



# LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH

# PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 1st December 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 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

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

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

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

### PRAYERS

*The Lord Bishop*

### Tribute to Hector Duff OBE MM BEM TH LH

10 **The President:** Hon. Members, before we sit down, we have learned with sorrow of the passing of Hector Duff OBE BEM and recipient of the Tynwald Honour. Full tribute will be paid to him at our next Tynwald sitting, but meantime, let us just pay a few moments of silent tribute to a man who served his country with distinction in time of war and peace.

*Members stood in silence.*

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

## Order of the Day

### 1. Medicines (Amendment) Bill 2020 – First Reading approved

Mrs Sharpe to move:

*That the Medicines (Amendment) Bill 2020 be read a first time.*

15 **The President:** Hon. Members, our Order Paper this morning commences with the Medicines (Amendment) Bill 2020 for First Reading, and I call on Hon. Member, Mrs Sharpe to move.

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

Hon. Members, I am pleased to move the First Reading of the Medicines (Amendment) Bill 2020. This Bill now before us seeks to amend the Medicines Act 2003. That Act, amongst other

things, regulates the trade in human medicinal products from the licensing of the product itself  
20 right through to the eventual sale or supply of that product to the end user. To achieve this, the  
Department has a statutory duty under section 2(1) of the Act to make regulations to control,  
restrict or regulate or prohibit the following activities in respect of medicinal products: (a) their  
sale, supply or placing on the market; (b) their manufacturing or assembling; (c) their distribution;  
25 (d) procuring their sale, supply or placing on the market; (e) their importation and exportation;  
and (f) their possession when done so with a view to selling, supplying or otherwise placing it on  
the market.

Additionally, with regard to the making of such regulations, the Department has the power  
under section 52 of the Act to apply UK statutory instruments to the Island as such instruments  
may be in force from time to time in the UK.

30 To regulate the sale and supply of prescription-only medicines, the Department of Health and  
Social Care has exercised its powers under the aforementioned sections 2 and 52 of the Act to  
apply to the Island the UK's Prescription Only Medicines (Human Use) Order 1997 and certain  
specified instruments amending that order. However, it has since come to the attention of the  
Department that simply applying this UK legislative instrument, as amended, does not go as far as  
35 the Department deems it necessary to ensure sufficient safeguards are in place in the Island. This  
Bill seeks to remedy that by inserting provisions into the Medicines Act to prevent a person from  
(1) selling by retail, or supplying in circumstances corresponding to retail sale, a prescription  
medicine, except in accordance with a prescription that has been issued by a suitably qualified  
healthcare professional; and (2) administering a prescription medicine other than to him or  
40 herself, unless they are a suitably qualified healthcare professional or they are acting in  
accordance with the direction of one. Regarding the insertion of these two general rules, the Bill  
proposes to insert offences and penalties should a person be found guilty.

Hon. Members, this Bill does not give effect to a change in departmental policy regarding the  
sale and supply of prescription-only medicines. Rather, it makes technical amendments to the  
45 Medicines Act to ensure that the controls surrounding prescription medicines operate as they are  
intended to do so.

Mr President, I beg to move that the Medicines (Amendment) Bill 2020 be read for the first  
time.

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

**Mr Mercer:** Thank you, Mr President. I beg to second.

**The President:** Thank you, Hon. Members. I put the question that the Medicines (Amendment)  
55 Bill 2020 be read for the first time. Those in favour, say aye; against, no. The ayes have it. The ayes  
have it.

## 2. International Maritime Standards Bill 2020 – Second Reading approved

Mrs Maska to move:

*That the International Maritime Standards Bill 2020 be read a second time.*

**The President:** We turn now to the International Maritime Standards Bill for Second Reading.  
60 Hon. Member, Mrs Maska to move.

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

I would firstly like to thank Hon. Members for the support for the Bill that they gave last week as part of its First Reading. Further to the responses that I provided last week as part of the debate, I am able now to give some additional clarification on points raised and to which I was not in a position to respond meaningfully at that time.

In response, firstly, to Miss August-Hanson's question in respect of the audit date, I can confirm that the initial date for the expected audit was September 2020 until arrangements were otherwise postponed as a result of the global pandemic. As such, the International Maritime Organization advised all countries that all III Code audits were to be put back by one year. This would allow sufficient time to undertake all those planned for 2020. As such, the UK, along with other members of the Red Ensign Group, including the Isle of Man, are on notice that the audit is likely to be September 2021. However, if an earlier slot is allocated to the UK, three months' notice should be given once a date has been agreed. Officers from both the Department for Enterprise and the Department of Infrastructure continue to prepare for the audit and work towards ensuring the obligations under the III Code are being suitably discharged.

I hope I can now provide further clarification to the query raised by Mrs Poole-Wilson, adding to the response I did give last week, and I thank her for her support for the Bill at that time. In terms of the compliance with the Island's obligations under the relevant conventions, being designated as a corporate matter under the delegated authority of the Chief Secretary, I can add the following today. International obligations in the overwhelming majority of cases are imposed on the Island via extension of the relevant convention to the Island by the UK, which remains the Island's responsible state on the international stage. Accordingly, formal notification of such extension is given by the relevant UK authority to the suitable authority on the Island. Traditionally, that suitable authority has been the Chief Secretary and the proposal is that that should remain so as we go forward.

In the UK, the Crown is indivisible – that is, it is a single entity – and therefore the assignment of responsibilities such as those with which we are here concerned is left to the Prime Minister and is done administratively. The proposal to give the equivalent responsibility to the Chief Secretary is aimed at achieving parity with the UK to the extent that is possible and thereby affording the Island a comparable level of administrative flexibility. The Chief Secretary will therefore be answerable to the UK for the extent of the Island's compliance. It is therefore appropriate that the Chief Secretary be empowered to make the arrangements necessary to ensure the performance of tasks, the completion for which he will ultimately be answerable.

In respect to the Chief Secretary, consulting with those with considerable knowledge in the field of maritime safety and the prevention and control of marine pollution, the process by which this will be undertaken is likely that it will be an informal one, most likely by way of written correspondence. There will be experts known to colleagues in both the Department for Enterprise Ship Registry and the Harbours Division of the Department of Infrastructure, as well as within the Maritime Coastguard Agency in the UK. It is this type of expertise that may be called on to assist with such assignments under this draft Bill, if and when appropriate to do so.

I can also confirm that in respect of the query relating to record keeping, the III Code specifically sets out that:

Records, as appropriate, should be established and maintained to provide evidence of conformity to requirements and of the effective operation of the State. Records should remain legible, readily identifiable and retrievable. A documented procedure should be established to define the controls needed for the identification, storage, protection, retrieval, retention time and disposition of records.

This will, of course depend on the nature of the work involved, and just as an analogy that I bring to my own mind, with a problem in building construction or even medical matters, you would seek further afield the absolute expertise in the relevant field of inquiry.

It is intended that the relevant departmental or specific divisional retention periods and procedures will be implemented for good record keeping.

110 This is the Second Reading for this Bill and, as I have previously explained, this Bill has been prepared as part of the Island's Interpretation of the International Maritime Organization Instruments Implementation (III) Code. There is a requirement under the Code to ensure that the various conventions to which the contracting governments or parties are signed up are included in their national laws and regulations.

115 To reiterate, the main motivation for bringing forward this legislation is to demonstrate to an IMO auditor, as part of the forthcoming audit, that the Island has considered its responsibilities under the III Code and has taken the necessary steps to introduce them into national legislation. Failure to do so could lead to a non-conformity as part of the forthcoming IMO audit. That could, in turn ultimately lead to the loss of our Ship Registry and ship management services, with consequent damage to our reputation and our economy.

120 The Isle of Man is part of the Red Ensign Group for which the UK has responsibility and ultimately the score the UK will receive, as part of this audit, will be derived from the performance at the audit of other Red Ensign Group members. It is therefore crucial for the sake of the Island's international reputation that the Isle of Man passes the IMO audit as if we do fail this, it will impact all members of the Red Ensign Group.

125 It is the aim and our responsibility to have this legislation in place ahead of the audit to avoid it being identified as a non-conformity for the Isle of Man. A corrective action plan to introduce legislation would otherwise then be required. As I have stated previously, it is far better that we introduce the legislation ahead of audit.

130 Hon. Members, this is a very important matter. This, as I have said before, is the equivalent of the Moneyval of the seas. Mr President, I beg to move that the International Maritime Standards Bill 2020 be read for a second time.

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

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

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

140 **Mrs Poole-Wilson:** Thank you, Mr President, and I would like to thank the mover for coming back and providing some clarification and information on the questions I raised at First Reading.

I would like to say that I absolutely support the Bill and the importance of bringing forward this legislation, but what I do think is interesting and important about her answers is that, as well as the enabling powers in the legislation, she has talked about some of the implementation that will go alongside them, particularly around record keeping and proper processes and so on, and also how the Chief Secretary will go about sourcing expertise. I would have thought from an audit perspective as well as the legislation, those practices and processes are equally important.

Thank you, Mr President.

150 **The President:** Mrs Maska to reply.

**Mrs Maska:** Thank you, Mr President, and thank you to my hon. colleague.

I absolutely agree with her that the processes are undertaken before such an assignment is undertaken. We have, as I now know, a considerable degree of expertise available to us on Island, but I am also confident and assured that the necessary expertise would be sought if necessary so that and proper scrutiny of the process and the specialist input can be acquired. The Chief Secretary, as I have emphasised, needs to be able to respond nimbly and meaningfully should the need arise, which might be an emergency. I will absolutely take those shared comments back to the Department and to the parts of our services that will need to be cognisant of that.

160 Thank you, Mr President.

**The President:** I put the question that the International Maritime Standards Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**International Maritime Standards Bill 2020 –  
Clauses considered**

**The President:** We turn now to the clauses. Clause 1, Mrs Maska.

165 **Mrs Maska:** Thank you, Mr President.

I would like to thank Members for supporting the Bill for its Second Reading today.

As I have explained before, this Bill has been prepared as part of the Island's interpretation of the International Maritime Organization Instruments Implementation (III) Code. There is a requirement to ensure that the various conventions to which the contracting governments or parties are signed up to are included in their national laws and regulations.

170 The Bill will also provide a mechanism by which the extent of the Island's compliance with relevant international conventions may be enhanced if necessary. We need to have this legislation in place ahead of the audit that is planned, otherwise, as we have already understood, it will be identified as a non-conformity for the Isle of Man. A corrective action plan to introduce legislation would then be required and, as I have previously stated, it would be preferable and far better that we introduce legislation in a timely manner, ahead of the audit.

175 I will now provide an overview of each of the clauses within the Bill.

Mr President, I would like to move clauses 1 and 2 together, if Council are agreed.

180 **The President:** Is that agreed?

**Members:** Agreed.

**Mrs Maska:** Thank you, Hon. Members and Mr President.

185 Clause 1 is the short title. This clause gives the Act resulting from the Bill its short title.

Clause 2, the commencement, introduces the details of when the Act will commence.

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

**The President:** Mr Greenhill.

190

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

I beg to second and reserve my remarks.

195 **The President:** I put clauses 1 and 2 to stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

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

200 I would ask that I be given leave to move clause 3 and Schedule 1, Schedule 2 and Schedule 3 together, if Members are so minded.

Thank you, Mr President.

**The President:** Is that agreed?

205 **Members:** Agreed.

**Mrs Maska:** Thank you very much, Mr President, and to my hon. colleagues.

Clause 3 sets out the definitions of key terms that are used in the Bill.

Schedule 1 sets out the relevant international conventions to which section 3 of the Bill refers.

210 Schedule 2 sets out the form of the non-legislative public document to which the Bill also refers.

Schedule 3 sets out the form of written instruction to the Treasury to which the Bill refers.

Mr President, I beg to move that clause 3 and Schedules 1, 2 and 3 do stand part of the Bill.

215 **The President:** Mr Greenhill.

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

I beg to second and reserve my remarks.

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

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

I would like to thank the mover of the Bill for facilitating the number of questions that I had about the Bill, and officers as well.

225 I just wanted to ask, perhaps if the mover would be so kind as to put on the record as to why we have been so prescriptive in section 3(c)(i) and (ii) regarding Resolution A.1070(28) directly. Surely if these are recalled and changed, the consideration may be by some that it could be over-complicated perhaps to change by primary legislation. The settling of the wording that allows us to move a new resolution without a fuss, perhaps it would be better in secondary legislation than  
230 it would be in primary legislation, and perhaps the wording would have been better to suit, or not, but if the mover could perhaps put a little bit more meat on the bone, I would be very grateful.

Thank you.

**The President:** Mrs Maska to reply.

235

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

I would like to thank the Hon. Member Miss August-Hanson for her lengthy enquiries, which are absolutely helpful in terms of drilling down into some of the queries and the details.

240 In terms of the reference in the clause 3(1)(c), the reference to the international Resolution of the International Maritime Organization adopted on 4th December, the adoption of such an international resolution binds the member state to follow the provisions of such a Resolution in law, and we are already bound under that by extension. So to actually put that in the Bill, it may be – my understanding is that – if certain small matters in the Code and the Resolution do change, we still are governed by that and we still must remain compliant, and so to embed it into primary  
245 legislation may not be the wisest or the most appropriate way. Obviously it will always be part of the scrutiny that goes on on a regular basis already, even though at the moment it is informal. In terms of inspections, what we endeavour and crucially need to do with this Bill is to actually embed the obligation in statute that will then refer to the conventions and such as have been referred to by Miss August-Hanson, but the other conventions also contained in Schedule 1.

250 I hope that assists the Hon. Member at this time.

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

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

255 Just to pick up on what Miss August-Hanson has raised there, I have not given any prior thought to this, but in hearing what she has said, it made me think about how, I think it was to do with, aircraft registries and compliance with other international standards will be updated over time. In that Bill, which I think was a DfE Bill, there was some kind of inclusion to take account for what is

referred to as ambulatory references, if I am expressing that correctly. It may already be in the  
260 Schedule. It may already be provided for, I am not sure, so just to pick up on that. If that is present,  
then it should actually all be in order and the specific Code, as referenced, should not be an issue.  
If such a thing is not provided for, then maybe it needs to be.

Thank you, Mr President.

265 **The President:** Mrs Maska to reply.

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

It may also be of some comfort that there is provision in other legislation. I think it is the  
International Maritime Law and the Ship Registry enactments that do enable substantial  
270 provisions to be made, but as my hon. colleague has referred to, as ambulatory provisions, my  
understanding is if there are small amendments to the conventions, then they would be what we  
have in place and an obligation to pay heed to them.

I hope that assists, again, my hon. colleagues. Thank you.

275 **The President:** I put to Council that clause 3 and Schedules 1, 2 and 3 do stand part of the Bill.  
Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

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

280 The power to assign responsibilities gives the Chief Secretary broad power to assign  
responsibility for performing specified tasks. Such tasks must be tasks which the Island is duty  
bound to perform in fulfilment of its international obligations under any international convention  
falling within a defined group. This group contains solely conventions which relate to maritime  
safety and the prevention and control of marine pollution from ships.

285 The Chief Secretary may make an assignment to any Department or Statutory Board, any  
Government company or any private person who has beforehand indicated a willingness to accept  
such assignments. Crucially, any assignment made by the Chief Secretary under this clause must  
be made by means of a non-legislative public document as set out in and included in Schedule 2  
to the Bill.

290 For completeness, the clause expressly designates compliance with the Island's obligations  
under relevant international conventions as a corporate matter under the delegated authority of  
the Chief Secretary.

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

295 **The President:** Hon. Member, Mr Greenhill.

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

I beg to second and reserve my remarks.

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

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

Just for the benefit of *Hansard*, the conversation that I have had has satisfied my wonderment,  
I suppose, as to why we have made use of the words 'corporate matter'. I now understand  
305 perfectly what that means within the Bill and I am very supportive of the words 'corporate matter'  
actually being used and of them being used in a piece of legislation as well, which I believe is for  
the first time.

The response that I received from the Department regarding the use of these words and it not  
being defined within the Bill was that it was an administrative concept that the Cabinet Office has  
310 advised has a settled meaning in the context within which it was used, and therefore there is no

apparent scope for misinterpretation and no discernible benefit to be derived from defining it. I wonder what the mover of the Bill thought of that response, considering that there has been some questioning and querying as to what those words mean by Members of Tynwald.

Thank you, Mr President.

315

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

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

320

In connection with section 4 and some of the other sections, sections 5 and 6, there are obviously various duties, powers and responsibilities given to the Chief Secretary there. I wonder if the hon. mover might be able to advise or come back to the Council at a later stage as to what oversight there is of those responsibilities.

Thank you, Mr President.

325

**The President:** Mrs Maska to reply.

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

330

With regard to clause 4, I do thank hon. colleagues again for delving into this and doing absolutely the job that we are here to do. I appreciate we have had considerable debate and discussion on this proposed clause of the Bill, and I would like to offer some clarification.

335

The division of flag, port and coastal state obligations between the Isle of Man Ship Registry and Harbours Division of the Department of Infrastructure is well known, respected and established. It would not be appropriate for the Chief Secretary to assign a responsibility to either of those bodies if they had no perceived or historic responsibility for delivering it; and those bodies also are responsible to professional oversight in the international forum.

As has been stated previously, all III Code convention-derived obligations are currently being met. There is no requirement immediately to assign responsibilities in respect of flag, port or coastal state obligations. The Ship Registry and the Department of Infrastructure continue to work hard to discharge all their responsibilities.

340

This legislation justifiably further supports our interpretation of the requirements of the III Code and gives us the opportunity to have in place the legislation which an IMO auditor will be looking for as part of the forthcoming audit. It also provides some level of future-proofing, should we find ourselves in a situation whereby an obligation is not being met.

345

In terms of oversight, I think it will be helpful if, when it comes to Third Reading, I can come back and help Members with a more complete explanation and a fuller understanding of what the proposal is, to include appropriate oversight and to ensure that the operation is meaningful, has agility and ability, but is also accountable. With the leave of the Hon. Council, I would beg to come back with that information when we come to Third Reading.

350

**The President:** Hon. Members, I put to Council clause 4 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

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

355

Clause 5 relates to the duty to seek advice. This requires the Chief Secretary to seek the advice of the Attorney General before making an assignment under clause 4. The Attorney General is required to, in writing, honour any such request for advice. In turn, the Chief Secretary is required to have regard to the Attorney General's advice.

Mr President, I beg to move that clause 5 do stand part of the Bill.

360 **The President:** Mr Greenhill.

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

365 **The President:** I put clause 5. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 6.

**Mrs Maska:** Thank you, Mr President.  
370 Clause 6 involves the duty to consult. It requires the Chief Secretary to consult and have regard to the advice given to him or her by industry experts. This must be done before an assignment is made and is intended to assist the Chief Secretary in making a suitable assignment.  
Mr President, I beg to move that clause 6 stand part of the Bill.

375 **The President:** Mr Greenhill.

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

380 **The President:** I put clause 6. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 7.

**Mrs Maska:** Thank you, Mr President.  
385 Clause 7 relates to the effect of assignment. It provides that an assignment made by the Chief Secretary under clause 4 has the force of law. On this basis, clause 7 empowers the Chief Secretary to impose suitable administrative sanctions, in the event that an assignment is not complied with.  
Mrs Poole-Wilson raised this matter at First Reading. The Department, I am informed, is still looking into what suitable sanctions might be, but I do not think I have had any further updated  
390 advice. If you will bear with me ... No, I have not, but again, I would seek to enhance the information I can provide today when we come to the Third Reading of this Bill. It would be an appropriate level of administrative sanction, as might be found elsewhere across Government systems.  
So I beg to move, Mr President, that clause 7 do stand part of the Bill. Thank you.

395 **The President:** I put clause 7. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 8.

400 **Mrs Maska:** Thank you, Mr President.  
Clause 8 revolves around powers and duties of an assignee. It sets out the duties of an assignee. The assignee must acknowledge the assignment in writing and may not refuse it. The qualification to this stipulation is that where the assignment is made to a private person, that person may at any time determine that they are unwilling to receive an assignment. At this point, the assignment  
405 becomes null and void, and payment for work already done must be made to the former assignee.  
The other categories of assignee – for example, those who do not have the option of revoking an expression of willingness – may in appropriate cases provide the Chief Secretary with a notification of constraint, in which the assignee sets out the constraints that it believes will hamper it in its bid to satisfactorily discharge its responsibilities under this assignment. The  
410 assignee must substantiate any claim it makes on being constrained.

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

**The President:** Mr Greenhill.

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

**The President:** I put clause 8. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

420 Clause 9.

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

425 Clause 9 concerns duties arising from submission of notification of constraint. It specifies the steps the Chief Secretary must take upon receipt of a notification of constraint. He or she must have due regard to it and where necessary, either modify the assignment in consultation with the assignee, or revoke the assignment and assign their responsibilities to another person instead.

430 If the constraint is financial, the clause specifies steps that the Chief Secretary may take to secure the required funding from Treasury. The steps consist of writing to the Council of Ministers to request that the Council of Ministers do, in writing, instruct the Treasury to provide the required funding. Until this funding has been provided by Treasury, the assignment cannot be enforced.

435 A typographical error, Mr President, has been identified at clause 9(3)(a). At the moment, the Bill would read, 'may seek advice on how to proceed from any person they *considers* competent to advise them'. The hope would be that that would read, 'any person they *consider* competent to advise them'.

440 In another place, it was advised that this might be dealt with by the slip rule, and I would beg leave that this be so treated today, as we read this clause of the Bill, Mr President. I beg to move that clause 9 stand part of the Bill.

**The President:** Mr Greenhill.

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

**The President:** I put clause 9 with the amendment to the wording as outlined by the mover. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

450 Clause 10.

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

455 Clause 10 concerns the Treasury having to act on a written instruction. It obliges the Treasury to comply with the written instruction given to it by the Council of Ministers and gives the Treasury options with respect to disbursement of the funds and the imposition of conditions, subject to which disbursement will be made.

Mr President, I beg to move that clause 10 do stand part of the Bill.

**The President:** Mr Greenhill.

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

**The President:** I put clause 10. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

465 Clause 11.

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

465 Clause 11 concerns record keeping. This clause requires all parties to which the Bill applies to keep written records of any steps taken under the resulting Act.

Mr President, I beg to move that clause 11 do stand part of the Bill.

**The President:** Mr Greenhill.

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

**The President:** I put clause 11. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

475 Finally, clause 12.

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

I am obliged to my hon. colleagues for their input today and assisting in the passage of the clauses.

480 Clause 12, the effect of assignment on legislation, makes provision aimed at obviating any conflict between existing legislation and an assignment made by the Chief Secretary under clause 4.

485 Please accept my apologies: there is also a misnumbering identified in the explanatory memorandum at the head of the Bill and the explanatory notes that states 'clause 3' here, which should read 'clause 4'. As I have just advised, this is incorrect, and I would ask that that be treated again as a typographical error. It is with regard to clause 12, at the front, in the explanatory memorandum, when we get to the note relating to clause 12, line 2, 'the Chief Secretary under clause 3', and that should read 'clause 4'. I would beg leave from my hon. colleagues that this be dealt with as well, if appropriate, by the slip rule, or as appropriate as a typographical error: '3' should be substituted by '4' in the explanatory notes.

**The President:** Mr Greenhill.

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

**The President:** I put clause 12. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

That concludes the clauses stage of the International Maritime Standards Bill.

### 3. Manx Care Bill 2020 – Third Reading approved with amendments; Bill passed

Mrs Sharpe to move:

*That the Manx Care Bill 2020 be read for the third time and do pass.*

500 **The President:** We turn now to the Manx Care Bill 2020 for Third Reading. Hon. Member, Mrs Sharpe.

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

I am pleased to move the Third Reading of the Manx Care Bill 2020.

505 I am grateful to Hon. Members, both in Council and in another place, for the careful consideration and support that has been given to this important legislation. Some of the amendments that have been made to the Bill have come about because of feedback from Hon. Members, and the Bill is all the better for it.

510 I am happy to provide some further clarification to Council today in relation to questions posed by Hon. Members last week. As Hon. Members have heard during the previous Readings, the purpose of this Bill is to establish Manx Care as an arm's-length Statutory Board, operationally independent from the Department of Health and Social Care and responsible for the provision of health and social care services.

515 This separation of responsibility between the Department and Manx Care will implement recommendation 2 of Sir Jonathan Michael's independent review of health and social care and will set the foundation for implementing many of the other recommendations.

520 During the consideration of clauses, a question was asked about the interplay between the Manx Care Bill and the Statutory Boards Act 1997 in relation to electing a non-executive vice-chairperson. It is set out in the Statutory Boards Act 1987 that that Act applies to all Statutory Boards unless express provision is otherwise made by its constituent enactment. In Manx Care's case, the Manx Care Bill is the constituent enactment.

525 I have asked the legislative drafter to add a footnote when the Act is printed to clarify that paragraph 1 of Schedule 2 of the Statutory Boards Act 1987 applies to Manx Care, but by virtue of this paragraph of this Act, a vice-chair must be a non-executive member of Manx Care. I would refer Hon. Members to Schedule 1, paragraph 1(2).

530 Concern was also expressed about ensuring that Schedule 2 of this Bill allows for funding to be allocated to Manx Care for more than one financial year in circumstances where Manx Care has been required by the mandate to secure the provision of services for more than one year under paragraph 1(b). Paragraph 1(c) of that Schedule requires the Department to confirm allocation of funding for the provision of all services referred to in paragraph 1(b), so where the mandate requires services for more than a single year, consideration must also be given to the allocation of funding for the same period.

This forward-looking time period has been included in the Bill to help fulfil recommendation 20 of the Sir Jonathan Michael report, which states and I will quote:

Funding ... should ... move from the current annual budget allocation to a 3-5 years financial settlement for health and care services ...

535 Whilst this is acknowledged as a desirable position to get to, it is not currently possible to achieve this objective within the Isle of Man Government's Budget process. It is proposed that indicative forward-looking budgets will be able to be included within the annual process and set out in the mandate to Manx Care. This will give a degree of comfort to Manx Care in planning services, whilst not setting plans in stone and so removing future flexibility in the event of any future economic shocks.

540 During this week, my hon. colleague Mrs Poole-Wilson has been working with myself, officers and the legislative drafter to formulate further amendments that she will put forward today, which will address her remaining questions, and I thank her for her work in improving this Bill.

545 I would also like to thank Miss August-Hanson for her queries during this week. Miss August-Hanson and I have had discussions and also spoken with the Minister, and Miss August-Hanson will be moving an amendment later today, as a result of these discussions, which have full departmental agreement.

550 In closing, I would like to thank the Hon. Member Mrs Lord-Brennan for seconding the Bill and the learned Attorney for moving amendments on behalf of Government in the clauses stage last week. I believe he has also agreed to move some tidying-up amendments later today, so I thank him in advance for that.

Mr President, with that, I beg to move that the Manx Care Bill 2020 be read for the third time.

**The President:** Mrs Lord Brennan.

555 **Mrs Lord-Brennan:** Thank you very much, Mr President. I beg to second.

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

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

560 I welcome the Third Reading and also the collaboration during the week to bring forward amendments today to address some of the questions that were raised at Second Reading.

Hon. Members of Council will have in front of them the amendment standing in my name, if I may move them now, Mr President.

565 **The President:** Yes, thank you.

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

570 The first amendment standing in my name is an amendment to clause 9, and this relates to the a question that I asked about whether the words 'employed ...' were sufficiently wide and flexible to capture the potential variety of arrangements that the Department, in this case, might enter into and the amendment moves to a broader language of 'engaged under a contract of service or for services or otherwise', so it is broader and can capture more situations.

So I beg to move the amendment to clause 9:

*Amendment to clause 9*

*1. Page 16, in lines 23 and 24 for 'employed or, who are considering becoming employed' substitute 'engaged under a contract of service or for services or otherwise, or who are considering engaging in that way'.*

575 **The President:** Thank you. Miss August-Hanson.

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

I have an amendment that I will be moving as well. Do I ...?

580 **The President:** Yes – no, we are dealing purely with the amendment to clause 9. Are you seconding?

**Miss August-Hanson:** My apologies. Yes, I am happy to second.

585 **The President:** I put the amendment to clause 9. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mrs Poole-Wilson.

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

590 The amendment to clause 26 standing in my name is the same amendment, but this time it applies to the duty of Manx Care to have regard to the duty to promote education and training. I beg to move:

*Amendment to clause 26*

*2. Page 21, in lines 25 and 26 for 'employed or, who are considering becoming employed' substitute 'engaged under a contract of service or for services or otherwise, or who are considering engaging in that way'.*

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

**Miss August-Hanson:** I beg to second, Mr President.

595 **The President:** I put the amendment to clause 26. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Miss August-Hanson.

600 **Miss August-Hanson:** Thank you, Mr President, and I apologise for my precipitous actions there.

I will just be moving an amendment to clause 40:

*Amendment to clause 40*

*Page 27, after line 9 insert –*

*‘(3) Directions must be published by the Department.*

*(4) Subsection (3) does not require the Department to publish any part of a direction—*

*(a) it could refuse to disclose in response to a request under the Freedom of Information Act 2015; or*

*(b) the disclosure of which is prohibited by any enactment.’*

I have circulated the amendment to Hon. Members, but I do apologise for it coming so late in the day. Members do deserve consideration well ahead of time, so I apologise for the lateness of it.

605 It is a building on an amendment that was being put forward and is now not being put forward by Mrs Poole-Wilson – something that her careful attention to this Bill, picking up an amendment to clause 40 with a legal-eagle eye, has resulted in a very sensible move for debate here at Third Reading.

Essentially, quite simply, it is to have any directions in clause 40 published by the Department – something that I do not believe really has had a great deal of thought until reaching the Branches. So a very sensible amendment by Mrs Poole-Wilson. All this is looking to do is essentially tying the exemption test on public interest to section 11 of the Freedom of Information Act 2015, so that we do not have too wide a discretion for powers to withhold the publication of certain information without further safeguards. It is just putting a level of governance around it. All it is doing is looking to provide an additional degree of certainty, just to comfort Members.

610 The amendment that I am putting forward is covering all the provisions that would have been in Mrs Poole-Wilson’s amendments, but that are already existing in the FOI Act 2015, regarding areas such as safety, data protection, duty of confidence in cases, like *sub judice* and just to make clear that the Department would publish all exemptions. It also gives it a little bit of flexibility regarding the Department’s ability to be able to rely on other statutory exemptions as well. 620 Although it is covered in the Freedom of Information Act 2015, it is essentially for the benefit of the reader, and that would be in section 27 of the FOI Act, just in case anybody wanted to have a look at it. I beg to move.

Ah, there are two alterations that I am suggesting to the amendments that have come about extraordinarily recently: one that the Information Commissioner, with whom I had a conversation this morning ... I had a concern that perhaps the use of the word ‘any’ – as I asked him the question – could be a reason for the Department to decline full publication, so it would be just to ensure that we know that the directions would exist and that the Department cannot use it as a get-out, I suppose, to withhold the existence of a direction. So to remove the word ‘any’ from line 630 10. You have in the amendment to page 27, after line 9, insert: ‘... Directions must be published by the Department’ and then, ‘Subsection (3) does not require the Department to publish *any* ...’ It is just to get rid of the word ‘any’.

The learned Attorney General has also spotted another typographical error that perhaps is worth clearing up here, and that is just to add the word ‘if’, so that that particular part reads:

635 'Subsection (3) does not require the Department to publish part of a direction *if* it could refuse to disclose ...' etc. It is just to tidy up, really.

Thank you, Mr President. I move:

*Amendments to Miss August-Hanson's amendment to clause 40*

*In the proposed new subsection (4), for 'any part of a direction', substitute 'part of a direction if'.*

*In the proposed new subparagraph (4)(a), after 'disclose', insert 'it'.*

*In the proposed new subparagraph (4)(b), for "the disclosure of which", substitute "its disclosure".*

**The President:** Thank you.

Do we have a seconder to that amendment, please?

640 The amendment has been circulated. Does everyone have the text of the amendment?

**Mrs Maska:** If this is what we have received electronically. Yes, thank you, Mr President.

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

645

**Mrs Poole-Wilson:** Yes, I beg to second.

**The President:** Thank you.

650 I put the amendment then, with the change to the wording as outlined by Miss August-Hanson, deleting the word 'any' and inserting the word 'if'.

**The Clerk:** Mr President, could I ask the mover to explain whether the word 'if' comes at the end of the line after the word 'direction'; or is it supposed to go at the beginning of (a) or (b), or both?

655

**Miss August-Hanson:** It would be at the end of the line, just after the word 'direction'.

**The Clerk:** So you want to say 'If it could refuse to disclose it and if the disclosure of it is prohibited by any enactment' ...?

660

**The President:** Well, it is 'if (a) or (b)'.

**The Attorney General:** Yes.

665

**Miss August-Hanson:** Yes, if (a) or (b).

**The President:** If, and then (a) etc. or (b) etc.

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

670

**Miss August-Hanson:** Exactly right.

**The President:** I put the amendment moved by Miss August-Hanson. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

675

Having disposed ... No, we haven't! Learned Attorney.

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

I propose an amendment to Schedule 1, which has been circulated. Firstly, these are both typographical errors designed to improve the text. Firstly, page 34, line 28, omit the word 'the'; and secondly, the same page 34, line 33, after the word 'for' insert 'the'.

I beg to move:

*Amendments to Schedule 1*

*Page 34, line 28 omit 'the'.*

*Page 34, line 33 after 'for' insert 'the'.*

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

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

I beg to second.

**The President:** I put the amendment moved by the Attorney General. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Having disposed of the amendments, is there any further contribution at the Third Reading stage before I call on the mover to reply?

Miss August-Hanson.

**Miss August-Hanson:** Just a very short contribution to thank the mover of the Bill for all the engagement. I think it has been extraordinarily useful and she has answered an awful lot of questions, as has the Minister for Health and Social Care, so I am just very much appreciating the collaboration, to ensure that the best possible scrutiny can be got from this place.

Thank you, Mr President.

**The President:** Mrs Sharpe to reply.

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

In closing, I would like to thank officers in the Transformation team, the legislative drafter and all Members, both in another place and in this Hon. Chamber for their keen interest in this Bill, which at the end of the day seeks to improve health and social care services for the people of the Isle of Man.

Thank you.

**The President:** Thank you, Hon. Members. I put the question that the Manx Care Bill 2020 do pass. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members. That concludes the business before Council this morning. Council will now stand adjourned until our next sitting in our own Chamber on 8th December.

*The Council adjourned at 11.29 a.m.*