President.

**The President:** I put the question that the new clause as moved, and seconded, by Mr Henderson form part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1440

Mr Henderson, do you wish to move the clause in detail?

**Mr Henderson:** Gura mie eu, Eaghtyrane.

There is not any further great detail I can add to it, other than I have explained. It is a tidying-up exercise to marry the two Acts together and ensure that the 2019 legislation is reflected into the Road Transport Act 2001 and for the Road Traffic Licensing Committee to be content with those with that new amendment.

I beg to move, sir.

**The President:** Mr Crookall.

**Mr Crookall:** I beg to second, Mr President.

**The President:** I put the question. Those in favour that new clause 2 as moved by Mr Henderson stand part of the Bill, say aye; against, no. The ayes have it. The ayes have it.

I put to the vote that clauses 60 to 68 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

### **Charities Registration and Regulation Bill 2018 – Standing Orders suspended to allow Third Reading**

**The President:** Mr Attorney.

**The Attorney General:** Mr President, thank you very much.

Although I indicated at the Second Reading there is no great rush with this Bill, there is a need for the change of legislation to update the current law. As the debate on clauses was deferred to this week to enable any amendments to be tabled and debated, and that has now happened, in order to enable the progress of the Bill to get back on the timescale that would otherwise have applied, I wonder if Hon. Members might be willing to agree to the suspension of Standing Orders today to allow the Third Reading of the Bill to be taken?

**The President:** Could I have a seconder to the motion?

**Mr Henderson:** I am happy to second, Eaghtyrane.

**The President:** I put the question that Standing Orders be suspended to allow consideration of the Third Reading. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

### **Charities Registration and Regulation Bill 2018 – Third Reading approved**

**The President:** Mr Attorney.

**The Attorney General:** Thank you, Mr President, and thank you, Hon. Members, for agreeing to the suspension of Standing Orders.

In moving the Third Reading of the Bill, I would simply like, once again, to stress the importance of the Bill, which will ensure that the Island has a modern system in place for the registration and regulation of charities, thus enabling the public, on whom funding for charities depends, to retain confidence in the Manx charitable sector.



1480 Also, by updating the meaning of 'charitable purpose' to take account of recent changes in England and Wales, of the definition of charity in the Island and that will be now, as I have already indicated, at least as broad as that which applies in that jurisdiction. The effect of this is that any institution which is deemed to be a charity under English law would also be a charity under Manx law.

1485 I do thank Hon. Members for your support; in particular, Mrs Lord Brennan for being my seconder and I also thank Miss August-Hanson and Mr Henderson for the amendments that they tabled. I would also like to thank the officers in Chambers who have worked hard on the Bill.

Now I would like to move that the Charities Registration and Regulation Bill be now read a third time.

1490

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

1495 **The President:** I put the question that the Charities Registration and Regulation Bill be read for the third time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

That concludes the consideration of this particular Bill and I think Members can be satisfied that they have given very thorough scrutiny to certain elements within this legislation which will be more widely appreciated.

#### Procedural

1500 **The President:** Hon. Members, as the Third Reading is not now taking place next week there is no legislation on the Order Paper next week.

I would give advance notice that I am unable to attend the sitting of 12th February, and indeed 5th February, but the good news is that under Standing Order 3.3(1) Council shall elect a Member as Acting President. So I would ask Members to bear that in mind when the Order Paper is issued.

1505 With that, I will adjourn Council to 12th February. Thank you, Hon. Members.

*The Council adjourned at 12.33 p.m.*