



# LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH

# PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Wednesday, 10th June 2020**

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## Present:

### The President of Tynwald (Hon. S C Rodan OBE)

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 P A Greenhill, Mr R W Henderson, Mrs K A Lord-Brennan,  
Mrs M M Maska, Mr R J Mercer, 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 a.m.  
Proceedings were conducted and broadcast live  
from the Legislative Council Chamber.*

[MR PRESIDENT *in the Chair*]

**The President:** Moghrey mie, good morning, Hon. Members.  
The Lord Bishop will lead us in prayer.

## PRAYERS

*The Lord Bishop*

## Order of the Day

### 1. Standing Orders suspended to take the sitting virtually

Mrs Lord-Brennan to move:

*That Standing Orders be suspended to the extent necessary to take this sitting virtually.*

5 **The President:** Hon. Members, welcome to this virtual sitting of Legislative Council. We turn  
to Item 1, suspension of Standing Orders to enable virtual sitting.

Mrs Lord-Brennan to move.

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

I beg to move that Standing Orders be suspended the extent necessary to take this sitting  
virtually.

**The President:** May I have a seconder?

15 **Mr Henderson:** I beg to second, sir.

**The President:** Thank you, Mr Henderson.

I take the Council to be in agreement; if there be dissent, please indicate. No dissent, the  
motion carries.

Thank you, Hon. Members.

**2. Bank (Recovery and Resolution) Bill 2020 –  
Third Reading approved**

Mr Henderson to move:

*That the Bank (Recovery and Resolution) Bill 2020 be read a third time.*

20 **The President:** Item 2, Bank (Recovery and Resolution) Bill 2020 for Third Reading.  
Mr Henderson, please.

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

25 Eaghtyrane, as described in the clauses reading, the Bank (Recovery and Resolution) Bill 2020 establishes a framework for the recovery and resolution of banks and for connected purposes. In moving the Third Reading, I would like to thank Hon. Members for their support in taking the legislation forward this far.

30 The primary aim of the Bill is to enable a failing bank to be either resolved or wound up in an orderly fashion, without losses falling upon the taxpayer; and in line with relevant international standards. The Resolution Authority for the Isle of Man will be the Isle of Man Financial Services Authority, or FSA, whose role as a Resolution Authority will need to be kept operationally separate from its functions as a regulatory supervisor.

35 Some Members have asked how this separation would be achieved effectively and I can confirm that regulations are currently being drafted to this end. These will require Tynwald approval and it is intended that they will be published on the Authority's website, so that all stakeholders can transparently see how this separation will be achieved in practice. Furthermore, there are a number of existing and new accountability mechanisms that will enable the performance and effectiveness of the FSA in this new capacity to be scrutinised into the future. The arrangements which are being implemented to manage resolution matters in the  
40 Isle of Man reflect common practice in various other jurisdictions.

The Resolution Authority will be funded by the banks. Public financial support is not envisaged, other than temporarily to aid cash flow. Funding to resolve any bank that fails would be expected to come from that bank, its shareholders and creditors, with any remaining shortfall to be recouped from other banks over time. Any levy on banks must be prescribed by order,  
45 which would enable Tynwald to comment on such proposals.

The resolution objectives set out in the Bill include ensuring continuity of banking services, protecting financial stability, and protecting public funds. In the pursuit of these objectives, the Authority may require banks to maintain appropriate recovery plans and the Authority must draw up suitable resolution plans for each bank that is incorporated in the Island.

50 If any material impediments to a bank's resolvability, stability or winding-up are apparent, the Authority may require that bank to take specified measures to address these. The Authority is provided with various resolution tools, including the ability to establish a 'bridge bank'. However, the Authority must usually consider winding up a bank before applying tools such as bail-in proposals or establishing a bridge bank. There is a limited provision for extraordinary  
55 public financial support to be provided to a failed or failing bank, but this is a last resort and is subject to restrictive conditions. The Bill also addresses: actions in the event of a foreign resolution action; the bank winding-up process; and consequential changes to depositor preference priorities in the Preferential Payments Act 1908.

60 Eaghtyrane, this legislation is very important in ensuring that the Isle of Man remains up to date with expected international standards that have been established in the wake of the global financial crisis of a decade ago. As such, it is welcomed by our banking industry on the Island. Overall, it will improve the position of depositors of any Isle of Man incorporated bank that may be liquidated in future. Also, it makes the Isle of Man a recognised contributor to discussions on

65 resolution matters affecting those banks that operate in the Island, but which are incorporated  
overseas.

Eaghtyrane, I beg to move that the Bank (Recovery and Resolution) Bill 2020 be now read for  
a third time.

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

**Mrs Poole-Wilson:** Thank you, Mr President.  
I beg to second and reserve my remarks.

75 **The President:** Hon. Members, I put the question that the Bank (Recovery and Resolution) Bill  
be read for a third time. I take Council to be in agreement; if there be dissent, please indicate.  
There being no dissent, the ayes have it. The ayes have it.

Item 3 –

80 **Mr Henderson:** Eaghtyrane?

**The President:** Mr Henderson.

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

85 If I could be cheeky enough, I would just like to make a very short statement following the  
successful Third Reading, if I might, Eaghtyrane – just a few lines?

**The President:** Yes, Mr Henderson.

**Mr Henderson:** Thank you, Eaghtyrane.

90 What I would like to do is just to thank all Hon. Members for their support in this very  
important piece of legislation and also I would like to thank my seconder Mrs Jane Poole-Wilson  
for her diligence in the background of this. I would also like to especially thank John Coyle and  
Susan Woolard for their exceptional support in the background of this and Duane Allen, the  
legislative drafter who has also been accompanying me throughout, and the Keys.

95 So I would just like to place my thanks on record to those people, Eaghtyrane.

**The President:** Thank you very much, Mr Henderson.

### 3. Registration of Electors Bill 2020 – Third Reading approved

Mr Henderson to move:

*That the Registration of Electors Bill 2020 be read a third time.*

100 **The President:** Item 3, Registration of Electors Bill for Third Reading. Again, Hon. Member,  
Mr Henderson, to move.

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

105 Eaghtyrane, I am pleased to move the Third Reading of the Registration of Electors Bill 2020. I  
would like to thank Hon. Members for their close scrutiny of this legislation, in particular  
Mrs Poole-Wilson, whose input has improved the Bill as a whole, as indeed has Hon. Members'  
support also.

Eaghtyrane, this Bill modernises the system of electoral registration which, as we all know, is an essential part of ensuring that democratic elections can be held in the Isle of Man. It introduces the concept of individual and continuous registration, improves the process of registration for the electorate and generates efficiencies for the Government. This legislation will result in a more accurate and complete Electoral Register, thereby supporting efforts to strengthen political engagement and increase voter turnout.

Eaghtyrane, I beg to move that the Registration of Electors Bill 2020 be read for the third time.

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

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

I beg to second and reserve my remarks.

**The President:** Hon. Members, I put to Council that the Registration of Electors Bill be read for a third time; if there be dissent, please indicate this now.

There being no dissent, the ayes have it. The ayes have it.

#### **4. Divorce, Dissolution and Separation (Isle of Man) Bill 2020 – First Reading approved**

Mrs Poole-Wilson to move:

*That the Divorce, Dissolution and Separation (Isle of Man) Bill 2020 be read a first time.*

**The President:** Turn to Item 4, Divorce, Dissolution and Separation (Isle of Man) Bill for First Reading.

Hon. Member, Mrs Poole-Wilson, to move.

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

I am pleased to bring forward this Bill today for its First Reading in Legislative Council. Although a short Bill, its objective is I believe of great significance for those couples who find they no longer are able to remain together in a marriage or civil partnership.

As things stand, divorce and dissolution, already painful and difficult for couples and their families, often involves an added element of conflict, due to the need to establish irretrievable breakdown by proving one of five facts. The five facts are: adultery; unreasonable behaviour; desertion for two years; separation for two years, if both parties agree to the divorce; or separation for five years if not.

This often leaves couples in a difficult position. Minimum periods of separation can lead to many problems in practice, not least emotional stress and strain as well as financial challenges. The impact for couples and their children is often such that people look to resolve their relationship more quickly. But to progress more quickly, our current system builds in conflict by encouraging couples to cite a fault-based fact, leading to personal attack, blame, dishonesty, exaggeration, stress and anxiety, all of which is highly damaging for the separating couple and is particularly harmful for any children.

One hundred and ninety two people responded to the public consultation on this Bill, many of them citing personal experience of divorce, with some compelling personal comment about how painful and traumatic the process was. Isle of Man divorce statistics for the last four years indicate that 60% of divorces cite fault. The experience of couples and family advocates on the Isle of Man is that the current approach gives rise to unnecessary conflict and antagonism in

many cases, with negative impact for the emotional wellbeing of the couple and their children, as well as leading often to greater costs and financial strain.

150 This Bill seeks to improve this situation, to reduce the scope for unnecessary conflict by removing the need to prove one of the five facts. Instead, the Bill provides for a separating couple to apply singly or jointly for divorce or dissolution on the basis of irretrievable breakdown. It is not seeking to promote or increase divorce. Indeed in Scotland, which adopted  
155 a no-fault approach in 2006, there has been a decrease in overall divorce rates, which is in line with the downward trend in marriage. Rather, this Bill recognises that people do not embark on divorce or dissolution lightly, but once a relationship has irretrievably broken down it is better for the couple and their families that the legal process recognises this and does not encourage unnecessary pain and conflict.

The Hon. Member for Garff, Mrs Caine, brought this Bill forward in another place following  
160 liaison with a working party of advocates from the Family Court Users Group. Led by Hazel Smith, a family advocate with over 40 years' experience and an acting Deemster, the working group explored options for reform, considering models from elsewhere, including Sweden. The proposed reform before you today is based on a Bill currently progressing in the House of Commons. The legislative drafter, working with Mrs Caine and Hazel Smith, based our  
165 reform on the England and Wales Bill, as it delivers the key objective of removing the need to demonstrate fault or await a lengthy separation; and legislating in similar terms enables our family law to stay in step with that of England and Wales; important, as our legislative provisions in this area have so far been aligned.

The draft Bill, as I said, was made available as part of a public consultation process during  
170 December 2019. The responses were overwhelmingly in favour of the proposed reform with 94% supporting the no-fault divorce principle. Ninety six percent of respondents agreed that couples should be able to apply for divorce or dissolution singly or jointly.

The Bill provides for a standard time period of 20 weeks from application to the making of a  
175 provisional order and then a further six weeks until the making of the final order. This allows time for other arrangements relating to finances and for children to be progressed and settled, as well as for a period of reflection and adjustment. The application for an order must be made by the parties and so there is also the option for people to change their minds and not proceed.

The proposed time of 26 weeks to obtain a divorce was supported by 62% of respondents to  
180 the consultation. However, 25% of respondents said there should be no minimum time period to obtain a divorce. It is also recognised, as is currently the case, that there can be circumstances when progressing a divorce more quickly is in the interests of the parties. So this Bill provides for a court to grant a divorce or dissolution sooner than the 26 weeks where it is 'just to do so'. This discretion would enable the court to take account of different circumstances such as domestic abuse or a situation where the couple has amicably and properly worked out all of their financial  
185 arrangements and is able to proceed more quickly.

It is important to note that the Bill addresses one of the three separate and discrete  
190 processes often involved when couples part. Namely, the divorce itself, which is currently usually a paper-based process as the vast majority of divorces are undefended. The other matters which often also need to be resolved are arrangements for any children and financial arrangements. The Bill does not make any changes as regards these additional steps, but it is hoped and anticipated that the very fact of reforming the approach to obtaining a divorce will reduce the conflict involved and make agreeing arrangements for children and finances a far less antagonistic, and therefore damaging, process. It is also hoped that with less conflict there will be reduced costs for separating couples in terms of obtaining legal advice, whether paid for  
195 privately or via legal aid.

Mr President, it is already a difficult and painful matter when a marriage or civil partnership breaks down. This Bill seeks to ensure that the legal process to formally recognise that breakdown does not add to that pain and anguish.

200 Mr President, I beg to move that the Divorce, Dissolution and Separation (Isle of Man) Bill 2020 be read for a first time.

**The President:** Thank you, Hon. Member.  
Mrs Lord-Brennan.

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

I am very happy to second the Divorce, Dissolution and Separation (Isle of Man) Bill 2020 and in doing so I would like to recognise the careful efforts of the mover, Mrs Poole-Wilson, and the promoter of this Private Member's Bill in the other place, Mrs Caine, as well as the drafter, Mr Connell, in bringing forward this sensible reform.

210 The present need to establish at least one of the five facts as the basis for grounds for divorce can cause distressing, unnecessary and prolonged conflict, which has understandably provoked criticism and led to continued calls for reform. Baroness Butler-Sloss, at her inaugural speech on being appointed President of the Family Division of the High Court of Justice in 1999, described obtaining a divorce on the basis of unreasonable behaviour as a 'hypocritical charade' and said  
215 there was a need to introduce a truly no-fault divorce. These calls for reform have not subsided, Mr President, and I am pleased that we can play our part in answering that call in this Hon. Council.

I beg to second.

220 **The President:** Thank you.  
Hon. Member, Mrs Sharpe.

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

225 I would like to extend my thanks both to the Hon. Member for Garff, Mrs Caine, who privately promoted this Bill and took it through another place, and also to my hon. colleague in Council, Mrs Poole-Wilson, who I know has also worked hard on the details of this Bill.

I think it is generally acknowledged, as Mrs Lord-Brennan has just said, that no one takes the decision to go through a divorce lightly. It is usually a deeply upsetting experience for all involved and it is also generally acknowledged that those who could be most deeply affected in a  
230 family are children. As the hon. mover has indicated, in order to move a divorce reasonably quickly the current process invites one party to blame the other, and the resulting bitterness and resentment only adds to what is already one of the most stressful experiences a person can go through. I believe this Bill will alleviate some of that stress currently experienced by couples and families and I would like to offer my full support to this Bill.

235 Thank you.

**The President:** Thank you.  
Hon. Member, Miss August-Hanson.

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

245 Having been through the divorce process on the Isle of Man myself, this is such a welcome piece of legislation. My ex-husband and I were not part of that 60%. We did not want to prove any of those five facts. It simply was not working, we needed to separate, and it took two years before we could do and it took a long time before that for us to come to the conclusion away from the eyes of others. So it was, as she says, at times painful, and it was entirely unnecessary. So I thank profusely Mrs Daphne Caine, from another place, for bringing this Private Member's Bill forward and also for the assistance in bringing this Private Member's Bill of Mrs Poole-Wilson as well, and for bringing it forward for our consideration in Legislative Council.

250 Respectively of my own personal experience there, I would also like to commend both of those Members for considering the sooner than 26 weeks situation ... needing to provide for

that. Having watched my parents, particularly my mother, have to deal with a domestic abuse situation that could not be dealt with for some period of time, it was quite a harrowing experience for her and understanding that there will be others in that situation that are most desperate for the ability to be able to break away at an earlier period of time.

255 So I think that this Bill is extraordinarily sensible and socially it is just going to do some marvellous things for people across this Island that are in this situation. It is a desperately harrowing experience at times, going through the divorce process. So thank you to Mrs Daphne Caine MHK for bringing it about and also for the support of Mrs Poole-Wilson here.  
Thank you, Mr President.

260

**The President:** Thank you.  
Hon. Member, Mr Henderson.

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

265 I would just like to add my thanks to Mrs Poole-Wilson and indeed to Hon. Member for Keys Mrs Caine, who has also been mentioned, in bringing this legislation forward and through into the Legislative Council for its final transit, hopefully for Royal Assent and so on, and we can get going with it. I followed it closely in the background and from its inception stages, and just want to place my 100% support behind it, Eaghtyrane.

270

Thank you.

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

275

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

I too thank the hon. mover, Mrs Poole-Wilson, for bringing this Bill to Council and for her explanation of the aim, the design and intent of the Bill. It is clearly a straightforward piece of legislation that certainly has far-reaching implications and I imagine that this Hon. Council will scrutinise those effects and implications when we come to Second Reading, not least perhaps in how they bear upon any children in the marriage. But for now, at this First Reading, I just want to see if I can get a sense of how the legislation might work and what it might achieve.

280

I can see how it might act as a response to the hopes of many people who are otherwise hopeless in unhappy and loveless marriages. People marry and sometimes, sadly, they grow apart. And even if they have begun that married life in the context of faith, they may come to find just a few years later that there is nothing left which has any resonance with those first vows taken under God. And that is immensely sad. I know that it can lead people to continue to exist in what one correspondent calls, 'a living hell of hurtful verbal exchanges day by day'.

285

A couple may simply have grown apart, and therefore there is no blame. In fact, not any fault even on either part. But also, possibly, no willingness or readiness on the part of one of them to admit that the marriage is over and for the other partner it then becomes a question of enduring joylessly and hopelessly, regretting the opportunity to make a new beginning and find love once again in a new relationship. It is into that sort of unhappiness that this new Bill would speak very effectively indeed.

290

But I can also imagine, Mr President, another kind of sadness just as acute, and that is the sadness of someone who is abandoned without any recourse left for them at all. And that is very likely to happen, because three quarters of divorce petitions are against the will of one spouse. It is simply not the case that most divorce proceedings are initiated by the couple which is the context which this Bill assumes. If that were so, the Bill would be much less problematic. Instead, divorce proceedings are usually initiated by one person against the wish of the other. So my concern here is that the proposed legislation would accentuate that inequality, rather than reduce it.

300

I need to imagine myself into the shoes of an abandoned spouse, whose pain at being abandoned will be increased by the fact that absolutely no justification is required – none at all. 'I do not need to give any justification for abandoning you and the law gives me the green light'.  
305 That is a crushing message for anyone to receive and I cannot wish that anyone would be the recipient of such a thing. And it strikes me further that the one who is being deserted both by spouse and, if this Bill goes ahead, by law, is very likely to be the one who is more committed to responsibility, to reconciliation, to the long-term view. Whereas the one who is leaving could be  
310 doing so for reasons of impatience, control, divisiveness, even a bad-tempered moment, misuse of power, a failure to engage with personal weakness or turning away from the challenges that we face in any relationship. Those are not characteristics that I would wish to see rewarded by the law or given greater currency in society.

So with those thoughts in mind, Mr President, I begin to understand just how deeply this legislation might reach both for better and for worse, and if I am to support it, I need to be sure  
315 in my own mind that in seeking to alleviate bitterness, the Bill is not perversely going to increase the capacity for it, and that in seeking to bring relief, it is not also going to cause potential for great and long-lasting sadness. And most of all, I need to be sure that the compassion and the humanity that it so obviously wants to bring is available, not just for one partner in the marriage, but for both.

320 Thank you, Mr President.

**The President:** Thank you, Lord Bishop.  
Hon. Member of Council, Mrs Maska.

325 **Mrs Maska:** Thank you, Mr President; and thank you to the hon. mover and to the promoter of this Bill in another place. I thank them for all the hard work and for the briefings that they have given us on this important Bill.

I would say that marriage is not and never undertaken lightly, and nor should it be, and maybe it should be even more difficult to get married than it is at present in some  
330 circumstances. However, I would also say that divorce is not likely to be undertaken lightly, but those setting out on divorce pathway maybe do not envisage how difficult that pathway can become and once they are on that pathway, things can get very difficult and emotional, and a process that is difficult can become even more harrowing when a party has to cite grounds for behaviour and for the breakdown of the marriage, which is necessary under the current system.  
335 In my own experience, this can lead to even more difficult times as the divorce process goes through its paces. It also might reduce the cost of the process of divorce by having a no-fault process in place, that really in the past has excluded some people who really need to start anew and leave all the harrowing and worrying times behind them.

So I will be supportive of this Bill as it comes through. I know we will be scrutinising it  
340 appropriately and I do hope in the fullness of time it will be a welcome part of the legislation that we have in the Isle of Man and to help our Island community; and, as the Lord Bishop says, achieve a balance, but an appropriate balance.

Thank you, Mr President.

345 **The President:** Thank you, Hon. Member.

If no other Member wishes to speak, I will call on the mover to reply to the First Reading debate.

Mrs Poole-Wilson.

350 **Mrs Poole-Wilson:** Thank you, Mr President; and may I thank all Hon. Members of Council who have spoken for their contributions to this First Reading debate.

To begin with: Mrs Lord-Brennan. I would like to thank her for seconding this Reading today and for all her assistance and support so far in working on the Bill. I think the point she made, by

355 Baroness Butler-Sloss, that calls for reform to address the hypocritical charade have been  
running for many years now and there is an honesty that is about this Bill that recognises that  
360 where there is irretrievable breakdown, whether decided upon by the couple together or by one  
of them, then the legal process should recognise that without adding additional anguish and  
pain.

Then if I can thank Mrs Sharpe for her support and her noting that people do not make these  
365 decisions lightly. I hope that this Bill will alleviate some of the pain that, having made that  
decision, currently can be part of the process then to actually achieve the divorce or dissolution.

Miss August-Hanson: thank you for your contribution, particularly speaking from personal  
experience with your own situation and your parents. I note Miss August-Hanson commented  
370 that it took a long time for her and her partner to reach their decision to divorce, but then  
waited for the two years, took the separation route, which for some couples can be too difficult  
and cause greater pain and anguish. I also note that she recognises that the Bill provides for  
progress quicker than 26 weeks where the circumstances justify that; and domestic abuse, sadly,  
of course would be one such situation.

Mr Henderson, thank you very much for your support and I am grateful again for your  
375 recognition in the background of the work that has gone into the Bill.

The Lord Bishop: thank you very much for your contribution and your thoughts. As ever, *very*  
good to reflect on how the legislation might work and what it might achieve for different  
situations. And of course we recognise that behind every divorce or dissolution statistic there is  
a very personal situation, and those personal situations will differ greatly. I think the way the Bill  
380 would seek to try and meet the various situations that people find themselves in is by  
acknowledging that the point a marriage or civil partnership has broken down the legal process  
should not add to that pain.

The particular example that the Lord Bishop highlighted of the abandoned partner who feels  
they have no recourse. I think what can be very difficult is that where one partner feels the  
385 marriage or civil partnership has broken down, in many cases, in reality that means the marriage  
has broken down, and that is the ground that the law will recognise: irretrievable breakdown.  
Of course, if in a moment of temper or a sudden moment decisions are made that the couple  
can then reconsider, the Bill's 26 weeks does retain the principle of divorce law which is 20  
weeks of time to reflect and there is a requirement to apply for the conditional and then final  
390 orders. So there is time for reflection and for people to change their mind – not to proceed. The  
two stage element of the conditional and final order also provides for that.

I think the other thing is that probably long before we get to a point of somebody actually  
filing for divorce or dissolution, that is perhaps where more education, support and so on could  
395 usefully be available to help couples; to help couples find their way through the many challenges  
and stresses and strains that will arise. This Bill does not seek to address everything that makes a  
difference to whether marriages and civil partnerships endure through very difficult times or  
whether they result in irretrievable breakdown. What it does is it looks to provide some honesty,  
that once that point is reached the law will not add to the anguish and pain that then couples  
may experience as they try to get the law to acknowledge that divorce or dissolution.

395 Finally, Mrs Maska. Thank you very much for your comment as well and your support and,  
again, referencing your personal experience. It is acknowledged, I think by everyone, that  
divorce and dissolution ... these things are not undertaken lightly. They will be painful and  
difficult and, again, the law, the way in which we process that final parting, should not, if at all  
possible, add to that pain or difficulty.

400 Thank you, Mr President. With that, I beg to move.

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

Hon. Members, I put to the Council the Divorce, Dissolution and Separation (Isle of Man) Bill,  
that it be read for a third time.

405

**The Clerk:** First time.

**The President:** I beg your pardon; that it be read for the first time. We have a bit more discussion to do before that vote! That the Bill be read for the first time: I take Council to be in agreement; if there is dissent, please indicate this now. The ayes have it, the ayes have it – Oh, there being dissent, we shall proceed to a vote.

**The Clerk:** Mr President, we have not done a division in the Legislative Council in the virtual Chamber before. It is normally a called vote in this Council. Do you want to do a called vote or do you want to vote in the chat box as if it was Tynwald?

**The President:** Just vote in the chat box.

*Voting resulted as follows:*

**FOR**

Miss August-Hanson  
Mr Greenhill  
Mr Henderson  
Mrs Lord-Brennan  
Mrs Maska  
Mr Mercer  
Mrs Poole-Wilson  
Mrs Sharpe

**AGAINST**

The Lord Bishop

**The President:** Hon. Members, 8 votes for and 1 against; the motion carries.

**5. Elections (Keys and Local Authorities) Bill 2020 –  
First Reading approved**

Mr Henderson to move:

*That the Elections (Keys and Local Authorities) Bill 2020 be read a first time.*

**The President:** We turn now to Item 5, Elections (Keys and Local Authorities) Bill. First Reading in the hands of Hon. Member, Mr Henderson, please.

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

Eaghtyrane, before I open with the First Reading on this Bill, I did not get a chance on the Registration of Electors Bill, but I would just like to put on record there my thanks to my seconder, Mr Mercer, and I would also very much like to record my sincere thanks to Richard Parslow, Hirelle Moore and Duane Allen from the AG's Chambers for their exceptional support in the background, who helped steer this through and answer Hon. Members' comments.

**The President:** Thank you, Mr Henderson.

**Mr Henderson:** I thank them for that. And now, Eaghtyrane, with your further indulgence, I would like to move, as you say, the Elections (Keys and Local Authorities) Bill for First Reading.

I am pleased to move the First Reading, Eaghtyrane, and I would like to use my remarks this morning to provide Hon. Members with an overview of this important legislation, and to set out

the high-level principles that have helped to shape its development. A comprehensive question-and-answer document has been circulated in order to provide further background information, and I will expand on some of the key aspects of the Bill during Second Reading, subject to Members' support today.

440

Eaghtyrane, ensuring that elections are properly administered is vital in maintaining the public's confidence in the democratic process. This Bill proposes to repeal and replace the Representation of the People Act 1995 and the Local Elections Act 1986, and to consolidate election rules within a single piece of primary legislation. The intention is to provide greater clarity and consistency within our electoral system, to address issues that have come to light during recent elections, and to look to the future.

445

New provisions are being introduced that reflect a genuine desire to put the Island's electors at the very heart of the process. The ability to recall Members whose conduct falls below acceptable standards, the introduction of postal voting on demand, an updated system of pre-election meetings, and a new process to deal with election complaints will strengthen the powers of our citizens.

450

Eaghtyrane, many aspects of electoral law have been explored as part of the review carried out by the Cabinet Office. However, this has not been an exercise in ripping up the rule book and starting completely afresh. Some of the fundamental principles that have served the Island well for many years are being retained. And while the drive to modernise and achieve greater consistency have been key factors in the preparation of the Bill, it is necessary, and indeed desirable, to maintain certain differences between national and local elections.

455

Eaghtyrane, this is a comprehensive piece of primary legislation and it is not my intention today to provide a full commentary on all 159 clauses and six schedules. However, I would encourage Hon. Members to contact me, or the officers from the Cabinet Office and HM Attorney General's Chambers, outside of the sittings with any queries or requests for information. And I will just put some names to that, Eaghtyrane: Richard Parslow in the Cabinet Office; Hirelle Moore and Duane Allen in the AG's. They are very willing to answer any queries or go into any particular issue in depth with Hon. Members, Eaghtyrane.

460

In summary, this Bill puts in place the foundations for an electoral system that better reflects the needs of a modern democracy. It represents an opportunity to effect positive change and to encourage people to engage in Manx politics, to cast their votes and to have their say in how our Island is governed.

465

Eaghtyrane, I beg to move that the Elections (Keys and Local Authorities) Bill 2020 be read for the first time.

470

**The President:** Thank you.  
Hon. Member, Mr Mercer.

475

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

**The President:** Thank you.  
Hon. Member of Council, Mrs Lord-Brennan.

480

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

I am very happy to support this Bill. There have been some matters that have effectively been flagged in the other place that might require a bit more thought or refinement. So I have undertaken to look at those and I have indicated that to the relevant officials in Cabinet Office. So it is merely just to flag that I am doing that, but in an open and collaborative way in order to make some improvements to the Bill and refine some provisions.

485

Thank you very much, Mr President.

**The President:** Thank you.

490 If no other Member wishes to speak, I call Mr Henderson to reply to the First Reading debate.

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

Eaghtyrane, I would like to thank Hon. Members for reviewing this Bill this morning and giving what I think is positive support in that. I note Mrs Lord-Brennan's commentary with regard to issues that were raised in the Keys and that she is raising those currently with the officials I have outlined – Richard Parslow and Hirelle Moore – in regards to that, and I take it from the way she has indicated that she would be seeking possible amendments to the Bill, if I have got that correct, which I am comfortable with, Eaghtyrane, if that is the case. I would urge Mrs Lord-Brennan to work with our officers on those issues and ideas, or if the clarification is enough that they have provided or already provided and she is content with that, well, that is fine too, Eaghtyrane.

500

So with that, sir, I beg to move.

**The President:** Thank you.

505 I put the question that the Election (Keys and Local Authorities) Bill be read for the first time. I take Council to be in agreement; if there is dissent, please indicate now. The ayes have it. The ayes have it.

#### **6. Property Service Charges (Amendment) Bill 2020 – First Reading approved**

Mrs Lord-Brennan to move:

*That the Property Service Charges (Amendment) Bill 2020 be read a first time.*

**The President:** We move to Item 6, Property Service Charges (Amendment) Bill for First Reading, and I call on the mover, Hon. Member, Mrs Lord-Brennan.

510

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

This Bill was brought about as a response to a recommendation of a Tynwald Select Committee, which considered that an extension of the Property Service Charges Act 1989 should apply to freehold property in certain circumstances of contract. This is in order to allow an appeal to the Isle of Man Rent and Rating Commissioners for a determination with regard to the reasonableness of expenses which make up a service charge.

515

This Bill seeks to implement that recommendation by enabling the Department of Infrastructure to apply, by order, the Property Service Charges Act 1989 to the owners of freehold dwellings who are legally obliged to pay a service charge throughout the possession of the freehold. This may, amongst other things, enable such persons to apply to the Isle of Man Rent and Rating Appeal Commissioners for determination on the reasonableness of the service charge as tenants of dwellings subject to service charges may already do under the Act. The Department is committed to bring forward an order under the new section 12B as soon as is practicable after the Bill has received Royal Assent.

520

525 Mr President, I beg to move that the Bill is read a first time.

**The President:** Thank you.

Hon. Member, Mr Henderson.

530

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

I beg to second, sir.

**The President:** I put to Council the question that the Property Service Charges (Amendment) Bill be read for a first time. I take Council to be in agreement; if there be dissent, please indicate now. The ayes have it. The ayes have it.

**7. Income Tax Bill 2019 –  
First Reading approved**

Mr Henderson to move:

*That the Income Tax Bill 2019 be read a first time.*

**The President:** Item 7, Income Tax Bill 2019 for First Reading; and I call on Mr Henderson to move.

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

540 Eaghtyrane, this Bill confirms five temporary taxation orders and also makes an amendment to the Income Tax Act 1970. It contains three clauses.

One of the main purposes of this Bill is to confirm five temporary taxation orders. The main purposes of the five orders are: to fulfil a commitment made to the European Union to introduce legislation to address concerns about the lack of a requirement for companies in certain business sectors to have adequate substance in the Island; to address the tax treatment of damages awarded by the High Court for future pecuniary loss in respect of personal injury, where those damages are awarded in the form of periodical payments; to introduce a new 10-year tax cap election which can be applied for from the 2020-21 year of assessment and subsequent years – the current five-year tax cap election will also remain available; to provide for a special treatment for certain key employees who are or will be new residents and who are essential to the implementation and the operation of new business in the Island with effect from 6th April 2020 and subsequent years; and to ensure the sharing of relevant Income Tax data with Treasury in respect of its functions.

550 The other main purpose of the Bill is to amend the Income Tax Act 1970 to enable Treasury, with Tynwald approval, to make regulations for the recovery of foreign taxes. Eaghtyrane, we only have one more sitting before the summer recess and therefore, with your permission, and indeed with Hon. Members' consent, I would like to move all the remaining readings of this Bill in the final sitting. But we will come to that, Eaghtyrane, at the appropriate time.

560 Although this Bill only has three clauses, it contains a number of important measures, including the introduction of adequate substance and assistance in collection legislation. Both of these measures will ensure the Island will continue to be respected internationally as well-regulated, transparent and a co-operative jurisdiction. I hope that if this Bill completes its passage, regulations for the assistance in collection can be introduced shortly after the summer recess.

565 Eaghtyrane, I beg to move the First Reading.

**The President:** Thank you.  
Hon. Member, Mrs Lord-Brennan.

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

**The President:** Thank you, Hon. Members.

I put the motion that the Income Tax Bill be read for the first time. I take Council to be in agreement; if there is dissent, please indicate now. The ayes have it. The ayes have it.

**8. Road Traffic Legislation (Amendment) Bill 2020 –  
First Reading approved**

Mrs Lord-Brennan to move:

*That the Road Traffic Legislation (Amendment) Bill 2020 be read a first time.*

575 **The President:** Item 8, Road Traffic Legislation (Amendment) Bill for First Reading; and I call on the mover, Hon. Member Mrs Lord-Brennan.

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

580 This Bill, the Road Traffic Legislation (Amendment) Bill 2020, is promoted by the Department of Infrastructure and is now back again before this Council, further to a substantial review and recommendations by a previous Legislative Council Committee on the Bill. The Bill would affect the law on road traffic and drivers in various ways.

585 Of the Bill's principal provisions, the most weighty are those set out in Part 2 and provide for amendment of the Road Traffic Act 1985. The rest of the Bill makes amendments to the Road Traffic Regulation Act 1985 and the Local Government (Miscellaneous Provisions) Act 1984. There is also an amendment to the Licensing and Registration of Vehicles Regulations 2015. The Bill repeals two old amending Acts and section 13(2) of the Road Traffic Act 1985.

590 Mr President, the Bill covers a wide range of areas, from unsafe or irresponsible driving, enforcement of motoring fines, to making extensive amendments to the law on driving licences and extending the information-gathering powers of both the police and the authorised vehicle examiners of the Department of Infrastructure.

595 It extends validity of temporary traffic regulation notices and introduces greater penalties for speeding, particularly in residential or schools zones or in road works areas, as well as covering use of automatic number plate recognition technology, as well as prescribing a small number of fixed penalty offences and aiming to deal with abandoned or illegally parked vehicles. The Department and the Minister promoting the Bill are convinced that this Bill will make a material contribution to the law on road traffic and drivers.

600 Mr President, I beg to move that the Road Traffic Legislation (Amendment) Bill 2020 be read a first time.

**The President:** Thank you.  
Hon. Member, Mr Henderson.

605 **Mr Henderson:** Gura mie eu.  
I beg to second, sir.

**The President:** Thank you.  
Hon. Member, Mr Mercer.

610 **Mr Mercer:** Thank you, Mr President.

I would like to make some observations about the progress of this Bill. As you may be aware, this Bill began its life as much as 10 years ago. In the intervening time, a Select Committee of Legislative Council was formed to review and gather evidence. The late Mr Malarkey announced

615 a comprehensive road safety strategy review in 2017 and in January 2019 Tynwald approved that new Road Safety Strategy and its accompanying Action Plan.

Now, finally, we have the Road Traffic Legislation (Amendment) Bill 2020 before us. One might assume that amendments will have been incorporated into this Bill that help us to align our legislation to assist with the delivery of that Strategy. The aforementioned Select Committee report foresaw this, and observed that:

the Strategy itself may lead to further legislative proposals in future.

620 It has been almost 18 months since the Road Safety Strategy was adopted by Tynwald. This Bill contains many useful amendments, changes and updates. But as these amendment Bills come along very infrequently, I sincerely hope that *all* opportunities to strengthen and align this legislation with that Strategy have been seized upon. If not, then there is still time to propose amendments to refine and improve upon this Bill.

625 Thank you.

**The President:** Hon. Member, Mrs Poole-Wilson.

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

630 At First Reading I just want to flag some matters that I would intend to continue working with on; working with the mover, officers and drafters on this Bill to try and ensure that the matters are properly addressed.

635 The first matter I would just like to flag is that the Bill repeals paragraph 5 of Schedule 23 of the Equality Act 2017. Now, in discussion so far, I understand that this is intended to address some duplication as regards protections for disabled people and to ensure that their protection when it comes to public passenger vehicles is as broad as possible. I think this is very important, as the Government committed to disability discrimination protection being in place under the Equality Act as from January 2020.

640 Now, my understanding is that the necessary protections, once paragraph 5 of Schedule 23 of the Equality Act is repealed, will be brought forward under some regulations under section 12 of the Road Transport Licensing and Registration (Amendment) Act 2018. So I think it would very helpful to understand when those regulations will be ready and brought forward, and also to understand the connection between those regulations coming into force and the timing of repeal of paragraph 5 of Schedule 23 of the Equality Act under this Bill; will they be connected?

645 Another area that I think it would be helpful to hear about, perhaps at Second Reading, is in relation to clause 34 of the Bill, which amends Schedule 3 of the Road Traffic Act in terms of driving licences. The issue there really is to get some information on the public record regarding the age of 75 now being specified as a point at which a driver must pass an eyesight test. So it would be helpful to hear more about the data underpinning that approach.

650 The final area that I am still looking into is clause 33 of the Bill, which amends Schedule 2 of the Road Traffic Act, and that is in relation to adaptation of vehicles themselves to carry disabled people. So I flag that at this stage and it is my intention to discuss further with the mover and officers how those amendments will work in practice and in particular whether reference to conditions is enough to be able to create any penalties for non-compliance.

655 Thank you, Mr President.

**The President:** Thank you.

I call on the mover to reply to the First Reading debate. Mrs Lord-Brennan.

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

Firstly, turning to the contribution from Mr Mercer, I welcome very much his observations as to the progress of the Bill, but not only is he talking about the progress of the Bill, but he is

665 talking about the progress and the implementation of the Road Safety Strategy. I feel it is important to clarify that this Bill is not the only expression of the Road Safety Strategy, but he is quite right to identify that we are now possibly at an opportunity, if there are any elements that need to be corrected or added in within that broader context. We have a Road Safety Strategy and we have the Bill before us, so it would be fitting to consider that at the present time.

670 So I would welcome suggestion of any proposals for amendment to the Bill if they can be specifically identified in order to, as he says, strengthen and align the Bill to the Road Safety Strategy, and I would encourage the Hon. Member to continue those conversations in specific terms with officers. But it is not really the place for this Council to, effectively, assess the overall Road Safety Strategy, although he has made some very important points.

675 In terms of Mrs Poole-Wilson, I am very happy to continue to work with the Hon. Member to ensure that from the Department there is either the clarity and perhaps more importantly to seek a particular undertaking from the Department in connection with the equality provisions that she mentions; and, indeed, the adaptation of vehicles and how it will work in practice. That is definitely something that should be thought about. So I will seek an answer from the Department so I can relay it to this Hon. Council.

680 In terms of clause 34, to do with the ages in connection with driving licences, I welcome very much highlighting at this stage that more information would be helpful to do with the data and I will seek to get that. I am certain it is available and I will come back to this Council to inform on that point.

Thank you, Mr President. I beg to move.

685 **The President:** Thank you, Hon. Member.

I put the question that the Road Traffic Legislation (Amendment) Bill be read for the first time. I take Council to be in agreement; if there is dissent, please indicate this now. The ayes have it. The ayes have it.

**Public Housing Bill 2020 –  
First Reading approved**

Mrs Maska to move:

*That the Public Housing Bill 2020 be read a first time.*

690 **The President:** Hon. Members, that concludes the formal Order Paper this morning. We have been advised by Hon. Member, Mrs Maska that the Public Housing Bill, which completed all its stages in the House of Keys yesterday, she would wish to present for First Reading to Council this morning.

I therefore call Hon. Member, Mrs Maska.

695 **Mrs Maska:** Thank you very much, Mr President, and I am greatly obliged to yourself for allowing me to bring this First Reading, having only been passed in another place yesterday in all its stages.

700 I am also obliged to my colleagues for having had dialogue overnight, almost, raising certain matters, and also with regard to the fact that, as would normally be a timely circulation of papers, this has not been possible in bringing First Reading today. But I have circulated them last night, and I am again obliged to Members who were able to receive those papers, although they are having technological difficulties in communication systems. But I am obliged to matters that have been raised by Members, and in that regard I will be seeking to obtain satisfactory and proper answers to the queries that have been raised.

705 This Bill arises out of research that has happened in Her Majesty's Attorney General's  
Chambers, which have identified historic regulations made under section 61 of the Housing Act  
1955, in Part VI of that Act, namely the Sale of Houses Regulations 1958. They have been  
identified as being outdated and do not appear to have either been revoked or replaced. The Bill  
has three clauses and has one purpose, which is to seek to revoke the said Sale of Houses  
710 Regulations 1958 and the Sale of Housing (Amendment) Regulations 1981 so that they are  
treated for all purposes as having been revoked on 1st January 1982.

The 1958 Regulations reflect the political and social context of the time as it then existed and  
are not compatible with the modern housing practices that now are in place. As such, they have  
broader implications and applications than was originally intended. For example, in relation to  
715 the first-time buyer buyback properties acquired by the Department of Infrastructure, as may  
happen on rare occasions from time to time and then become vested in them with a view to  
resale on to new first-time buyers. These Regulations need to be clarified and updated in that  
regard. I wish to emphasise, as has been said in another place, that this is not a precursor to the  
sale of public sector housing stock and in no way affects this process, which is extremely limited  
720 and always treated on a case-by-case basis, requiring both Department and Treasury approvals  
to do so.

As the 1958 Regulations have never been revoked, they remain in effect and it is likely that  
over the years there may have been sales of houses by both the Department and local  
authorities which have not been made strictly in accordance with Part VI of the Housing Act and  
725 the 1958 Regulations as they currently stand.

May I say that Members have raised important queries directly with me and I will now  
proceed to refer these to the Department and be able to, in my own confident manner  
hopefully, satisfy Members regarding their queries and also to inform myself more meaningfully  
and with a sense of some urgency that this situation can be addressed. I would like to move the  
730 First Reading of this today, Mr President, and, if successful, would ask permission to bring the  
Second Reading and clauses back at the next available sitting for this Council. On that basis, I beg  
to move the First Reading of the Public Housing Bill 2020.

Thank you, Mr President.

735 **The President:** Thank you, Hon. Member.  
I call on the learned Attorney General.

**The Attorney General:** Yes, thank you, Mr President.  
I beg to second.

740 **The President:** Thank you.  
Hon. Member, Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President; and I would also like to thank the Member of  
745 Council Mrs Maska, who addressed some of the concerns by Members of Council – not just  
myself – this morning. She really has tried to speak with the Department and they have been  
very amiable in relation to separating out some of these stages.

The concern I suppose, for me, having first looked at this piece of legislation, was very much  
the stages and the terms of what is seen as a priority in being expedited through the Branches.  
750 Understanding that some of the legislation has been held up in relation to coronavirus, at the  
same time this issue came to the fore last year. It was seen as a priority then. It was seen as a  
priority when it was nearly put on to the Order Paper in March. So I understand that this needs  
to go through before recess, but expediting it through the Branches at this point in time, when  
we do still have this sitting and another later on this month, I did not think was appropriate. So I  
755 really do appreciate both the mover of the Bill for advocating for that and also the Department  
as well for conceding to that. It has been most helpful.

760 My question is to the Attorney General, if that is agreeable, and it is just ... I would be most appreciative if the learned Attorney General could be helpful to Council in explaining for the record how the Department exactly is in breach of the law via the Sale of Houses Regulations 1958, and whether or not the Attorney General's Chambers have, for some decades, in conjunction with the Department, having not kept a track of these Regulations, been providing unlawful advice here.

765 My second query is, I suppose, in the treatment of secondary legislation. I know that there is far more of a move forward to ensuring that those that are working on secondary legislation in various Departments, Offices and Boards are working with those in the same ... there is a move towards them working in the same building as those that are drafting primary, so that that interaction can take place a little better and that there is a move towards actually providing or pulling together a database for each Department, Board and Office of their secondary legislation. Some of the Departments, quite frankly, just do not seem to keep a great track of them; I think the DHSC is probably the best at doing that.

770 I am wondering whether or not there is any concern in the Attorney General's Chambers that perhaps there might be any other problems in seriousness at the level that we might be seeing here, that are a result of poor recordkeeping.

775 Thank you, Mr President.

**The President:** Thank you.

If no other Member wishes to speak, I will call on the mover to reply.

Mrs Maska, please.

780 **Mrs Maska:** Thank you, Mr President; and I am obliged for the learned Attorney for seconding this Bill, and also to my colleague Miss August-Hanson for her scrutiny and enquiry into this Bill coming forward and the reasoning behind it. I will obviously diligently look into the queries that she has raised, and I will obviously leave it with the learned Attorney to respond for his Chambers.

785 I think the impact of the 1958 Regulations that endure is that neither the Department itself, nor local authorities, are permitted to resell buy-back properties at a below market rate, which effectively and potentially might stall the purpose of an element of the first-time buyers' scheme. So it has complicated the scenario where the Department wishes to assist those who are endeavouring to embark on the first-time-buyer ladder, and the fact that these Regulations may obstruct that process has been part of the alert.

790 I will come back to Council with fuller and better explanations, but there is, I understand, one potential matter that is stalled because of the identification of these Regulations, and obviously there is a degree of urgency for that party and for the Department to assist in trying to find a solution to that in a proper and legal manner; hence our coming forward with a degree of urgency today. But I am obliged for the Members' indulgence and for your own permission to bring the First Reading today. On that basis, Mr President, I wish to move the First Reading of the Public Housing Bill 2020.

795 Thank you, Mr President.

800 **The President:** Thank you, Mrs Maska.

I put the question that the Public Housing Bill 2020 be read for the first time. I take Council to be in agreement; if there be dissent, please indicate this now. The ayes have it. The ayes have it.

805 Thank you very much, Hon. Members. That concludes the Order Paper as well as that extra Item this morning. Council will now stand adjourned until our next sitting, which will take place in Tynwald Court at 10.30 a.m. on 16th June.

Thank you, Hon. Members.

*The Council adjourned at 11.15 a.m.*