



LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH

PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 12th March 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.

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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. A Connected Commonwealth – Commonwealth Day Message from Her Majesty the Queen

The President: Hon. Members, we begin our sitting with my reading of the Commonwealth Day Message from Her Majesty the Queen:

Commonwealth Day has a special significance this year as we mark the 70th anniversary of the London Declaration, when nations of the Commonwealth agreed to move forward together as free and equal members. The vision and sense of connection that inspired the signatories has stood the test of time, and the Commonwealth continues to grow, adapting to address contemporary needs.

Today, many millions of people around the world are drawn together because of the collective values shared by the Commonwealth. In April last year, I welcomed the leaders of our 53 nations to Buckingham Palace and Windsor Castle for the Commonwealth Heads of Government Meeting, and we all witnessed how the Commonwealth vision offers hope, and inspires us to find ways of protecting our planet, and our people.

We are able to look to the future with greater confidence and optimism as a result of the links that we share, and thanks to the networks of cooperation and mutual support to which we contribute, and on which we draw. With enduring commitment through times of great change, successive generations have demonstrated that whilst the goodwill for which the Commonwealth is renowned may be intangible, its impact is very real.

We experience this as people of all backgrounds continue to find new ways of expressing through action the value of belonging in a connected Commonwealth. I hope and trust that many more will commit to doing so this Commonwealth Day.

ELIZABETH R.

**2. Dormant Assets Bill 2018 –
Third Reading approved; Bill passed**

Mr Henderson to move:

That the Dormant Assets Bill 2018 be read a third time and do pass.

The President: Hon. Members, we turn to the Dormant Assets Bill 2018 for Third Reading and I call on the mover, the Hon. Member of Council, Mr Henderson.

10

Mr Henderson: Gura mie eu, Eaghtyrane.

Before I move this Third Reading, I would like to follow up two matters that were raised during the clauses stage.

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The Hon. Member Mrs Poole-Wilson asked about the publication of the distribution policy of the Fund. Having conferred further with Treasury officers, I can confirm that full details regarding distribution will be contained within the annual Tynwald report of the Fund and it is also intended that it will be made available within a dedicated Treasury area on Government's website.

20

I have also had further discussions with the Hon. Member Mr Crookall to address his concerns regarding the process for locating a lost bank account on the Island. On his behalf I am making further inquiries of the banks, as the points he raised are fair and I have taken them seriously.

25

The Bill provides for a central Dormant Assets Fund to be established. This Fund will be administered by the Treasury, which will be responsible for its oversight and a report on activities within the Fund will be laid before Tynwald each year. The duties and responsibilities of the Treasury in respect of the Fund are clearly set out in the Bill in order to provide consistency and probity in how the Fund will be operated over time.

The Bill also defines the assets to which the legislation will be applied and provides a definition of a dormant account.

30

I would like to thank all Hon. Members for their careful consideration of this Bill. There has been a high level of engagement and interest in this legislation both in this Council and in the House of Keys.

Eaghtyrane, I beg to move the Third Reading.

The President: Yes, Miss August-Hanson.

35

Miss August-Hanson: Thank you, Mr President.

40

I would like to second the Bill for a final time and I would like to recognise and thank those involved in the production of this draft Bill. Having scrutinised it as part of the public consultation, I have found those involved to be prompt and co-operative in communicating with me and patient in answering my questions, and I extend that to the mover of the Bill through Council as well. It has been a pleasure to second it and I thoroughly believe it to be for the benefit of the Manx people, with potential to drive greater transparency in dormant assets within a sector which will no doubt work with Government to ensure a smooth and successful transition.

45

I hope that the scheme will add to its portfolio in the future to add a more complex group of assets.

Thank you.

The President: Mr Crookall.

50

Mr Crookall: Thank you, Mr President.

I thank our colleague Mr Henderson for his comments and I take on board what he has said. I am happy to support him here today but I still think we are missing an opportunity to make things easier into the future. Being mindful of GDPR and respectful of GDPR, I will follow it up because I think

there is probably something that can be done in the future to save people a lot of foot-slog around the town by holding a list centrally. I will take that up with the Information Commissioner but I thank Mr Henderson.

The President: Does any other Member wish to speak?
Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

Again I thank all Hon. Members for their support and comments during the passage of the Bill through the Legislative Council.

Mr Crookall's comments – we had a long discussion after the last sitting of the Legislative Council with regard to his concerns in relation to missing accounts/lost accounts in general – and outside, probably, the remit of this Bill. I can see the points the Hon. Member is making, in that it could provide some difficulty in general terms outwith this Bill for a family member or whatever in the future trying to trace an inheritance and the difficulties that could pose. As a result of that, I have made my own line of enquiries to certain banks as to the general situation and procedures and will get back to him on that, but I am certainly grateful if he is going to raise the general issue with the Information Commissioner. I think that is an excellent idea because it probably is something that could be looked at in the round, in the bigger picture, Eaghtyrane.

Regardless, I am grateful for Mr Crookall's support and I would also, in closing, like to thank Mrs Poole-Wilson for the amendment she moved and certainly Miss August-Hanson for her support and help in seconding the Bill through its stages here.

Further thanks also have to go to the legislative drafters involved in the construction of the Bill and I name them: Nancy Matthews and Helen Helfrich.

I must also acknowledge, and it would be remiss of me not to, the help and assistance of our Treasury legislation and policy officers, Nicola Harding and Colin Cowley especially, in supporting me moving this Bill.

A final note of thanks goes to the Isle of Man Bankers Association, who have continuously supported the introduction of this important legislation in the Island; and indeed the Isle of Man Bank, who have assisted in explanations of banking procedures to me personally.

Eaghtyrane, I beg to move the Third Reading of the Dormant Assets Bill 2018.

The President: I put the question that the Dormant Assets Bill be read for the third time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3. Income Tax Legislation (Amendment) Bill 2019 – First Reading approved

Mr Henderson to move:

That the Income Tax Legislation (Amendment) Bill 2019 be read a first time.

The President: We turn to Item 3, Income Tax Legislation (Amendment) Bill for First Reading.
Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

This Bill amends and confirms two Temporary Taxation Orders and confirms a third. It also makes a number of amendments to the Income Tax Act 1970. It contains five clauses.

One of the main purposes of this Bill is to confirm three Temporary Taxation Orders which were approved by Tynwald as part of the 2018 Budget. Two of these Orders are also amended by the Bill.

95 The main purposes of the three Orders are to extend the existing tax relief available for nursing expenses, to provide for a new type of flexible pension scheme to be offered on the Island and to limit tax avoidance involving companies.

The Bill provides that confirmation of the pensions Order and the anti-avoidance Order are both subject to amendments contained in the Bill. Both of these Orders have already produced positive results and the amendments should enhance and refine their effectiveness.

100 The other main purpose of the Bill is to make three amendments to the Income Tax Act 1970. These amendments are to assist the appointment of a Deputy Chairman of the Income Tax Commissioners, help to ensure compliance with the Common Reporting Standard, and address a recommendation made in the peer review of the Island undertaken by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes.

105 Eaghtryrane, I beg to move the First Reading – if somebody could oblige me on the ...

The President: Mr Crookall.

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

The President: Hon. Members, content? In that case, the question that I put is that the Income Tax Legislation (Amendment) Bill be read for the first time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

4. Highways (Amendment) Bill 2019 – First Reading approved

Mrs Lord-Brennan to move:

That the Highways (Amendment) Bill 2019 be read a first time.

115 **The President:** We turn now to the Highways (Amendment) Bill for First Reading and I call on the mover, Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President.

120 I am promoting this short Bill on behalf of the Department of Infrastructure to rectify a deficiency in the definition of ‘planning approval’ within the Highways Act 1986, which I will refer to in this speech as ‘the Act’. Essentially the issue relates around the cross-referencing of a changed definition.

125 The background is that the Department has powers within the Act to make highway closure or highway diversion orders under section 33. These powers enable the Department to divert or extinguish a highway for the purpose of enabling development to be carried out in accordance with a planning approval. Where the Department is satisfied that it is expedient to do so, it may then make an order to deal with extinguishment or diversion of the highway and therefore enable the development to proceed.

130 However, it should be noted that planning approval, as defined in section 119 of the Act, only means approval to the development of land granted pursuant to a development order under Part 2 of the Town and Country Planning Act 1999 and to no other approvals, including planning approval.

135 The situation has arisen due to the Transfer of Planning and Building Control Functions Order 2015. Before this, planning approvals via an order or an application would give sufficient reason for the Department to extinguish or divert a highway. The Transfer of Functions Order amended the definition of a development order within the Town and Country Planning Act by limiting it to approvals granted by an order. Inadvertently, this had the effect of preventing the Department from

making orders to close or divert a highway so as to enable development to occur, where an approval had been granted via a planning application.

140 To rectify this, the Bill before us proposes to omit any reference to a development order from the definition of planning approval in the Act, which will in turn allow the Department to make the necessary highway orders to enable development to occur. Therefore, this Bill is simply reinstating the powers contained within the Act before the Transfer of Functions Order came into operation.

145 The opportunity presented by this Bill is also being used to improve an anomaly in the process for highway closures and diversions with regard to public footpaths. Public footpaths are classed as highways, and if a highway closure order or highway diversion order, which requires Tynwald approval, is made for a footpath, the Department is then required to make a subsequent order under a different section of the Act and again seek Tynwald approval to amend the definitive map itself, i.e. Tynwald is asked twice to approve the same change.

150 Highway closure orders and highway diversion orders have to be approved by Tynwald, essentially giving agreement to the principle of the proposed change to the definitive map. Therefore, this Bill will amend section 92A to provide that an order made under that section as a consequence of (a) an order under sections 33, 34 or 91; or (b) an agreement under sections 4 or 87; or (c) both such an order and such an agreement need only be laid before Tynwald, because in these circumstances the process is essentially administrative in nature.

155 I must stress the Department is not intending to change the procedure set out in the Act where any proposed closure or diversion orders are advertised and open to objection by the public. These orders will still be subject to public scrutiny and the scrutiny of Tynwald.

Having outlined the broad principles of the Bill, I hope that Hon. Members will now give it their full support.

160 I beg to move that the Highways (Amendment) Bill 2019 be read for the first time.

Mrs Sharpe: Thank you, Mr President.

165 I would like to second the First Reading of this Bill today, having discussed it with the hon. mover, having given thought as to its provisions and having taken into account the fact that there is an immediate practical need for the application of the Bill. Mrs Lord-Brennan has mentioned a quarry in the Island which really does need this Bill to be instigated in order to operate.

170 Mr President, this Bill is needed to rectify a deficiency in the definition of 'planning approval' within the Highways Act 1986, as explained by Mrs Lord-Brennan. Currently, the Department of Infrastructure simply cannot make orders to close or divert a highway so as to enable development to occur, even when an approval has been granted already by a planning application. Clearly this anomaly needs rectifying.

175 As a keen walker of the Island's footpaths, my immediate concern was that this Bill might somehow make the dissolution or diversion of a footpath easier to execute. However, having scrutinised the Bill, I am content that this will not be the case. Current procedures, as set out in the Highways Act 1986, will still be followed, meaning that any proposed closure or diversion orders will still be subject to public scrutiny and to the scrutiny of Tynwald.

Mr President, I beg to second the First Reading of this Bill.

Thank you.

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

Mrs Poole-Wilson: Thank you, Mr President.

185 I would like to thank the hon. mover for addressing a question that I had, and I wonder whether it is worth sharing that on the public record. The question I had was in relation to section 4 and section 87 agreements to adopt roads as public highways, that those agreements currently do not come before Tynwald for approval. And so my question to the hon. mover was whether, by removing the requirement for changes to the definitive map to be approved by Tynwald, anything would be lost because effectively Tynwald currently then has no engagement in agreements under

190 sections 4 and 87. My understanding is that the principle with those agreements is that they are to
create new highways and adopt new highways and therefore to the public benefit, and Tynwald has
never engaged in considering or approving those agreements, so there is nothing lost, in effect.

I would like to thank the hon. mover for engaging with me on that question and I wonder if, for
the record, she would just confirm that my understanding is correct.

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

Mrs Lord-Brennan: Thank you, Mr President, and thank you to Mrs Sharpe for seconding.

I am grateful also to Mrs Poole-Wilson for raising those queries, and that is correct. The
important thing is that where there are going to be proposed closures to public rights of way, or
diversions, they are the ones that come before Tynwald. So yes, it is possible to add. And the other
200 sections that are within the Act to do with that, there are no changes. The idea is that we are
maintaining the proposed diversions, or changes or extinguishment of any footpaths would still
come to Tynwald. So that is correct.

Thank you.

205

The President: Mr Crookall.

Mr Crookall: Thank you, Mr President.

Mrs Lord-Brennan has actually just confirmed it again for a second time. It is about confirming
210 that Dol cannot extinguish any public rights of way without coming to Tynwald. I think there was
grave concern over what happened down at Meary Voar before and we do not want to see that
happening again, so I thank her for confirming that again on *Hansard*.

The President: Miss August-Hanson.

215

Miss August-Hanson: Thank you, Mr President.

Just a query, I suppose, that I would quite like to have on the record, if that is all right, and that is
just regarding clause 3, which amends section 92A regarding the definitive map itself and whether or
not it might have been perhaps a little bit more sensible to remove the requirement of section 92A
220 orders where orders are made under sections 33, 34 and 91, to ensure that perhaps these issues
which seem to have cropped up – this is just me having a conversation with the drafter about this –
whereby approval has been made by Tynwald and when it has come back with approval by Tynwald
to the definitive map perhaps there might be some disagreement with the definitive map as
opposed to opposing the approval itself. I wondered if perhaps she might be able to explain why we
225 would not just amalgamate these orders in order to ensure that perhaps there is no confusion in
future, whether it be laid before or whether it be approval by, or whether that might have been
perhaps too technical a move to make at this stage with the need for some level of expediency.

The President: Mrs Lord-Brennan.

230

Mrs Lord-Brennan: Thank you, Mr President.

I am happy to answer the query from Miss August-Hanson. I suppose in short it is for that reason.
If you have got an order which is putting the diversion or extinguishment of a footpath and then a
second chance to look at any changes to a definitive map. If there were to be a case where there
235 was something not quite right, then it is there for Tynwald scrutiny. The definitive map is the map
that records footpaths. So I think it is right to not make too much of a change. I think if you have the
main approval coming from Tynwald for the order, there is no harm in maintaining the status quo in
terms of actually having the approval of the map section come to Tynwald. So, all that is changing is
that it would be laid before rather than a second approval for the same thing. So, rather than
240 remove that second element entirely, I think it is better to keep it there.

245 The other point – I did take some advice on this and it was also felt by the drafter that if we make that change, then that could in turn affect lots of other things. And mindful that one of the other purposes of this Bill has come from a change being made in another piece of legislation that has then gone on to affect something else, I feel that actually this should be quite straightforward, so I did not really want to broach that then, although I do take the point that it might have been a smoother process, but why not just have that section come back to Tynwald as well is what I think about it at this stage.

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

The President: Hon. Member Mrs Lord-Brennan, did you wish to wind up further?

255 **Mrs Lord-Brennan:** Just to thank Mr Crookall for his points, and Members hopefully will support this. Mr Crookall is absolutely right, that is the way things should be and I hope that Members can support the First Reading of this Bill.

The President: Hon. Members, I put the question that the Highways (Amendment) Bill be read for the first time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Highways (Amendment) Bill 2019 –
Standing Orders suspended to take remaining stages at this sitting**

Mrs Lord-Brennan to move:

That Standing Orders be suspended to the extent necessary to take the remaining stages of this Bill at this sitting.

260 **The President:** Suspension of Standing Orders. Mr Henderson?

Mrs Lord-Brennan: It is actually –

265 **The Clerk:** Mr President, there was an error on an earlier version of the Order Paper. It should be Mrs Lord-Brennan to move.

The President: Mrs Lord-Brennan to move.

Mrs Lord-Brennan: Thank you, Mr President.

270 Further to my statement last week, I would like to seek suspension of Standing Orders to take the remaining stages of the Highways (Amendment) Bill at this sitting of Council, and I thank the Council Members for supporting the First Reading.

As outlined, there has been some urgency attached to this becoming law, so I am grateful for Members' consideration of this and for Members taking the chance to consider this and speak with me about it in the past week.

275 As explained, the issue with the definition of planning approval is currently preventing the Department from bringing forward a Highway Diversion Order to Tynwald Court for its approval. In the most pressing instance currently, the Order is urgently required to allow a footpath to be diverted so that a major quarry operator can extend their operations to their next area of reserves before their current reserves are exhausted. The reserves have been running down these past few months. Without the Bill becoming law, to allow for the Orders to be put to Tynwald and made the operator will not be able to divert the path lawfully and therefore will not be able to continue

280

quarrying into their new extension area. This, in turn, could impact on the construction industry and the overall economy. Other developments are also affected, as I have indicated to Hon. Members of this Council.

285 In anticipation of queries, I am advised upon asking the questions myself that planning permission for the quarry extension was granted in August 2018. It is a separate matter to what this Bill covers, but notices regarding the proposed public right of way diversion were sent out in August 2018 to the affected landowners and the local authority, along with notices in the paper and on the ground. No objections were received.

290 This is more detail than I would need to provide for this Bill, but I thought Members would appreciate the extra background information and context.

I would be glad, therefore, if Hon. Members of this Council would support my motion to suspend Standing Orders, given the situation, and I do appreciate it is an accommodation on their part.

Mr President, I therefore seek the Suspension of Standing Orders.

295

The President: Mr Crookall.

Mr Crookall: More than happy to second, Mr President.

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

Mrs Poole-Wilson: Thank you, Mr President.

I think in the circumstances this is a very short Bill and I think Mrs Lord-Brennan has outlined why we need it – it is correcting an earlier error – and I think she has explained very clearly what the impact of the Bill is. Although Standing Orders and our stages are there for a very good reason to make sure that we properly scrutinise legislation, I think in the circumstances of such a short Bill – it is straightforward, has been properly explained and Mrs Lord-Brennan has engaged with all Members of Council to help understanding of the impact of the Bill – I would be happy in this case to support the suspension of Standing Orders.

310

The President: Hon. Members, I put the motion that Standing Orders be suspended to the extent necessary to take the remaining stages of this Bill at this sitting. Those in favour, say aye; against, no. That carries unanimously.

Highways (Amendment) Bill 2019 – Second Reading approved

The President: Mrs Lord-Brennan, Second Reading.

315

Mrs Lord-Brennan: Thank you, Mr President.

Thank you very much to Hon. Members of this Council for agreeing on this occasion to the suspension of Standing Orders. I think it is quite right to point out that it is not ordinary and I am glad that the other information in the context of background information has allowed Council to feel comfortable with doing this on this occasion.

320

Thank you, Mr Crookall, for seconding and to Mrs Poole-Wilson for her comments too.

I would like to move the Second Reading of the Highways (Amendment) Bill 2019.

In moving the Second Reading I will be brief in light of the fact that I gave a detailed breakdown of the Bill during the First Reading.

325

The purpose of the Bill is to amend the definition of ‘planning approval’ for the purposes of the Highways Act 1986 and to amend the Tynwald procedure in respect of certain orders amending the definitive maps for rights of way.

Mr President, I beg to move that the Highways (Amendment) Bill be read for a second time.

330 **Mrs Sharpe:** I beg to second and reserve my remarks.

The President: I put the question that the Highways (Amendment) Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Highways (Amendment) Bill 2019 –
Clauses considered**

335 **The President:** We turn to the clauses. Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President, and I thank Members again for their support. I will now move the clauses in more detail.

Clause 1, title: this clause gives the Act resulting from the Bill its short title.

340 Mr President, I beg to move that clause 1 stand part of the Bill.

The President: Mrs Sharpe.

Mrs Sharpe: I beg to second and reserve my remarks.

345 **The President:** I put the question that clause 1 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 2.

Mrs Lord-Brennan: Thank you, Mr President.

350 Clause 2, Highways Act 1986 amended, introduces the amendments that are made to the Highways Act 1986 by clauses 3 and 4.

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

The President: Mrs Sharpe.

355 **Mrs Sharpe:** I beg to second.

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

360 Clause 3.

Mrs Lord-Brennan: Thank you, Mr President.

365 Clause 3 – amendment of definitive maps and associated statements, section 92A amended – amends section 92A of the 1986 Act to provide that an order which amends a definitive map only in consequence of the making of (a) an order under sections 33, 34 or 91, (b) an agreement under sections 4 or 87, or (c) both such an order and such an agreement, need only be laid before Tynwald, because in these circumstances the process is essentially administrative in nature and the original related order would already have been subject to Tynwald approval procedure.

Mr President, I beg to move that clause 3 stand part of the Bill.

370 **The President:** Mrs Sharpe.

Mrs Sharpe: I beg to second.

The President: I put the question that clause 3 do stand part of the Bill. Those in favour, say aye;
375 against, no. The ayes have it. The ayes have it.
Finally, clause 4.

Mrs Lord-Brennan: Thank you, Mr President.
380 Clause 4 – interpretation, section 119 amended – adjusts the definition of ‘planning approval’ for
the purposes of the Highways Act 1986. Omitting the words ‘pursuant to a development order’,
therefore removing that narrowness specific to a development order only, has the effect to restore
the situation whereby orders can be made where approval has been granted by planning
application.
Mr President, I beg to move that clause 4 stand part of the Bill.

385

The President: Mrs Sharpe.

Mrs Sharpe: I beg to second and reserve my remarks.

The President: I put the question that clause 4 do stand part of the Bill. Those in favour, say aye;
390 against, no. The ayes have it. The ayes have it.

**Highways (Amendment) Bill 2019 –
Third Reading approved; Bill passed**

The President: We turn now to the Third Reading. Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President.
395 I would again like to thank Members for supporting this Bill through this Chamber and for
accommodating and listening to the other concerns about the need to, in this instance, allow it to
progress quickly through this Chamber.

In particular, I would like to thank my seconder, Mrs Sharpe.

This legislation seeks to amend the Highways Act 1986 by rectifying a deficiency in the definition
400 of ‘planning approval’ within the Act to allow the Department to make highway orders so as to
enable development to occur.

This Bill also changes the Tynwald procedure for section 92A orders when they are made under
that section as a consequence of (a) an order under sections 33, 34 or 91; (b) an agreement under
sections 4 or 87; or (c) both such an order and such an agreement. In these circumstances, the order
405 would be laid before Tynwald.

Mr President, I hope that Hon. Members will give it their support and I beg to move that the
Highways (Amendment) Bill 2019 be read for a third time.

The President: Mrs Sharpe.
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Mrs Sharpe: I beg to second and reserve my remarks.

The President: Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.
415

I am very supportive of what the Hon. Member is doing, so there is no problem there but I just
want to ask a clarifying question, such as we heard on the First Reading, really.

What we are doing here is rearranging the process in general terms so that the Department is not
tripping itself up, in my terminology, whereby the current situation, and specific to the quarry

420 operation, the processes and procedures are out of sync with each other – is my take on it. We are
rearranging it so that we can have one set of regulations synchronising with another set of
regulations vis-à-vis planning approval, development orders and so on, and in the background of
that we are not affecting the public's interests with regard to rights of way and public footpaths. It is
425 a case of just making the procedure a lot neater and for the different protocols to actually interact
with each other in a more appropriate way so that permission or applications for development
orders can go ahead and not be at odds with the definitive plan and planning process, basically – if I
have got that right, Eaghtyrane.

The President: Mrs Lord-Brennan.

430

Mrs Lord-Brennan: Thank you, Mr President.

I thank Mr Henderson for outlining his query. At the top I would absolutely say anything that is
being changed in this Bill is not affecting the public's interests and any process to do with public
rights of way. In terms of rearranging the process, I think there is clearly a misalignment but that is
435 because of a change that was made in previous legislation because of the definition of 'planning', so
it is more that there is an error in that respect that has come up since the Transfer of Functions
Order. So it is to restore back to the original intention, and the original situation was that where
planning approval was gained by way of planning application that could still go ahead. So then the
only other change in the process is the laying before of the order relating to the change of the
440 definitive map and at the moment that comes for Tynwald approval, and actually probably what
would have happened is that you would have,, in the previous Tynwald sitting, had the actual order
to do with the original diversion or extinguishment.

So I think it is even less than rearranging the process, but I welcome any chance to clarify how it
would work and what the background is on it. I am happy to answer any other questions that
445 Mr Henderson or anybody else might have.

The President: Thank. You.
Miss August-Hanson.

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

I had originally queried the lay before and approval in section 92A and then looked at the
amalgamation of the two processes that we talked about earlier, and following conversation with
Mrs Lord-Brennan completely understand the need for the Department's tack and the way that they
have moved forward with that.

455 I would like to congratulate Mrs Lord-Brennan on the moving of her first Bill through Council and
also say thank you to her for the very helpful background information that she has provided us with.
She has been extraordinarily thorough and she has really provided us with the time that we have
needed to question it – she certainly has for me and I would like to thank Mrs Lord-Brennan for that.

460 **The President:** Does any other Hon. Member wish to speak?

Mrs Maska: Yes, Mr President.

The President: Mrs Maska.

465

Mrs Maska: Thank you. It is a just a point for clarification, really; these matters occur as you are
debating the Bill.

I wonder, since the Transfer of Functions Order in 2015, if any diversions might have happened
that now ... I am wondering what the status might be of any transfer or diversions that have
470 happened that would maybe not have been quite legal, or if their status might be questionable – if

they have happened since 2015 under an irregularity in the system, what their status might be now. I apologise that this has only occurred to me as we debate, but I wonder if they might be challenged.

The President: Mrs Lord-Brennan.

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Mrs Lord-Brennan: Thank you, Mr President, and thank you to Mr Henderson and Miss August-Hanson, and Mrs Maska for that query.

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To my knowledge, the awareness of this error came last year, last summer. If there are any queries, I am not aware of them but I think it would be a question that is maybe not related to this Bill but related to other orders. I am happy to look into the process. The only comment I would make is that it is not going to be that often that we are dealing with big developments that are diverting them. I am happy to look into that if that is acceptable.

Mrs Maska: I am obliged, thank you.

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The President: Miss August-Hanson.

Miss August-Hanson: I would just like to ask if Mrs Lord-Brennan would be content to circulate that response, if that is all right, to the Legislative Council Members. Thank you.

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The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: Yes, I would be happy to.

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The President: With that, I put the motion that the Highways (Amendment) Bill be read for the third time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, I would congratulate the mover, Mrs Lord-Brennan, for her steerage of the Highways (Amendment) Bill, the first piece of legislation in Council to stand in her name. (**Members:** Hear, hear.)

500

Hon. Members, that concludes the business before us this morning. Council will now stand adjourned until we meet next Tuesday at 10.30 in Tynwald Court.

The Council adjourned at 11.10 a.m.