



HOUSE OF KEYS OFFICIAL REPORT

RECORTYS OIKOIL
Y CHIARE AS FEED

PROCEEDINGS DAALTYN

HANSARD

Douglas, Tuesday, 22nd January 2013

*All published Official Reports can be found on the Tynwald website
[www.tynwald.org.im/Official Papers/Hansards/](http://www.tynwald.org.im/Official%20Papers/Hansards/)Please select a year:*

Reports, maps and other documents referred to in the course of debates may be consulted on application to the Tynwald Library or the Clerk of Tynwald's Office. Supplementary material subsequently made available following Questions for Oral Answer is published separately on the Tynwald website, [www.tynwald.org.im/Official Papers/Hansards/Hansard Appendix](http://www.tynwald.org.im/Official%20Papers/Hansards/Hansard%20Appendix)

Volume 130, No. 8

ISSN 1742-2264

Present:

The Speaker (Hon. S C Rodan) (Garff);
The Chief Minister (Hon. A R Bell) (Ramsey);
Hon. D M Anderson (Glenfaba); Mr L I Singer (Ramsey);
Hon. W E Teare (Ayre); Mr A L Cannan (Michael);
Mr Z Hall and Mr D J Quirk (Onchan);
Mr R H Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North);
Hon. D C Cretney and Mrs K J Beecroft (Douglas South);
Hon. C R Robertshaw and Mrs B J Cannell (Douglas East);
Hon. J P Shimmin and Mr C G Corkish MBE (Douglas West);
Mr R A Ronan (Castletown); Mr G D Cregeen (Malew and Santon);
Hon. J P Watterson, Mr L D Skelly and Hon. P A Gawne (Rushen);
with Mr R I S Phillips, Secretary of the House.

Business Transacted

Leave of absence granted *Page*
.....255

Questions for Oral Answer

1.1. Waste Policy and Strategy ó Statement by the Minister.....255
1.2. Energy from Waste Plant ó Publication of contract258
1.3. Bandy buses ó Risk assessment to protect children259

Questions for Written Answer

2.1. Council of Ministers ó Independent planning advisers; details262
2.2. Local Authority Borrowing Scheme ó Details.....264
2.3. Local authorities ó Library provision.....264
2.4. Civil Service staff ó Details of Manx workers.....265

Orders of the Day

3.1. Fisheries (Amendment) Bill 2012 ó Second Reading approved.....267
3.2. Bribery Bill 2012 ó Second Reading approved.....267
4.1. Regulation of Care Bill 2012 ó Clauses considered268

Leaves of absence ó Reminder by the Speaker.....

The House adjourned at 1.09 p.m.

House of Keys

The House met at 10.00 a.m.

[THE SPEAKER *in the Chair*]

The Speaker: Moghrey mie. Good morning, Hon. Members.

5 **Members:** Good morning, Mr Speaker.

The Speaker: The Chaplain will lead us in prayer.

PRAYERS

10 *The Chaplain of the House of Keys*

Leave of absence granted

15

The Speaker: Hon. Members, I have given leave of absence to Mr Crookall for this sitting. As a result of that, the Children and Young Persons (Amendment) Bill clauses stage will be held over till next week.

20 I have also given leave of absence to the Hon. Member for Onchan, Mr Karran, who is unwell. Also, as Mrs Beecroft has registered a financial interest in the Regulation of Care Bill, I have given her leave of absence for the debate on that particular Bill.

25

Questions for Oral Answer

INFRASTRUCTURE

30

Waste Policy and Strategy Statement by the Minister

1.1. The Hon. Member for Onchan (Mr Hall) to ask the Minister for Infrastructure:

35 *If he will make a statement on the waste policy and strategy for the coming decade?*

The Speaker: We now turn to Questions for Oral Answer, Item 1 on the Order Paper. I call on the Hon. Member for Onchan, Mr Hall.

40 **Mr Hall:** Thank you, Mr Speaker.
I beg leave to ask the Question standing in my name.

The Speaker: I call on the Minister for Infrastructure, Mr Cretney, to reply.

45 **The Minister for Infrastructure (Mr Cretney):** Thank you, Mr Speaker.
The Department has developed a Waste Policy and Strategy for the Island, which provides a clear focus and direction for how waste should be managed for the next 10 years.
Waste affects us all. We all contribute waste to our society and we all have a responsibility to ensure it is managed in a way that does not negatively impact on our environment. It is clear in

50 developing this Strategy that Government cannot act alone, and we must work in partnership with local government, industry, households and other community and interest groups.

I am therefore pleased that the process of updating our Waste Policy and Strategy was hugely assisted by the formation of a Waste Policy Review Group. This Group contained political membership: the Hon. Member for Malew and Santon, Mr Cregeen, the former Member with
55 responsibility for the Department's Operations Division; Mr Bob Pilling, a representative from the Isle of Man Municipal Association; representatives from the main waste producing sectors; DEFA waste regulation; Zero Waste Mann; and Friends of the Earth. An all-Island consultation was also carried out, which generated over 400 responses both online and written.

60 The Department's vision for waste management in the Isle of Man is 'Towards Zero Waste'. 'Towards Zero Waste' sets us a vision for a Zero Waste Island. This vision describes a position where waste is seen as a valuable resource. We will promote an environment to minimise its creation, and where it has been created, we will exploit its uses to the advantage of the Manx community.

65 Underpinning this vision are four key policies: (1) Legislation and Structure, to provide guidance and appropriate legislation; (2) Waste Hierarchy, using a guiding principle to determine how we prioritise our efforts and resources; (3) Economics of Waste, where we will discourage waste generation through cost-reflective tariffs, following the 'user pays' principle; (4) Waste Infrastructure, where we ensure the Island has the appropriate infrastructure to deal with its waste.

70 Successful delivery of this Strategy will be measured by two high level performance targets: by 2022, we will increase recycling levels from the current 50% to 70% and decrease our levels of landfill down from 25% to 5%.

The Revised Waste Policy and Strategy contains commitments not only for Government but other key sectors, which together set a clear direction towards a Zero Waste Island. Working together, we can assure the Isle of Man continues to manage its waste responsibly, sustainably and
75 cost effectively, and that our targets for 2022 are delivered.

Once again, can I put on record my thanks and those groups who assisted the Department with the production of this document and to highlight that the revised Waste Policy and Strategy can be found on the Department's website under Operations Division (Waste Management).

80 **The Speaker:** Mr Hall, supplementary.

Mr Hall: Thank you, Mr Speaker, and I thank the Minister for his informative reply.

I note that the revised Waste Strategy was agreed by the Council of Ministers in July or August
85 2012. I am just wondering if the Minister can explain the reasons of why it has taken so long for it to be put into the public domain, given that it has only very recently gone onto their website. I would be very grateful.

Thank you, Mr Speaker.

90 **The Speaker:** Minister to reply.

The Minister: I do not know why it has taken so long but I will endeavour to find out.

The Speaker: Mr Quirk, Hon. Member.

95 **Mr Quirk:** Thank you, Mr Speaker.

Could I ask the Minister after it in another place that the local authorities are now to be wholly funding the services they provide, would the Minister be then looking at his Strategy he has in being in 2012 regarding that particular policy that has now been endorsed by Tynwald itself?

100 **The Speaker:** Mr Cretney.

The Minister: In relation to waste, local authorities have a key role to play and we have recently, as Hon. Members will be aware, ceased the subsidy which had been in place for a
105 considerable number of years. That is being rolled back over 10 years, so that local authorities have ample time to manage the situation, but it is a clear responsibility of local authorities and the time has come for them to take on board that responsibility. We are very happy to work with local authorities in the time ahead to make sure that we can make the efficiencies which they can make and which Government are obviously in the process of doing right now, in terms of a range of
110 functions. The same should apply equally to local authorities and if Hon. Members wish, I can highlight a number of areas where we believe that can be improved upon.

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

115 If I could ask the Minister, reference to the civic amenity site policy that his Department has,
where ratepayers from around the district can deposit recyclables or rubbish into different civic
amenity sites, does this now conflict with Tynwald policy, that it should be funded by the local
authority? For example, if a person came in from Ramsey and deposited in the Eastern Civic
120 Amenity Site, therefore those costs would then lie with those persons who fund the Eastern Civic
Amenity Site. Is that not wrong?

The Speaker: Mr Cretney.

125 **The Minister:** The situation at the moment is that the civic amenity sites are presently being
operated on different arrangements. The Northern Civic Amenity Site, the newest one, is a
different arrangement to the others. The Western Civic Amenity Site, about which we are
currently engaged in discussion with the local authorities in that area, again is arranged on a
different basis.

130 I do believe for the future it would be much more helpful if they were all on a consistent
approach, if they were all operated as part of the overall Waste Policy, and I hope, in the time I am
Minister, to move towards that situation.

The Speaker: Mr Quirk, further supplementary.

135 **Mr Quirk:** Thank you, Mr Speaker.

I welcome the statement from the Minister regarding that. Would he also take on boardí or
would he support having the waste authorities as Statutory Boards, for example? Would the
Minister support that, because at least the ratepayers, never mind taxpayers, would have access to
140 the accounts?

The Speaker: Minister.

145 **The Minister:** That is certainly one of the mechanisms through which this could be operated
in the time ahead. I do believe there is logic in such a proposal but, as I say, we are only entering
into further work in this area presently.

The Speaker: Mr Quirk.

150 **Mr Quirk:** Final one, Mr Speaker.

If I could ask the Minister, could he provide some details on the recyclables or savings or what
has been achieved in monetary terms, from each of the civic amenity sites or the Energy from
Waste site itself, that have been returned back to either Government or local authorities? It would
be helpful.

155 **The Speaker:** Minister.

160 **The Minister:** I do not have that specific information with me. All I have is that the Island
recycles 50% of total waste, with 25% sent to the Energy from Waste Plant for treatment and 25%
is disposed of via landfill. But the scope of Government discussion which is ongoing presently has
a part to play in all of this.

If I could just make the point that the services which I have alluded to, which include, for
example, street cleaning, refuse collection, kerbside recycling, bring bank recycling and civic
amenity sites, it is estimated that the current cost of providing these services is approximately £5
million per annum, which is currently split between local authorities and central Government. My
165 officers have worked out that there are approximately £1½ million worth of savings available
through re-organising existing service delivery mechanisms. That is why I was happy to respond
in the manner I did to the last Question from the Hon. Member.

170 But the Hon. Member needs to be aware that the majority of refuse vehicles using the Energy
from Waste Plant are under capacity: 53 vehicles bring waste to the Energy from Waste Plant on
behalf of the local authorities. During the period of April to September 2012, 53 vehicles delivered
waste to the plant, and out of these, 26 were refuse vehicles.

175 Looking at the tonnage, the average load for refuse vehicles during this period was seven tonnes compared to an optimum load of nine tonnes. In 2012, the average tipping time was 11.42 in the morning, with nearly 70% of tipping occurring before 1.00 p.m.. I use this as an illustration that there are efficiencies to be made in this and we look forward to working with local authorities in the time ahead in this matter.

180 **Energy from Waste Plant
Publication of contract**

1.2. The Hon. Member for Onchan (Mr Quirk) to ask the Minister for Infrastructure:

185 *If he will publish the contract for the Energy from Waste Plant?*

The Speaker: Question 2, Hon. Member for Onchan, Mr Quirk.

190 **Mr Quirk:** I beg to ask the Question standing in my name, sir.

The Speaker: Minister for Infrastructure.

The Minister for Infrastructure (Mr Cretney): Thank you, Mr Speaker.

195 I am legally advised that the contract between the Department and SITA Waste (Isle of Man) Ltd to run the Energy from Waste Plant cannot be published into the public domain due to commercially sensitive information held within the document. However, if the Hon. Member or any other Hon. Member would like to advise my Department what specific information he or they are seeking, I will ask if it could be made available without publicising the whole contract.

200 **The Speaker:** Mr Quirk, supplementary.

Mr Quirk: I thank the Minister for his Answer, but I am disappointed on it. Can I ask the Minister then, if he is to engage local authorities into being open and honest with him or his Department, should not his Department be open and honest with them to provide the details of the contract that they are going to be funding a large majority of?

The Speaker: Minister. *(Interjection by Mr Houghton)*

210 **The Minister:** Yes, obviously, there needs to be an exchange, a frank and open exchange, with local authorities in this regard. I met only the other day with the present Chair of the Municipal Association.

I understand the point the Hon. Member is making. I do hope that trust does exist between the two bodies and that together we can make progress in this matter.

215 **The Speaker:** Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

220 Would the Minister agree that, in the interests of openness and transparency, it should be possible to redact anything that is commercially sensitive and to publish the document?

The Speaker: Minister.

The Minister: No, I would not agree with the Hon. Member.

225 The situation is that, if there are any particular points that Hon. Members or others wish to have, then I am happy to have those redacted, taken away, so that the information can be made available. I said that in the earlier answer, but the whole document, I am afraid, we cannot release. My policy is one of openness and I sometimes get myself into trouble for being too open. However, I have sought advice on this matter and was legally advised that I could not publish the document in the manner requested.

230 **The Speaker:** Final supplementary, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

235 The Minister does have a committee called the Richmond Hill Committee. I am just wondering whether the Minister would provide the documentation in full to that particular Committee? It is under his guidance and control and if the Minister is unhappy, maybe to release the document which has been suitably sanitized, would he do it to the Richmond Hill Committee?

240 **The Speaker:** Minister.

The Minister: I will consider the matter.

245 **COMMUNITY, CULTURE AND LEISURE**

**Bendy buses
Risk assessment to protect children**

250 1.3. The Hon. Member for Castletown (Mr Ronan) to ask the Minister for Community, Culture and Leisure:

255 *Whether a risk assessment was carried out to assess what protection will be offered to children as passengers on a bendy bus?*

The Speaker: Question 3, Hon. Member for Castletown, Mr Ronan.

Mr Ronan: I beg leave to ask the Question standing in my name.

260 **The Speaker:** I call on the Minister for Community, Culture and Leisure, Mr Cregeen.

The Minister for Community, Culture and Leisure (Mr Cregeen): Thank you, Mr Speaker.

265 The articulated buses follow the same process as our existing fleet, that they are designed and certified to carry a certain number of standing passengers. The certification process is set out in the United Nations ECE standards and more recently the European Whole Vehicle Type Approval. The number of standing passengers is based on assessment of risks after consideration of a range of hazards, controls and risks, including, for example, vehicle weight, space to stand and facilities to hold on. Whilst the certification process is undertaken by the manufacturers and the national authorities, we have followed these criteria in our choice of vehicles.

270 For the record, the maximum *current* number of standing passengers on one of our buses is 31. The Mercedes Citaro Artic is certified to carry 101 standing passengers. However, we would be planning to change the internal layout of any articulated buses that we buy to increase the seating capacity from 49 to 56 and maintain wheelchair and pram access, which we expect will limit the standing to 94.

275 I wish to make it quite clear that my Department is planning to operate two of these vehicles for a month's trial. This is to assess the suitability of these vehicles on the Island. If the benefits of using these vehicles are confirmed, we plan to operate eight services using articulated buses. As long-term use of these buses requires a change of legislation, Tynwald approval will be needed.

280 I would like to make it quite clear that we have not purchased any of these vehicles and if the trial does not prove successful, we will not carry out any purchase of them.

The Speaker: Mr Ronan, supplementary.

285 **Mr Ronan:** What I was asking the Minister, really, were risk assessments carried out by the Department of Community, Culture and Leisure and did his Department take into consideration other assessments and trials carried out in other areas of the UK? If so, can he please circulate any details of the risk assessments to Members, so we can alleviate the fears that parents have about their children travelling to school on articulated buses?

290 **The Speaker:** Mr Cregeen.

The Minister: The risk assessment on the carrying capacity of these buses is carried out by the manufacturers and by the Whole Vehicle Type Approval. We will be bringing two of these

295 vehicles over to assess their suitability and we will be carrying out consultation during that period
and, like I said earlier, if it is successful, we will look into buying them; if it is not, then we will
not.

The Speaker: Hon. Member for Ramsey, Mr Singer.

300 **Mr Singer:** Thank you.

Would the Minister agree, though, that you cannot look just at a United Nations edict and hide
behind that and the fact that the risk assessment on the Isle of Man is important, because the risks
associated with using a bendy bus on the Isle of Man will be totally different from using a bendy
bus in a major city?

305

The Speaker: Minister to reply.

The Minister: Mr Speaker, the carrying capacity is what the Member was asking the question
about. It was the carrying capacity. It does not matter whether it is on the Isle of Man, or whether
it is anywhere else. The carrying capacity and the risks are the same. The suitability as to whether
they are acceptable on the roads is why we are bringing two over for a trial and that is where we
will be checking the suitability.

310

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

315

Mr Houghton: Thank you, Mr Speaker.

When a bendy bus is used, usually for standing passengers, it is to carry a lot of passengers
getting off an aircraft remotely parked at an airport to take those passengers to the airport building.
Can he tell this Hon. House what, in his risk assessment, has been undertaken as to the maximum
distance he expects 100 children to stand on a bus? What is the maximum distance of the distance
from an aircraft parked remotely from the airport terminal, or the distance from Castle Rushen
School all the way down south to Port Erin and Port St Mary, etc? Has that been undertaken?

320

The Speaker: Minister to reply.

325

The Minister: Thank you, Mr Speaker.

It is quite clear the Member does not know anything about buses, because these buses are not
made for airports, they are made for general use. They are used all over the world and not just
airports. Some of them are used at airports. I think if the Member actually went to Liverpool
Airport, he would find he was getting on an articulated bus from Liverpool Airport to Liverpool
centre, so it is not just for airports; and when you have a number of passengers standing, if it was,
say, from Castle Rushen, you would not have that hundred passengers all standing for that time,
because people do get off in between.

330

The Speaker: Mrs Beecroft, supplementary.

335

Mrs Beecroft: Thank you, Mr Speaker.

Would the Minister agree with me that the risk assessments carried out by the manufacturers
and other bodies would have been a general assessment for members of the public? There would
have been no risk assessment for it to be primarily used for schoolchildren.

340

The Speaker: Minister.

The Minister: Mr Speaker, we are relying on the risk assessment and crash facilities that they
use across in these jurisdictions and from manufacturers. It is the same with any other bus. We
take it on the assessment from the manufacturers.

345

The Speaker: Mr Ronan.

350 **Mr Ronan:** Thank you, Mr Speaker.

Would the Minister agree with me that in Northern Ireland, they introduced new measures in
September 2006, not only to abolish the practice of three children sharing a two-person seat, but to
absolutely abolish the practice of any children standing on designated school buses, except in
exceptional circumstances? Wales have followed on from English passenger transport authorities

355 and also introduced a recognised one child, one seat approach. Everybody seems to be driving forward regarding to safety of schoolchildren travelling, but we as an Island seem to be reversing, would he agree?

360 **The Speaker:** Minister to reply.

The Minister: Thank you, Mr Speaker.
Like I have repeated, these assessments have been made. If the Hon. Member is suggesting that we go down that way, I would be quite pleased if he would approach the Department, because as a member of the Department of Infrastructure who ultimately license these vehicles ó if they do not
365 license them, we cannot use them ó but it would be much appreciated if he would identify where he thinks the money is going to come from to purchase a whole new fleet of buses?

The Speaker: Mr Quayle.

370 **Mr Quayle:** Could the Minister confirm if the insurance cover will be acceptable to cover Bus Vannin, because if a child is injured during the trial, when we are trying to ascertain if the bendy buses are safe and practical for the Island and a child gets injured during the trial, will the insurance actually cover it? There is one thing being insured when something is acceptable and been proved to be okay for the Island, but if we are having a trial and someone gets injured, it
375 would be interesting to clarify the insurance point.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.
380 We will ensure the insurance is valid and the suitability is getting into the schools and to their destinations. It is not regarding the carrying capacity, because that has been approved.

The Speaker: Mr Houghton.

385 **Mr Houghton:** Mr Speaker, I note the Minister has not properly answered the issue to do with the risk assessment that I asked him about, in that what is the maximum distance children are expected to stand? Could he answer that question?

Also in the interests of safety, when he is doing away with one of the bus entrances from three, currently on a bendy bus, down to two, what safety factors have been built into the risk
390 assessment, and can he detail those in respect of the reduction of one of the emergency doors on that bus ó on each bus?

The Speaker: Reply, sir.

395 **The Minister:** Thank you, Mr Speaker.
These vehicles ó if we go ahead with them ó will be altered by Mercedes who are the manufacturers so they will have carried out the necessary checks on it. The distances will be from the schools to their final destination and I am sure the Member will know the distances from, say, Castle Rushen to the final destination. It is the same as we have with the double deckers or the
400 single decker buses. I think this is just nit-picking.

The Speaker: Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.
405 Would the Minister advise the House whether he has any staff in his Department who have experience of operating a fleet of articulated buses on road services, please?

The Speaker: Minister to reply.

410 **The Minister:** Yes, we have at least two who have operated. One who operated in England.

Mr Houghton: And Mr Speaker, may I ask?

The Speaker: When you are called, you may ask!
415 Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

420 Could the Minister confirm whether the insurance does actually go out to an outside insurance company, or is this an area that Government is actually self-insuring?

The Speaker: Minister.

The Minister: It goes out to an outsideí It is not self-insured.

425 **The Speaker:** Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

430 In relation to the Minister's previous answer, as to there are at least two staff within his Department who have experience with bendy buses, they would not happen to be from the same firm who are trying to sell this junk to the Isle of Man, that being Arriva? Have they previously worked for the organisation that is trying to sell us these duff bendy buses?

The Speaker: Minister.

435 **The Minister:** Thank you, Mr Speaker.
That is the Member's own opinion.

The Speaker: Final supplementary, Mr Ronan.

440 **Mr Ronan:** Thank you, Mr Speaker. I will come back to the original Question, if you do not mind.

445 Will the Minister please give assurance to the House today that he will publish any risk assessments carried out by his Department? Also, will he give us clarification whether he and his Department have checked other jurisdictions regarding their risk assessments of these articulated buses?

Basically, Minister will you publish your risk assessments?

The Speaker: Minister.

450 **The Minister:** The risk assessment was carried out from Mercedes and I will try and get their assessment on the carrying capacity, to publish.

455 **The Speaker:** Hon. Members, that brings us to the end of Questions for Oral Answer. There are four Questions for Written Answer, and those require to be distributed.

Questions for Written Answer

460

CHIEF MINISTER

Council of Ministers

Independent planning advisers; details

465

2.1. The Hon. Member for Onchan (Mr Hall) to ask the Chief Minister:

470 (a) How often in the last year Council of Ministers has not accepted the recommendations of its independent planning adviser; and

(b) how the independence of its planning adviser is assured, given that the Council of Ministers changes advisers regularly?

475 **Answer:** It is imperative that the Town and Country Planning process provides applicants seeking planning approval and interested parties with access to a fair and transparent decision-making process. This is achieved by utilising professionally qualified persons to provide advice to the relevant decision makers.

By way of background information, independent professionally qualified persons are potentially utilised in four circumstances, under the provisions of the relevant legislation, as follows:

480

(1) Where the Department of Infrastructure makes an application, or has an interest in an application, the application must be referred to and determined by the Council of Ministers. In this circumstance, the Council of Ministers receives advice in the form of a report from an independent person appointed for the purpose. (See Article 10 of the Town and Country Planning (Development Procedure) Order 2005 (the Order)).

485

(2) Where an appeal on a planning decision is made to the Minister for the Department of Infrastructure, the matter must also be referred to a person appointed for the purpose by the Council of Ministers and advice in the form of a report is considered by the Minister (see Article 8 of the Order).

490

(3) Where a development plan (a strategic or area plan) is published, an inquiry must be held by a person appointed for the purpose (see schedule 1 of the Town and Country Planning Act 1999).

495

(4) Where the Council of Ministers considers that an application ought to be referred to and determined by it under section 11(1) of the Town and Country Planning Act 1999 and the application has been called in by Council, then similarly, the matter is referred to a person appointed for the purpose.

500

The Council of Ministers occasionally refers policy and procedural matters for professional planning advice and has access to the services of a suitably qualified and experienced person who does not participate as an Appointed Person in the above four circumstances.

In response to question (a) above: the Council of Ministers has determined 34 applications in the year since 22nd January 2012 and made a determination that varied from the recommendation of the Appointed Person in one instance. The reason for Council's decision in respect of the case was communicated and published in accordance with the statutory requirements.

505

In response to question (b) above: in the four circumstances outlined above, the appointment of a person is made from a shortlist of persons approved by the Council of Ministers for the specific purpose. The Council of Ministers potentially changes its inspectors who are approved to act as Appointed Persons every three years.

510

The opportunity to act as an Appointed Person is advertised every three years and a shortlist of persons qualified professionally and suitably experienced is considered, approved by Council and the approved list is then used as the source of Appointed Persons. Persons who have previously acted in the capacity of Appointed Person are eligible to re-apply. Once on the approved list there is no guarantee of initial work or future work and no retainer fees are paid.

515

There are currently five persons who have been approved by Council to act as Appointed Persons to consider applications and appeals; however, unfortunately one is currently unavailable due to serious health problems.

520

The independence of the appointees is protected primarily by their status as an independent inspector, being an appointee to a public office role. It is also protected through their professional association and by virtue of their non-resident status. It would not be appropriate to appoint a person resident on the Isle of Man as due to the likelihood of family relationships etc, it could easily be alleged that there was some bias.

525

The inspectors are under no obligation to accept a referral and they are free to reject an invitation to act as an Appointed Person as they see fit. They conduct hearings and inquiries according to the relevant statute.

530

Care is taken to ensure that there is limited contact between local planning officers and Appointed Persons and politicians and Appointed Persons (save for at specific hearings and inquiries). Contact details of the inspectors who are approved to act as Appointed Persons are never shared with planning officers or politicians. Annual meetings take place between senior planning officers, the secretariat and the inspectors to ensure that procedural matters and policy and legislative updates are provided appropriately and any administrative matters requiring attention can be resolved. Specific active applications, which have not yet been determined, are not discussed at the meeting. In this respect both the Appointed Persons and local planning officers ensure that their actions fully accord with relevant codes of professional conduct of bodies which they are members, such as the Royal Town Planning Institute.

535

TREASURY

540

**Local Authority Borrowing Scheme
Details**

2.2. The Hon. Member for Onchan (Mr Hall) to ask the Minister for the Treasury:

545

With reference to the Treasury's December 2012 request for expressions of interest in providing a new facility:

550

Whether the Local Authority Borrowing Scheme can be used for both (i) housing-related; and (ii) rate-borne borrowing, and if so, in what proportions, and whether the credit risk of the lender will be equal in the two cases; whether the Treasury will be the contracting party for each particular loan or, for the overall facility; how local authorities are involved in the procurement and contracting process; and what life and what principal amount are sought, and by how much local authority debt is expected to increase during the life of the new facility?

555

Answer: The Local Authority Borrowing Scheme facilitated by the Treasury may, subject to relevant approvals and petition procedures, be used for both housing related and rate-borne borrowing. These procedures include an element of scrutiny in order to demonstrate value for money for both the ratepayer and taxpayer. There is no specified apportionment under the proposed arrangements although the primary purpose is for housing.

560

As regards the credit risk of the lender, this will be the same for both housing and rate-borne borrowing. The loan facility for this purpose will be provided by the same funder.

In the event that the Question meant to distinguish the credit risk *to* the lender, dependent upon the purpose of the loan, then the answer would be that both approved schemes are guaranteed by the Treasury and therefore there is no variance in credit risk to the lender.

565

The Treasury will be the contracting party for the overall facility and each local authority will contract with the loan provider for each specific scheme, guaranteed by a letter of comfort from the Treasury. This is consistent with the existing facility.

570

Each of the local authorities was consulted in December 2012 and informed that the loan facility was to be re-tendered. They were invited to give an indication of their borrowing requirements for the next five years and comment on the existing arrangements.

It is the intention that the contract to provide the loan facility will cover a period of five years; as yet, the principal amount being sought has not been finalised although an indicative value of £150 million was included in the expressions of interest advertisement.

575

The replies from the local authorities are being received by the Treasury at present so it is too early to confirm how much local authority debt may increase during the life of the facility. This will ultimately depend upon the approved capital expenditure programmes, availability of public finances and allocation of resources by local authorities and Government.

580

INFRASTRUCTURE

**Local authorities
Library provision**

585

2.3. The Hon. Member for Onchan (Mr Hall) to ask the Minister for Infrastructure:

590

What power and duty local authorities have in respect of library provision; and what constraints there are on using rates to finance such library provision by each local authority, with special reference to the Douglas Library Act 1938?

595

Answer: Local authorities have the power to provide public libraries within their district under powers provided for in the Local Government Consolidation Act 1916. Specifically, sections 333-338 of that Act enable a local authority to acquire land to build a library, provide a library service and carry out the general management of a library.

At present only Douglas, Onchan, Peel, Castletown, Ramsey, and Port Erin provide lending libraries. Following changes to the Local Government Act (LGA) 1985, a local authority can, with the consent of the Department of Infrastructure, enter into an agreement with another local

600 authority to discharge a function on its behalf. This means that a local authority that already provides library services can provide library facilities for another local authority.

The Douglas Library Act 1938 includes provision in section 3, which states that Douglas Borough Council:

605 *if* are empowered to expend in any year and every year for the purposes of carrying out the provisions of sections 333-339 of the Local Government Consolidation Act 1916, a sum of money which shall not exceed the product of a rate of two pence in the £ on the rateable value of property within the borough.

However, this legislation appears to be superseded by the Local Government Act 1985 and subsequent amendments to the LGA in 2006.

610 The Department is not aware of any further constraints being placed on local authorities to regulate the use of rates in providing library services in their Districts.

615

CIVIL SERVICE COMMISSION

Civil Service staff Details of Manx workers

620 2.4. The Hon. Member for Rushen (Mr Skelly) to ask the Chairman of the Civil Service Commission:

625 *What percentage of Civil Service staff, broken down by grade, are (a) Manx born; (b) Manx educated; or (c) have declared themselves Manx; and what his policy is on professional development and succession planning for internal Civil Service candidates?*

630 **Answer:** Government's central HR database does not hold information in relation to the place of birth of, or the location of educational establishments attended by, members of the Civil Service. Therefore, answers cannot be given in respect of the percentage of civil servants who are Manx born or who have been wholly, or partially, educated on the Island.

635 Information is recorded on Government's central HR database in relation to nationality as declared by an individual civil servant at the time of their appointment to the Civil Service. Each individual is asked to declare their nationality at that time and, of those who do make a declaration, a significant number declare themselves as Manx. It is, nonetheless, likely that some of those who may be considered to be Manx actually indicate that they are British, as for nationality purposes that would be a more accurate reflection of the legal position of the Isle of Man (along with the Channel Islands) is considered as part of the United Kingdom for nationality purposes.

640 In the following Table 2.4A is set out the % of Civil Service staff who have declared themselves as Manx, by grade, level or group:

Table 2.4A

Civil Service Grade/Level/Group	% Declaring themselves as Manx (of the total who have made a nationality declaration)
Corporate Leadership Group	35.6%
OS Grade 7 and equivalent (and above)	27.9%
Senior Executive Officer and equivalent	36.2%
Higher Executive Officer and equivalent	39.8%
Executive Officer and equivalent	48.6%
Administrative Officer and equivalent	57.6%
Administrative Assistant and equivalent	45.3%
Secretarial grades	46.3%
Airport group	41.9%
Trainees	66.7%
Support grades	56%

645 *Note:* For the purpose of this Table, management grades can be taken as being principally Executive Officer and equivalent and above, the exception being in relation to the Airport Group, which includes some managerial job holders, but given that the group comprises 17 in total, this does not materially affect the results.

Overall, of those members of the Civil Service who have made a nationality declaration, 46.8% describe themselves as Manx. This can be compared with the percentage of the Island's population identified by way of the 2011 Census as being born in the Island, which is 48.1%.

Given that there are likely to be a number of civil servants who would be considered to be Manx but who have declared themselves as British, then it is reasonable to suggest that the Civil Service broadly reflects the makeup of the population overall in this regard.

The Civil Service Commission is fully committed to the development of all members of the Civil Service and, in conjunction with relevant Departments, Boards and Offices, encourages and supports staff to reach their potential. Such development can be to support the acquisition or enhancement of knowledge, skills or experience to enable an individual to perform the duties of their current job more effectively or to enable them to progress to undertake a job at a higher level. Within available resources staff are encouraged to undertake a wide range of development activities, which can include, amongst other things:

- attending core skills, technical and career development workshops, and leadership and management development programmes;
- e-learning;
- conducting research and undertaking project work;
- job shadowing and secondment;
- career path roles;
- coaching and mentoring;
- attendance at briefings, conference and seminars;
- further education study towards the acquisition of professional, technical and managerial qualifications.

Further information about the Commission's approach to staff development can be found in section G of the Civil Service Regulations, which can be viewed on the Office of Human Resources website at www.gov.im/hr. The Commission's approach to staff development is in keeping with the principles of the Isle of Man Government Learning and Development Policy and Strategy which can also be found on the Office of Human Resources website.

A Civil Service Succession Management Group (SMG), chaired by the Chief Secretary, which was established by the Commission in 2007, works to:

- identify, develop and retain key talent within the Isle of Man Civil Service;
- motivate and maximise the potential of individuals to improve engagement and productivity;
- grow future senior leaders for the Isle of Man Civil Service;
- support people to achieve their potential and to continue to be challenged, developed and motivated;
- ensure the sustainability and continuity of key roles;
- provide a more corporate focus on utilising our people to best effect;
- achieve more efficient performance delivery by having access to internal candidates currently possessing or seeking to develop the knowledge, skills or experience required to deliver projects or occupy key roles;
- reduce recruitment costs through increased internal recruitment;
- enable individuals to become effective in new roles within a shorter period as they have been placed into the right role at the right time based on proven performance;
- provide individuals with the means and support to take ownership of their career.

Orders of the Day

700

BILLS FOR SECOND READING

705

Fisheries (Amendment) Bill 2012 **Second Reading approved**

3.1. Mr Gawne to move:

710

That the Fisheries (Amendment) Bill 2012 be read the second time.

The Speaker: We turn now to Item 3, Bills for Second Reading. The first of those is the Fisheries (Amendment) Bill. I call on the mover, Mr Gawne.

715

Mr Gawne: Gura mie eu, Loayreyder.

720

In the few days prior to the announcement of Royal Assent for the Fisheries Act 2012, it was notified by the Ministry of Justice that two particular sections of the Fisheries Act were not Human Rights compliant. Both of these non-compliant sections are a straight lift from the Inland Fisheries Act 1976, which was subjected to a Human Rights audit, prior to the introduction of the Human Rights Act in 2001. The particular provisions were not highlighted as requiring amendment at that time.

Following discussions between the legislative drafter and the Ministry of Justice in the UK, it was agreed that the Department would give an undertaking not to implement those provisions within the Bill until an appropriate amendment had been made.

725

This minor amendment Bill introduces a defence into section 28 and provides for independent scrutiny in respect of section 81.

Loayreyder, I move that this Bill be read for a second time.

730

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

735

The Speaker: Hon. Members, I put the motion that the Fisheries (Amendment) Bill 2012 be read the second time. Those in favour, please, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members.

740

Bribery Bill 2012 **Second Reading approved**

3.2. Mr Watterson to move:

745

That the Bribery Bill 2012 be read the second time.

The Speaker: We turn now to the Bribery Bill. I call on the mover, Mr Watterson.

750

Mr Watterson: Mr Speaker, in moving the Second Reading of the Bribery Bill, it is important to note its context and background. The Island has positioned itself as a co-operative jurisdiction and an international business centre that is responsive to the values and developing standards of the international community. It is good for business to be associated with a reputable jurisdiction, increasingly so in the financial climate.

755

In seeking to keep our legislation in line with international standards, it is recognised we need to be careful not to make our provisions over bureaucratic or onerous. Bribery or corruption is a major issue. This is why the international community, through organisations such as the United Nations Organisation for Economic Co-operation and Development (OECD), encourages all countries to enact legislation to make it a serious criminal offence to engage in such activities.

760 The Island enacted the Corruption Act in 2008, which was the same year as the IMF visited the Island to assess its compliance with the Financial Action Task Force (FATF) anti-money laundering recommendations and related international standards.

765 Since then, the goal posts have moved. The United Kingdom has enacted its own Bribery Act in 2010, and the UK's Act is seen as setting best practice in anti-bribery legislation, including the revised and strengthened FATF recommendations. It was felt that having legislation as similar to the UK's as possible would present less of a burden to business, as companies having any business relationship with the UK would already be aware of, and so should be complying with, the requirements of the UK Bribery Act when doing business off Island.

770 The principal difference between the Bill and our existing legislation is the introduction of an offence under which a relevant commercial organisation may be prosecuted for failing to prevent bribery, if a person associated with that organisation commits a bribery offence anywhere in the world for the benefit of the organisation. However, a commercial organisation will have a defence if it has adequate procedures in place to prevent such conduct taking place.

775 The Bill provides for guidance to be prepared and issued by the Department, setting out what might constitute adequate procedures. The other differences between this Bill and the Corruption Act 2008 are mainly due to the use of more modern drafting style.

780 Following a six-week consultation period, the Department considered the 16 responses it received. The OECD itself responded to the consultation and welcomed the Island's initiative in bringing forward this legislation. The Department had regard to its views and those of other respondents to the consultation process, and so the Bill differs from the UK's Bribery Act in some respects, because it retains three provisions from the Corruption Act 2008, which it otherwise repeals and replaces. This relates to the duty on public officials to report bribery and it sets the time limit for bribery prosecutions at up to 21 years from the date of the alleged offence. It also sets the maximum summary court financial penalty for certain bribery offences at £10,000, in line with the statutory maximum in Scotland, rather than the maximum summary fine of £5,000 in England and Wales.

785 Mr Speaker, I beg to move that the Second Reading of the Bribery Bill be approved.

The Speaker: Mr Quirk.

790 **Mr Quirk:** Thank you, Mr Speaker.
I beg to second, sir, and reserve my remarks.

The Speaker: Hon. Member for Ramsey, Mr Singer.

795 **Mr Singer:** Could I ask the Minister just for clarification? There is a section where if a resident on the Island does anything in a country or territory outside the Island, then the company can be prosecuted. What is the situation if the company has a representative abroad who is not a resident of the Island, but is offered a bribe?

800 **The Speaker:** I call on the mover to reply.

Mr Watterson: Thank you, Mr Speaker.
My understanding is that, in such circumstances, the *company* will still be held liable for the actions of their agent. That is my understanding of it. I will be happy to provide further clarification on that at the clauses stage if required, sir.

805 **The Speaker:** Hon. Members, I put the question that the Bribery Bill 2012 be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

810

BILLS FOR CONSIDERATION OF CLAUSES

815 **Regulation of Care Bill 2012**
Clauses considered

4.1. Mr Robertshaw to move.

820 **The Speaker:** We turn now to Item 4, Bill for consideration of clauses. The first is the Regulation of Care Bill 2012. Hon. Members, this is a large Bill and Mr Robertshaw, the mover,

has already indicated he wishes to take clauses in groups, as set out in his Paper circulated to Hon. Members in advance, which you should have a copy of.

I call Mr Robertshaw to move clause 1.

825 **Mr Robertshaw:** Thank you, Mr Speaker.

First I would like to thank Members who contributed to the debate during the Second Reading. It was pleasing to hear so much support for the Bill. I am also grateful to those who came to the briefing last week, which detailed some of the changes to the Bill, following consultation and provided some further background to the important changes the current regulation contained in this Bill.

830 Turning to clause 1, which gives the Bill its short title, Mr Speaker, I beg to move that clause 1 do stand part of the Bill.

835 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

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

Clause 2.

Mr Robertshaw: Clause 2 provides for the commencement of the Act, the majority of which comes into effect on Royal Assent, but three clauses commence by Appointed Day Order. These are:

845 Clause 52, offence to carry on or manage without registration ó this clause starts the process of the registration of care services under this Bill. Bringing this clause in by Appointed Day Order allows the Department to structure the registration process to a more exact timescale.

850 Part 5 ó this part starts the process of the registration of specified social care staff. Again, this is being brought in under an Appointed Day Order to allow for a staged approach and engagement with the professional body undertaking the registration.

Clause 184 ó this clause launches the registration of existing unregistered social care staff.

Mr Speaker, I beg to move that clause 2 do stand part of the Bill.

855 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

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

Clause 3 please.

Mr Robertshaw: This clause states the purpose of the Bill. I beg to move that clause 3 do stand part of the Bill.

865 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

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

Clause 4.

875 **Mr Robertshaw:** This clause states how the purposes are achieved by the Bill. This provision is included to make the Bill more user friendly to the average reader, allowing a reader to quickly find out what the Bill is generally about.

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

The Speaker: Mr Ronan.

880 **Mr Ronan:** I beg to second and reserve my remarks.

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

Clause 5.

885

Mr Robertshaw: This clause gives a clear definition of "social care" for the purposes of this Bill. This is not defined elsewhere in Manx legislation.

The focus here is providing personal care, practical assistance, or personal support, for example, bathing and dressing, or assistance with these tasks.

890

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

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

895

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

Clause 6.

900

Mr Robertshaw: This clause explains that the definition of care services means an agency, establishment or childminding for the purposes of this Bill. Regulations may provide for subcategories, for which a care service can be registered. For example, if the category registered is "adult care home" the subcategory may be "mental illness". This would allow a care home to take on service users with mental health needs.

905

Care services can have more than one subcategory, but will need to demonstrate in each case that their staff have the confidence and skill to care for such service users. For example, having qualified nurses, if a service is registered with "nursing" as a subcategory. This is a change to the current legislation, whereby care homes have to register more than once, if they provide different types of care.

910

Mr Speaker, I beg to move that clause 6 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

915

The Speaker: I put the question that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 7 and 8, Mr Robertshaw.

920

Mr Robertshaw: Thank you, Mr Speaker.

These clauses define what care services are "agencies" and which are "establishments". "Agencies" means that inspection will be of the agency's premises and records and not individual arrangements. However, in inspecting an agency, interviews and surveys will be conducted with service users and/or their families to assess the service being inspected. "Establishments" mean that an inspection will be of the specific premises and the staff working there.

925

Please note, the full definitions of each of these services are contained in subdivision 2.

In both clauses the Department has added new provisions to be able to add an agency or establishment via secondary legislation. This provision has been included to ensure that we can quickly adapt to the changing care service market. For example, even five years ago you could not have predicted the number of domiciliary care agencies that would be operating on the Island.

930

I beg to move that clauses 7 and 8 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

935

The Speaker: Hon. Member, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

940

Can I just ask the Minister regarding that in the explanatory notes there. It does indicate that a person can arrive from a private dwelling and I am wondering whether the Minister could, or maybe later on, if he has not got information to provide us when this actualí who takes

preference? Is it his own Department that registers the dwelling, or that planning has the main criteria for the particular dwelling? And when there is a conflict, where will that be resolved?

945

The Speaker: Mover to reply, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

950

I do not see that there is a preference issue here. They are two separate matters entirely. I am not quite sure now where there would be a conflict in the matter at all. Registration of a property is a matter that identifies the service being provided and the establishment it sits in. Planning has a different set of criteria altogether.

955

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

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

Clause 9.

960

Mr Robertshaw: This clause defines the Department care service for the purposes of this Bill. This includes a Department of Social Care service carried on by another Department under another Act. This is to capture services such as offender accommodation.

Mr Speaker, I beg to move that clause 9 do stand part of the Bill.

965

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

970

The Speaker: I put the question that clause 9 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

975

Mr Robertshaw: Mr Speaker, subsection (1) defines an independent care service for the purpose of this Bill.

Subsection (2) clarifies that if a care service is jointly carried out by a Government Department and the independent sector, then the independent sector care service will be registered and regulated. This means the independent sector will require registration under part 3. However, if the Department is undertaking some tasks, as opposed to merely providing finance or acting as an agent, then the Department's part will be monitored and inspected as any other full Department care service would be under this Bill

980

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

The Speaker: Mr Ronan.

985

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 10 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

990

Clause 11.

Mr Robertshaw: This clause defines non-NHS health care service for the purposes of this Bill. It only includes an independent clinic, an independent hospital, an independent medical agency and a nurses agency.

995

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

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

1000

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

Clause 12.

1005 **Mr Robertshaw:** This clause defines ‘child-related’ care services for the purposes of this Bill. This is required to allow specific disqualifications for people providing care services for children. Mr Speaker, I beg to move that clause 12 do stand part of the Bill.

The Speaker: Mr Ronan.

1010 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: I put the question that clause 12 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 13.

1015 **Mr Robertshaw:** This clause takes the owner of the business as the person who ‘carries on’ the care service. If a care service is run jointly between the Department and the independent sector, then the independent sector is the owner of the business.

1020 Mr Speaker, I beg to move that clause 13 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

1025 **The Speaker:** I put the question that clause 13 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 14.

1030 **Mr Robertshaw:** This clause defines the person who ‘manages’ a care service, i.e. a person directly or indirectly responsible for the day-to-day operation. This can either be the same person who owns the business, or can be a separate person.

1035 It is a matter for registrations and inspections to decide whether or not the person carrying on the service can also be the manager of the service. This depends on two criteria: firstly, the qualifications and experience of the person; and secondly, whether the person carrying on the service has any other services and premises he/she is responsible for.

Mr Speaker, I beg to move that clause 14 do stand part of the Bill.

The Speaker: Mr Ronan.

1040 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: Mr Quirk.

1045 **Mr Quirk:** Can I ask the Minister, when there are multiple businesses, the person who is responsible – does the person who is responsible have to reside at one particular place, when there are two separate ones? What are the criteria on that?

The Speaker: Reply, sir.

1050 **Mr Robertshaw:** Mr Speaker, we actually do deal with that matter later in the clauses and if the Member would be patient, I would be grateful.

1055 **The Speaker:** I put the question that clause 14 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 15.

Mr Robertshaw: This clause is required to clarify the use of the term ‘care service’ in parts of the Bill without requiring a specific care service to be detailed.

1060 Mr Speaker, I beg to move that clause 15 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

1065 **The Speaker:** I put the question that clause 15 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 16.

1070 **Mr Robertshaw:** This clause defines an ‘adult care home’ as providing certain care-based criteria, such as illness. The definition excludes certain establishments from the definition and allows for further exclusions to be prescribed by regulations. Adult care homes are currently regulated under the Nursing and Residential Home Act. The reason why a new definition has to be included is to bring nursing and residential care under the term ‘adult care home’.
1075 Mr Speaker, I beg to move that clause 16 do stand part of the Bill.

The Speaker: Mr Singer.

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

1080 **The Speaker:** I put the question that clause 16 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 17.

1085 **Mr Robertshaw:** This clause defines an ‘adult day care centre’ as providing certain care, because of the same criteria set out in clause 16. The definition states that these must be provided for more than four hours a day. The definition excludes certain establishments from the definition and allows for further exclusions to be prescribed by regulations.
Adult day care centres are a new addition to regulation. The definition covers day centres for adults who are providing care services, such as Praxis and Age Isle of Man. This does not include centres that provide things like lunch clubs. The definition seeks to capture those providing personal care.
1090 Mr Speaker, I beg to move that clause 17 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: Mr Speaker, I beg to second.

The Speaker: I put the question that clause 17 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
1100 Clause 18.

Mr Robertshaw: Mr Speaker, this clause defines an ‘adult placement agency’ but a business can be excluded by regulations. Adult placement agencies are a new addition to regulation. Adult placement agencies are usually operated by a local authority and operate in a similar way to fostering for children.
1105 The Department is looking at developing an adult placement agency to potentially reduce reliance on community homes and residential homes by providing care for vulnerable adults within a family setting.

Mr Speaker, I beg to move that clause 18 do stand part of the Bill.

1110 **The Speaker:** Mr Singer.

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

1115 **The Speaker:** I put the question that clause 18 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 19.

1120 **Mr Robertshaw:** This clause defines a ‘child care agency’ but a business can be excluded by regulations. Child care agencies are a new addition to regulation.
This is not about the people caring for the children; it is about the agency supplying, or introducing them to the parents. They are similar to a domiciliary care agency, but for children, generally, an agency organising care for children in their own home, or transport to and from day centres. The regulation is of the agency itself and their procedures.

1125 Mr Speaker, I beg to move that clause 19 do stand part of the Bill.

The Speaker: Mr Singer.

1130 **Mr Singer:** I beg to second and reserve my remarks.

The Speaker: I put the question that clause 19 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 20.

1135 **Mr Robertshaw:** Mr Speaker, this clause defines a "child day care centre". The clause only applies to day care for children under eight years old. Child day care centres are currently regulated under the Children and Young Persons Act 2001. There is no change to the definition. This definition covers nurseries, playgroups, after-school groups and creches.

1140 I beg to move that clause 20 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second.

1145 **The Speaker:** I put the question that clause 20 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 21.

1150 **Mr Robertshaw:** This clause defines "childminding" and excludes certain persons from the definition, including nannies, as spelt out in subsection (2)(b) and (c). The clause only applies to childminding for children under eight years old.

1155 Childminders are currently regulated under the Children and Young Persons Act 2001. The only significant change to the definition is that "relative" has been expanded from the previous legal definition to:

"a person connected to the child or children by whole blood, half blood or by marriage, civil partnership or some [other] affinity" .

1160 This is to capture the different relationships that now exist within families, for example, step parents.

Mr Speaker, I beg to move that clause 21 do stand part of the Bill.

The Speaker: Mr Singer.

1165 **Mr Singer:** I beg to second and reserve my remarks.

The Speaker: I put the question that clause 21 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 22.

1170 **Mr Robertshaw:** This clause defines a "children's home" and excludes certain establishments from the definition. The definition excludes certain establishments from the definition, including boarding schools and allows for further exclusions to be prescribed by regulations. Children's homes are currently regulated under the Children and Young Persons Act. The only change is that this will now include the regulation of any size of children's home, whereas currently, regulation is only for those with three or more children.

Mr Speaker, I beg to move that clause 22 do stand part of the Bill.

The Speaker: Mr Singer.

1180 **Mr Singer:** I beg to second.

The Speaker: Mr Quirk.

1185 **Mr Quirk:** Mr Speaker, just a question on when it is three or more children into a private dwelling, I am wondering if a person was to apply to mind kids and had a criterion, what would the criterion be if the person then had a home with two kids and then wanted to increase it to three,

1190 to four, to five, what would be the criteria then? Would they make an application? I am just wondering what the relationship would be, if it was in a residential area. How would the neighbours know, or the local authority know?

Mr Houghton: Oh! The local authority.

1195 **The Speaker:** Reply, sir.

Mr Robertshaw: Mr Speaker, I could perhaps give a bit of background to what is actually happening here. The move within my Department is to see children instead of being in larger children's homes of four, five and so on, to move them, as you would expect, much more into family environments that are not necessarily fostered or adopted. So the idea is that those areas are registered, where you have got one and two children.

1200 As far as knowing that the child is in the area, it is a family home environment, but registered because it is not adopted or fostered. I hope that clears the matter up, Mr Speaker.

1205 **The Speaker:** I put the question that clause 22 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 23.

1210 **Mr Robertshaw:** This clause defines a -child (secure accommodation) establishment. This is not a new addition. It covers a secure unit, which is already regulated under the Children and Young Persons Act 2001 as a children's home.
I beg to move that clause 23 do stand part of the Bill.

The Speaker: Mr Singer.

1215 **Mr Singer:** Mr Speaker, I beg to second.

The Speaker: I put the question that clause 23 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 24.

1220 **Mr Robertshaw:** This clause defines a domiciliary care agency, but a business can be excluded by regulations. This is a new addition to regulation. We currently have 23 known as domiciliary care agencies operating on the Island. This is again about providing personal care and does not include cleaners. It does not include one person independently employing another person to care for them through personal arrangements.

1225 Mr Speaker I beg to move that clause 24 do stand part of the Bill.

The Speaker: Mr Singer.

1230 **Mr Singer:** I beg to second.

The Speaker: I put the question that clause 24 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 25.

1235 **Mr Robertshaw:** This clause defines a -fostering agency. This is a new addition, as fostering services are not currently regulated. There is one agency on the Island, Fostering First, operated by the Children's Centre.

1240 Mr Speaker, I beg to move that clause 25 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: Thank you, Mr Speaker, I beg to second.

1245 **The Speaker:** I put the question clause 25 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 26.

1250 **Mr Robertshaw:** This clause defines an independent clinic and excludes certain services from the definition. Because independent clinics can cover a large number and variety of services, it was decided to make this a gateway clause. Regulations will specify which services will be included. Consultation will take place with the relevant parties before a service is included.

1255 This is not a new addition. We currently regulate those clinics that provide treatment using class 4 and class 3B lasers. This is commonly hair removal. These services come under the existing Nursing and Residential Homes Act 1988. There are two clinics currently operating that will come under this new definition.

Mr Speaker, I beg to move that clause 26 do stand part of the Bill.

1260 **The Speaker:** Mr Singer.

Mr Singer: I beg to second.

1265 **The Speaker:** I put the question that clause 26 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 27.

1270 **Mr Robertshaw:** Mr Speaker, this clause defines an independent hospital. The definition excludes certain establishments from the definition and allows for further exclusions to be prescribed by regulations. As a result of the consultation, a file definition of an independent hospital has been simplified. This allows the Department to expand the definition by regulation. Consultation will take place with relevant parties before another type of service is included in the definition.

1275 Some services that are liable to be registered as a nursing home or mental nursing home under current legislation will be transferred to this category. The only one on the Island at the moment is the Hospice. This clause could potentially cover in the future any private hospital or establishment providing an overnight non-NHS healthcare service in the future. Also, any service taking patients detained under parts 2 and 3 of the Mental Health Act for assessment and treatment would have to be registered as an independent hospital.

1280 I beg to move that clause 27 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: Mr Speaker, I beg to second.

1285 **The Speaker:** I put the question that clause 27 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 28.

1290 **Mr Robertshaw:** This clause defines an independent medical agency. The definition excludes certain establishments from the definition and allows further exclusions to be prescribed by regulations. An example of this would be an agency providing private medical practitioners or medical advice to private clients. There is currently no independent medical agency on the Island. However, as a number are in operation in neighbouring jurisdictions, this clause has been included.

1295 Mr Speaker, I beg to move that clause 28 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: Mr Speaker, I beg to second.

1300 **The Speaker:** I put the question that clause 28 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 29.

1305 **Mr Robertshaw:** This clause defines a nurses agency but an agency or business can be excluded by regulations. There are two types of nurses agencies. Those that only provide an introductory service and simply keep a list and those who offer a more in-depth service, for example, placing nurses in a person's own home, equivalent to a domiciliary care agency. This is

1310 not a new addition. Nursesø agencies are currently regulated under the Nurses and Midwives Act. There is currently one nursesø agency operating on the Island.

Mr Speaker, I beg to move that clause 29 do stand part of the Bill.

The Speaker: Mr Singer.

1315 **Mr Singer:** Mr Speaker, I beg to second.

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

Clause 30.

1320

Mr Robertshaw: This clause defines an -offender accommodation serviceø, but an establishment can be excluded by regulations. This is not a new addition. Offender accommodation services are already located under the Nurses and Residential Homes Act. There is currently one on the Island.

1325

Mr Speaker, I beg to move that clause 30 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second.

1330

The Speaker: I put the question that clause 30 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 31.

1335

Mr Robertshaw: This clause defines a -residential family centreø but an establishment can be excluded by regulations. This is a new addition to regulation.

The Childrenø Centre currently run family centres, but they only operate during the day. There are no residential family centres on the Island at the moment and no immediate plans for any. There are too few cases coming through for this to be viable at this time.

1340

Where there has been need, off-Island places are utilised and they will be regulated by that jurisdiction. However, including this definition in the Bill allows for the creation of an on-Island service in the future.

Mr Speaker I beg to move that clause 31 do stand part of the Bill.

1345

The Speaker: Mr Singer.

Mr Singer: Thank you, Mr Speaker, I beg to second.

1350 **The Speaker:** I put the question that clause 31 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 32.

Mr Robertshaw: Thank you, Mr Speaker.

1355

This clause defines a -voluntary adoption agencyø This is a new addition to regulation. There is currently one adoption agency on the Island: the Isle of Man Adoption Service.

I beg to move that clause 32 do stand part of the Bill.

The Speaker: Mr Singer.

1360

Mr Singer: I beg to second.

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

Clause 33.

1365

Mr Robertshaw: This clause explains that the schedule defines words, except those used in part 9. It also explains the various uses of the word -functionø and the use of examples or notes. Importantly, it states that the use of an example of the operation of a provision may extend the meaning of a provision.

- 1370 Mr Speaker, I beg to move that clause 33 do stand part of the Bill.
- The Speaker:** Mr Singer.
- 1375 **Mr Singer:** I beg to second.
- The Speaker:** I put the question that clause 33 and the schedule stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 34.
- 1380 **Mr Robertshaw:** Part 2 of the Bill states the Department's specific functions, including the regulation of care services and the making of minimum standards for care services.
Clause 34, general functions: subsection (1) states the key Department functions in relation to care services.
Subsection (2) states the Department's monitoring function.
- 1385 Subsection (3) states the Department also has the function of promoting high standards for social care workers and their training.
Mr Speaker, I beg to move that clause 34 do stand part of the Bill.
- The Speaker:** Mr Ronan.
- 1390 **Mr Ronan:** I beg to second and reserve my remarks.
- The Speaker:** I put the question that clause 34 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
- 1395 Clauses 35, 36 and 37.
- Mr Robertshaw:** Clause 35, power to make minimum standards; clause 36, access to minimum standards; clause 37, effect of minimum standards. These clauses state that the Department may make minimum standards for each care service listed above after consultation. Standards are public documents and must be accessible to the public. The Department must consider the standards when performing its functions.
- 1400 **Mr Speaker,** I beg to move that clauses 35, 36 and 37 do stand part of the Bill.
- The Speaker:** Mr Ronan.
- 1405 **Mr Ronan:** I beg to second and reserve my remarks.
- The Speaker:** Mr Quirk.
- 1410 **Mr Quirk:** Thank you, Mr Speaker.
When the Minister says 'public access' I wonder if the Minister could confirm that these would be available then, if the assessments are done on the web, or his Department's site?
- 1415 **The Speaker:** Mrs Cannell.
- Mrs Cannell:** Thank you, Mr Speaker.
It is a very simple enquiry, really. In what way will the minimum standards be established? Will that be by way of regulation and will that go out to public consultation?
- 1420 **The Speaker:** Mover to reply.
- Mr Robertshaw:** Thank you, Mr Speaker, turning to the Hon. Member for Onchan's point first, the whole essence of this Bill, effectively, is to bring into the public arena the process of regulation and the inspection process. It is something of a fair parallel to say in some respects it reflects grading and classification in tourism, where once an inspection takes place, the user, the potential user, the general public, become aware of the standards of that operation through the publication of the reports, which we will come to later in the Bill and yes, my clear recollection is that they will appear on the website for public inspection.
- 1425 Turning to my friend, my colleague, fellow Member for Douglas East, if the Hon. Member could reiterate her question, I would be most grateful.
- 1430

Mrs Cannell: To be helpful to the Minister, I asked him in terms of the minimum standards, how will they manifest? Will they be provided in regulation and will the regulations be subject to public consultation?

1435

The Speaker: Mr Robertshaw.

Mr Robertshaw: The minimum standards: the standards will be public documents and readily accessible to stakeholders and the public. The Department will be required to work to the same standards.

1440

I need a note on whether or not there needs to be consultation on the development of those minimum standards, iff

The Speaker: If you do not have the information to hand, you can advise ó

1445

Mr Robertshaw: I will have in a second, Mr Speaker.

The Speaker: If you do, you may answer now.

1450

Mr Robertshaw: I am advised that this is not a statutory document and will not therefore be consulted on with providers, Mr Speaker, if that is a satisfactory answer to ó

The Speaker: I put the question that clause 35 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1455

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

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

Clause 38, please.

Mr Robertshaw: Part 3 of the Bill requires persons who provide or manage a care service to be registered, states disqualification criteria, states conditions of registration and the procedures for changing registration. This clause defines the terms in the title, Mr Speaker.

1460

I beg to move that clause 38 do stand part of the Bill.

The Speaker: Mr Ronan.

1465

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 38 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1470

Clause 39.

Mr Robertshaw: This clause defines the terms in the title. Guidance notes will state when separate registrations will be required for the provider and the manager.

1475

Mr Speaker, I beg to move that clause 39 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

1480

The Speaker: Mr Quirk.

Mr Quirk: I am just wondering whether the Minister could give an indication if the provider could also be the manager, or the manager be the provider. Or is that two different identities or two different people?

1485

The Speaker: Mover to reply.

Mr Robertshaw: Mr Speaker, the manager registration and the registered manager are different in the sense of the noun sits in a different place. So in the case of the second one, the manager is the noun and is defined by being registered and in the first case the registration is the noun and is defined by manager. So a manager registration concerns itself with the registration as

1490

it relates to the manager and the manager registration relates to the manager relates to the register, so it sounds a little bit of pardon? (*Interjection by Mr Quirk*) (A Member: No.) It is not of

1495 **The Speaker:** Through the Chair, please.

Mr Robertshaw: Mr Speaker, the registered manager is a person. The manager registration is a list. It is a registration of individuals. So, one refers to a person and the other refers to the registration of that person. But I am advised that they can be the same person in the sense that the manager can be the provider as well.

1500 I beg to move.

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

1505 Clause 40.

Mr Robertshaw: This clause defines the term in the title. It should be clear that the references to a registered person throughout the Bill means either a registered manager or a registered provider. A registered provider can be an individual or a partnership or a company or a committee. Mr Speaker, I beg to move that clause 40 do stand part of the Bill.

1510 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

1515

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

Clause 41.

1520 **Mr Robertshaw:** This clause defines childminder registration, registered childminder and child-related registration.

Mr Speaker, I beg to move that clause 41 do stand part of the Bill.

1525 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 41 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1530 Clause 42.

Mr Robertshaw: Subsection (1) states that the term registration on its own means any active provider registration or manager registration.

1535 Subsection (2) states a reference to a person's registration includes the registration conditions and any details of the registration.

Mr Speaker, I beg to move that clause 42 do stand part of the Bill.

The Speaker: Mr Ronan.

1540 **Mr Ronan:** I beg to second and reserve my remarks.

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

1545 Clause 43.

Mr Robertshaw: This is an establishing clause for clauses 44 to 46 which I will detail in a moment.

1550 Subsection (1) details the types of disqualification. Please note that (d) does not relate to childminders. They could still operate if they have been made insolvent, as they do not work in the same way as other care service businesses. They work from home and normally charge on a weekly or a monthly basis.

Subsection (2) states that the above disqualifications apply unless the person has been exempted under clause 47 and exemption has not been withdrawn under clause 48.

1555 Mr Speaker, I beg to move that clause 43 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks

1560 **The Speaker:** I put the question that clause 43 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 44.

1565 **Mr Robertshaw:** Subsection (1) lists the disqualification circumstances for total disqualification.

Subsection (2) states that, for a body corporate, the disqualifying circumstance is that a member or officer of the body is totally disqualified.

1570 Subsection (3) provides definition for this clause. Total disqualification is required for the most serious offences, whereby it would be unsuitable for an individual to work with vulnerable care service users.

Mr Speaker, I beg to move that clause 44 do stand part of the Bill.

The Speaker: Mr Ronan.

1575 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: I put the question ó Mrs Cannell, I beg your pardon.

Mrs Cannell: Thank you, Mr Speaker.

1580 Could I just ask the Minister, this is to do with total disqualification and it lists the types of disqualification that a person might be disbarred from. It only refers to the British Islands legislation and I am just wondering, if someone was to seek employment working with children in this area, in this field and they came from outside of the British Isles, what sort of rigour would we have in place then to be able to check that (a) they had not been disqualified and (b) they were
1585 appropriate to be working in that particular area with vulnerable children?

The Speaker: Mover to reply.

1590 **Mr Robertshaw:** Mr Speaker, in the first instance, the registration process is very rigorous indeed and I will be pleased to provide the Hon. Member with a sample of the form of registration to satisfy herself ó and I am satisfied ó that people could not slip through a gap in the registration process.

I beg to move.

1595 **The Speaker:** I put the question that clause 44 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 45.

1600 **Mr Robertshaw:** Subsection (1) states that the following subsections provide for the disqualification circumstances for disqualification for children.

Subsection (2) lists all the disqualifying circumstances.

Subsection (3) states it is also a disqualifying circumstance for an individual, if the individual lives in the same private dwelling as a person disqualified for children or any part of the premises at which a person disqualified for children is employed or engaged.

1605 Subsection (4) explains that, for a body corporate, the disqualifying circumstance is that a member or officer of the body is disqualified for children.

Subsection (5) provides a definition for this clause. This clause has been included because of the particular vulnerability of children and the requirement to have a higher level of protection.

1610 Mr Speaker, I beg to move that clause 45 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

1615 **The Speaker:** Mr Quirk, Hon. Member.

Mr Quirk: I am just wondering whether if a particular person or residential unit was registered and the person resides as their domestic dwelling as well, would therefore the business cease operation, if that was their residence as well as their providing site?

1620 **The Speaker:** Mrs Cannell.

Mrs Cannell: Mr Speaker, just following on from the previous clause, because it is related and referred to in this one.

1625 Where a definition is given for children's law and it gives a series of what the definitions are, again it refers to Scottish legislation, British legislation, Northern Irish legislation and the Minister did go on to say that it is fairly rigorous, the tests are fairly rigorous to ensure that somebody does not slip through the net. Can he advise the House whether the same tests conducted in his Department are similar to those that are conducted in the Department of Health, bearing in mind
1630 we have had surgeons appointed in the Isle of Man, who have had criminal offences outside of the Isle of Man in their own country abroad and this was not detected?

The Speaker: Mover to reply.

1635 **Mr Robertshaw:** Turning to the Hon. Member for Onchan first, it would not be acceptable for somebody of the type and nature he described to reside in premises used for child purposes. It would not be acceptable.

1640 With regard to my hon. friend's question, I again repeat that I am happy to provide her with copies of the registration process to satisfy herself that the process that they will go through is rigorous.

I beg to move, Mr Speaker.

1645 **The Speaker:** I put the question that clause 45 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 46.

Mr Robertshaw: Subsection (1) states that the following subsections provide for the disqualifying circumstances for specific disqualification for a category of care service, for example, an adult care home.

1650 Subsection (2) lists the disqualifying circumstances for a category of care service.

Subsection (3) states the recipient of a disqualification notice as an unregistered childminder is disqualified from childminding, until either one year after the notice is given, or the notice is earlier withdrawn. Further detail on this matter is contained in clause 138.

1655 Subsection (4) explains for a body that for a body corporate the disqualifying circumstance is that a member or officer of the body is specifically disqualified for the category.

Subsection (5) provides definition for this clause. This clause is to allow for more specific disqualifications, rather than overall disqualification.

I beg to move that clause 46 do stand part of the Bill.

1660 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

1665 **The Speaker:** I put the question that clause 46 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 47.

Mr Robertshaw: Subsection (1) explains that a person who is disqualified under subsection 43(1) may apply for an exemption from that disqualification.

1670 Subsection (2) explains that, if an exemption application has been refused, they can only re-apply under the specific circumstances.

Subsection (3) explains the application requirements.

Subsection (4) and (5) state the criteria for the Department in considering the application for exemption.

1675 Subsection (6) states that, if the Department refuses an exemption application, it must give the applicant an appeal notice for the decision. An example of when a disqualification might be lifted is if a childminder is disqualified by virtue of someone in the household being unsuitable to be in the proximity of children. If that person leaves the household, or the childminder goes to work in another child care setting, for example, at a child day care centre, the disqualification could be lifted.

1680

Mr Speaker, I beg to move that clause 47 do stand part of the Bill.

The Speaker: Mr Ronan.

1685

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: Mr Quirk.

1690

Mr Quirk: Under the disqualification, I wondered if the Minister could give us an indication of where or how long the appeals would take place? If a person appealed against the decision of the Department, is there a separate appeals panel? Would that appeal be within seven days?

The Speaker: Mr Robertshaw.

1695

Mr Robertshaw: Mr Speaker, may I ask for the kind patience of the Hon. Member, as these matters are dealt with later in clauses.

I beg to move.

1700

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

Clause 48.

1705

Mr Robertshaw: Subsection (1) states the criteria for the Department to withdraw a disqualification exemption.

Subsection (2) states that if the Department withdraws the disqualification exemption, it must give the applicant an appeal notice for the decision.

Mr Speaker, I beg to move that clause 47 stand part of the Bill.

1710

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

1715

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

Clauses 49, 50 and 51.

1720

Mr Robertshaw: Clause 49, who is a ~~unsuitable manager~~ or ~~unsuitable supervisor~~; clause 50, criteria for suitability to manage or supervise; clause 51, who is ~~unsuitable for childminding~~. These clauses set out who is suitable to manage or supervise a care service and what criteria are taken into account.

For example, someone may be suitable to manage a small residential unit for physically frail elderly, but may not have the knowledge and skills to manage a large unit, accommodating service users with multiple needs, including dementia. Please note that suitability to be a childminder is a separate definition, as a childminder plays all roles: provider, manager and supervisor.

1725

Mr Speaker, I beg to move that clauses 49, 50 and 51 do stand part of the Bill.

The Speaker: Mr Ronan.

1730

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: Mrs Cannell.

1735 **Mrs Cannell:** Can I ask the Minister, other than being physically fit, mentally fit, have skills and experience, have integrity and have a good character, are there any qualifications required for this and if not, why not?

The Speaker: Mr Quirk.

1740 **Mr Quirk:** Just a similar sort of thing. Just on the definition of when a manager's suitability to manage a small unit, to a large unit, or a supervisor to take over a user, to manage a small unit, to a large unit: is there a suitable grading for a supervisor? So supervisor A could not do a manager B or whatever.

1745 **The Speaker:** Mover to reply.

Mr Robertshaw: In answer to both Hon. Members' questions, as they are very similar, effectively the qualifications will need to be appropriate for the size of the establishment that is under scrutiny at that particular moment and will differ from level to level.

1750 I beg to move.

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

Clause 50: those in favour, say aye; against, no. The ayes have it. The ayes have it.

1755 Clause 51: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 52, Mr Robertshaw.

Mr Robertshaw: Subsections (1), (3) and (4) state it is an offence to carry on or manage an independent care service, or carry on as a childminder, unless the person has appropriate registration and the registration is not suspended.

1760 Subsection (2) states that the maximum penalty for the offence is £20,000, but if the offence was committed in circumstances of aggravation, the maximum penalty is six months' custody or a fine.

Subsection (5) provides definition for the clause.

1765 Mr Speaker, I beg to move that clause 52 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second and reserve my remarks.

1770 **The Speaker:** I put the question that clause 52 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 53, 54 and 55.

1775 **Mr Robertshaw:** Clause 53 is personal representatives; clause 54, child day care at certain establishments; clause 55, occasional child day care centres.

These clauses deal with the exemptions from registration, which include a personal representative carrying on a care service after a sole provider's death, as specified in clause 102; specified child day care establishments, such as hospital or chapel school; and occasional child daycare, if the day care centre operates for five days or less a year. In this instance, a notice will need to be given to the Department to confirm the situation.

1780 I beg to move that clauses 53, 54 and 55 do stand part of the Bill.

The Speaker: Mr Singer.

1785 **Mr Singer:** I beg to second and reserve my remarks.

The Speaker: Mr Quirk.

1790 **Mr Quirk:** Just on the issue there, where there is an operational centre takes for five days or less, it just seems quite bizarre, really, that a person would want to work just five days in a particular year. I wonder where they get their clients from?

Could I ask the Minister regarding those checks on those particular premises, if they are only operating five days in a year. It does say it will give them notice, I think. I am just wondering how that check would take place, if they were only saying five days in a particular year?

1795

The Speaker: Minister to reply.

Mr Robertshaw: The point of these clauses is to exclude them from registration and those establishments do exist. My grandchildren were over from Singapore this summer, went on a sailing course for four days in a child care environment. That would not be subject to this form of registration.

1800

Mr Speaker, I beg to move.

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

1805

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

Clause 55: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 56, please.

1810

Mr Robertshaw: And clause 57, Mr Speaker.

Mr Singer: Clause 56.

Mr Robertshaw: Clauses 56 and 57 together.

1815

The Speaker: Clauses 56 and 57 together.

Mr Robertshaw: Clause 56: who can apply for registration; clause 57, how to apply.

Clause 56 details who can apply for registration apart from the exemptions, as listed and specify that an individual can be both a provider and a registered manager, but the childminders only need to apply as a provider as they fulfil both roles.

1820

Clause 57 clearly states the requirements for a registration application to avoid situations where the Department has to chase for information, or where the Department has no specific point of contact for the body.

1825

Mr Speaker, I beg to move that clauses 56 and 57 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: Mr Speaker, I beg to second.

1830

The Speaker: I put the question that clauses 56 and 57 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 58, Mr Robertshaw.

1835

Mr Robertshaw: This clause states the specific criteria for registration. Some criteria vary, depending on the application. It also details that the applicant must comply with the mandatory conditions set out in the Bill and other prescribed criteria and that the premises are suitable for the service being provided.

Mr Speaker, I beg to move that clause 58 do stand part of the Bill.

1840

The Speaker: Mr Singer.

Mr Singer: I beg to second.

1845

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

Clause 59.

1850

Mr Robertshaw: This clause states that the Department must consider and decide each registration application and in doing so, meet the procedural fairness requirements, but that the Department may only grant an application if it is satisfied that specific criteria have been met. I beg to move that clause 59 do stand part of the Bill.

1855 **The Speaker:** Mr Singer.

Mr Singer: I beg to second.

1860 **The Speaker:** I put the question that clause 59 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 60.

1865 **Mr Robertshaw:** This clause gives the Department the power to set registration conditions, in addition to mandatory conditions. These are called decided conditions. Before any decided condition is imposed, the Department must have complied with the procedural fairness requirements, unless the conditions have been agreed with the registered person. It will be rare, but an example could be in a childminding situation if the outside area is not suitable for children, registration inspections may still be registered, subject to a condition that states children must not have access to the outside area until it is made safe and free from hazards.

1870 I beg to move that clause 60 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: Mr Speaker, I beg to second.

1875 **The Speaker:** Mrs Cannell.

1880 **Mrs Cannell:** Following on from the Minister's explanation of this particular clause, does that mean, therefore, that the clause provides for the registration to actually go ahead and be approved and for operation to commence, despite there being not sufficient outside space, for example, for the children to gain access?

1885 That is the first question, and secondly, if it is, is the Department going to have to keep a watching brief, as to when that condition is going to be fulfilled? Is it time sensitive? I would be surprised, actually or perhaps I misheard him or that a licence or registration would be granted to someone to open up premises, start to mind children, if they have not provided a suitable play area, being outside and if that is just going to be conditional, how long is that condition going to hang around there for, and is the provision, if they do not comply, to be able to withdraw the registration?

1890 **The Speaker:** Mr Quirk.

1895 **Mr Quirk:** It is a similar question. The only addition I would make to that would be on parking. I would say it would be better if application would be approved on its merits, before a licence was actually granted, because of the difficulties that can happen. I am just wondering what the Minister's thoughts were.

The Speaker: Mr Robertshaw to reply.

1900 **Mr Robertshaw:** If I could describe the background essence of this Bill, it is to not be confrontational or dogmatic about registration, but allow an engagement between the registers and the providers, so that both parties are working together towards an ultimate aim and later on we do talk about introducing this Bill over a period of time. There will be time strictures on decided conditions, which registration and inspections we will keep a close eye on and in close co-operation with the Department and if the provider fails to meet, in due course, the decided conditions then of course, that would put their registration under strict reconsideration.

1905 I would think that parking could not really normally fall within decided conditions. It may do, but I doubt it, as that might be something outside of the reasonable control of the provider and therefore would not be a decided condition in the first instance, because the provider and the registration inspectors will be working together to construct decided conditions.

1910 I beg to move.

Mr Quirk: Mr Speaker, for clarification, if I could ask the Minister regarding or I can see his issue to do with existing providers, but would he not take a different view if they were brand-new providers?

- 1915 **The Speaker:** Minister, clarification.
- Mr Robertshaw:** If we are talkingí are we talking about parking still, here?
- 1920 **Mr Quirk:** The facilities.
- Mr Robertshaw:** Here, you are getting mixed up between planning and this process here ó
- The Speaker:** This is not a committee, Hon. Members. (**Members:** Hear, hear!) All discussion must be channelled through the Chair. I have given a bit of leeway for clarification, but you are seeking to embellish a point, (**A Member:** Embellish!) (*Interjection by Mr Houghton*) and really, we cannot debate like this.
- 1925 Minister, you may finish the point if you have not finished.
- Mr Robertshaw:** I think I have finished it, Mr Speaker.
- 1930 **The Speaker:** Thank you. In that case I will put the question that clause 60 do stand part of the Bill. Those in favour, say aye; against, no. (**Mr Quirk:** No.) (**A Member:** Oh!) The ayes have it. The ayes have it.
- 1935 Clause 61.
- Mr Robertshaw:** This clause confirms the arrangements for when the Department of Social Care grants a registration in relation to who receives a notice of the decision. The notice must include any decided conditions, as detailed in clause 60 and the circumstances in which an appeal notice is required.
- 1940 Mr Speaker, I beg to move that clause 61 do stand part of the Bill.
- The Speaker:** Mr Singer.
- Mr Singer:** I beg to second.
- 1945 **The Speaker:** I put the question that clause 61 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
- 1950 Clause 62.
- Mr Robertshaw:** This clause details when a decision to grant a registration application takes effect. I beg to move that clause 62 do stand part of the Bill.
- The Speaker:** Mr Singer.
- 1955 **Mr Singer:** I beg to second.
- The Speaker:** I put the question that clause 82 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
- 1960 Clause 63.
- Mr Robertshaw:** Mr Speaker, this clause states the Department's obligations when a decision to grant a registration is made, including recording, registration and the responsible person, where applicable and giving a registration certificate.
- 1965 I beg to move that clause 63 do stand part of the Bill.
- The Speaker:** Mr Singer.
- Mr Singer:** I beg to second.
- 1970 **The Speaker:** I put the question that clause 63 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
- Clause 64.

1975 **Mr Robertshaw:** This clause states the registration continues until it is surrendered, suspended, or cancelled under this part, or, if the sole registered person is an individual, the person dies.

I beg to move that clause 64 do stand part of the Bill.

1980 **The Speaker:** Mr Singer.

Mr Singer: I beg to second, Mr Speaker.

1985 **The Speaker:** I put the question that clause 64 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 65.

1990 **Mr Robertshaw:** This clause states that, as well as any decided conditions, a person's registration is subject to mandatory conditions contained in this division or prescribed by the Department.

I beg to move that clause 65 do stand part of the Bill.

The Speaker: Mr Singer.

1995 **Mr Singer:** I beg to second.

The Speaker: I put the question that clause 65 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 66, Mr Robertshaw.

2000 **Mr Robertshaw:** And 67, Mr Speaker.

The Speaker: There is an amendment, I see, to 67. I would rather take 66 on its own.

2005 **Mr Robertshaw:** Thank you, Mr Speaker.

2010 Clause 66, supervision and management duties general: this clause deals with the registered provider's responsibilities in ensuring their care service has a registered manager who continues to manage it. If the registered provider is a body corporate, then the care service's responsible person must continue to supervise its management of the "supervision condition" and if the responsible person dies or otherwise ceases to so supervise, the body corporate must make an amendment application as soon as possible. While a person continues to be a registered manager, that person must, unless the Department otherwise agrees, continue to manage the care service, the management condition. However, these conditions do not affect a leave entitlement of the responsible person or registered manager.

2015 Mr Speaker I beg to move that clause 66 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second.

2020 **The Speaker:** I put the question that clause 66 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 67.

2025 **Mr Robertshaw:** Clause 67, supervision and management duties: exception.

2030 Clause 67 further clarifies that these conditions do not apply during a period of leave. If the total leavetaking is no more than the maximum leave prescribed and the registered provider has made arrangements to ensure the care service is suitably supervised and managed when they are on leave, the maximum leave can be prescribed, even if it is less than an entitlement of the Employment Act, any other relevant Act, or a contract of employment.

This clause is not about reducing the leave, but prescribing conditions in regulations of where certain extended periods of leave may mean that having appropriate arrangements in place is not adequate and the provider may have to have a new registered manager or responsible person. Examples of this may be during a period of long-term sick leave, or maternity, paternity leave, or a secondment to another post.

2035 Mr Speaker, I beg to move that clause 67 do stand part of the Bill.

The Speaker: Mr Singer.

2040 **Mr Singer:** I beg to second and reserve my remarks.

The Speaker: I call on Mr Ronan to move the amendment.

Mr Ronan: Thank you, Mr Speaker.

2045 This insertion clarifies what the Department felt on reflection could potentially have been a loophole in this clause. As the Minister has stated, clause 67(2) states that maximum leave can be prescribed, if it is less than the entitlement under the Employment Act, any other relevant Act, or a contract of employment. As stated, this clause is not about reducing leave, but prescribing conditions through regulations of when certain extended periods of leave may mean that having a temporary cover in place is not adequate and the provider may have to have a registered or new manager, or nominate a responsible person.

2050 However, in some cases, where extended leave is granted, it may be done so under an informal arrangement not specified in a contract or the Employment Act and therefore the Department wanted to assure that in no circumstances the maximum leave is prescribed, it would have to be adhered to.

2055 Mr Speaker, I beg to move the amendment to clause 67 standing in my name:

Clause 67

*1. On page 43 at the end of line 3 insert –
'(3) Nothing in subsection (2) limits the scope of subsection (1).'*

2060

The Speaker: Mr Anderson.

Mr Anderson: I beg to second.

2065 **The Speaker:** Mover to reply.

Mr Robertshaw: Thank you, Mr Speaker.

2070 In the view of the Department, this amendment satisfactorily closes a loophole we had identified at a very late stage and I am pleased to see the amendment.

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

Clause 67 as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 68.

2075

Mr Robertshaw: This clause sets out requirements about the necessary skills and training required to be a suitable supervisor and manager.

2080 Subsection (1) states a registered provider that is a body corporate must ensure the care services responsible person continues to be a suitable supervisor and has appropriate training. The specifics of suitability will be set out in the minimum standards applicable to each service. Examples of these would include taking steps to maintain knowledge of developments in child care; continue to be physically and mentally fit.

Mr Speaker, I beg to move that clause 68 do stand part of the Bill.

2085 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2090 **The Speaker:** I put the question that clause 68 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 69.

2095 **Mr Robertshaw:** This clause deals with ensuring a registered person supervises, manages, or carries out a care service with sufficient care, competence and skill. Guidance on care, competence and skill will be included in the minimum standards, specific to each care service. Examples

would include not leaving children alone and ensuring that risks and hazards are eliminated; maintaining continuous professional development to ensure competence and skills are up to date.

Mr Speaker, I beg to move that clause 69 do stand part of the Bill.

2100 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2105 **The Speaker:** I put the question clause 69 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 70.

2110 **Mr Robertshaw:** This clause states the continuing requirement in relation to the care services premises and equipment. Guidance on continuing suitability of premises and its equipment will be included in the minimum standards. Examples would be meeting electrical safety standards; maintaining passenger lifts; general maintenance of the building; personal electrical appliance testing.

Mr Speaker, I beg to move that clause 70 do stand part of the Bill.

2115 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2120 **The Speaker:** Mr Quirk.

Mr Quirk: Just to mention equipment, there are other bits of equipment, there is playground equipment. I am just wondering where those or apparatus for climbing and so forth. These facilities, would they be checked by his Department or somebody else?

2125 **The Speaker:** Mover to reply.

2130 **Mr Robertshaw:** I simply gave a few examples of areas where there would be a requirement to maintain high standards of care on equipment. Of course, they extend much further than that and would impact upon anything, where an individual or child might, from a Health and Safety point of view, be concerned, but registration and inspections will require the provider under these terms to meet the appropriate standards and if they do not, action will be taken.

I beg to move.

2135 **The Speaker:** I put the question that clause 70 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 71.

2140 **Mr Robertshaw:** This clause states the requirement to pay annual fees and specifies that a recipient of a cost recovery notice must pay the required amount within 14 days.

Mr Speaker, I beg to move that clause 71 do stand part of the Bill.

The Speaker: Mr Ronan.

2145 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: I put the question that clause 71 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 72.

2150 **Mr Robertshaw:** This clause specifies that a registered person must allow an inspector to enter and inspect the premises at which the care service is provided if the inspector meets specified criteria.

Mr Speaker, I beg to move that clause 72 do stand part of the Bill.

2155 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2160 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

2165 This is a very important provision, actually, in clause 72 in terms of inspected-related matters. What I would ask the Minister is what the procedure is for inspections. Does the proprietor get notified beforehand that there is going to be an inspection, as has always been the case, particularly with elderly persons accommodation of which I believe is not sufficiently robust or can an inspection just be made?

2170 In other words, can it just be made *ad hoc* without the proprietor's former notice? If there is going to be anything worth inspecting, truthfully, then it needs to be without notice, in my opinion. There is nothing in this particular clause that says whether an inspection must be an inspector. You cannot block the inspector from coming in, but there is nothing to say how much notice that inspector is going to be giving, if any.

2175 I notice also further on there is a clause in terms of making reports about inspections etc, but I cannot find anywhere within legislation that specifies whether notice is given. So if the Minister could clarify that, please.

The Speaker: Mr Quirk.

2180 **Mr Quirk:** Mr Speaker, the same as Mrs Cannell from West Douglas there (A Member: East.) on unannounced visits. I wonder if the Minister could maybe give us some more explanation of the inspector meets the specific criteria, what that actually means. He is a qualified person, is he?

The Speaker: Mover to reply.

2185 **Mr Robertshaw:** In the matter of announced and unannounced inspections, the Hon. Member, Mrs Cannell, from Douglas East does make an important point. It is actually dealt with in significant detail in later clauses. Again, I would beg patience on that matter.

2190 With regard to the Hon. Member for Onchan's comment, where he asks does the inspector meet specified criteria: again I ask for patience, because how the inspector is met at the premises is tied up again in further clauses and describes what and how an inspector must present credentials and the like.

Again, Mr Speaker, I beg to move.

2195 **The Speaker:** I put the question clause 72 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 73.

2200 **Mr Robertshaw:** This clause takes the recipient of an improvement notice must comply with the notice. Members should note that the details of improvement notice are in clauses 132, 133 and 134. The offence is contained in clause 105.

Mr Speaker, I beg to move that clause 73 do stand part of the Bill.

The Speaker: Mr Ronan.

2205 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: I put the question that clause 73 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

2210 Clauses 74, 75, 76, 77.

Mr Robertshaw: Clause 74 deals with when a registered person, provider, or manager may apply to amend an application and what they can and cannot amend.

Clause 75 details how to apply.

Clause 76 states that the Department must consider and decide each application.

2215 Clause 77 details what the Department must do if it grants an amendment application, including issuing a new certificate, or issuing an appeal notice if the amendment is denied.

Mr Speaker, I beg to move that clauses 74, 75, 76, 77 do stand part of the Bill.

- 2220 **The Speaker:** Mr Ronan.
- Mr Ronan:** I beg to second and reserve my remarks.
- The Speaker:** Mr Quirk.
- 2225 **Mr Quirk:** Just clarification on when additional amendments are made. I am just wondering where, how and when people or the clients of that particular establishment with noí Say they are increasing the number of children from 20 to 40, or they are doubling the size of the particular unit. Is that the sort of thing that the amendments would come into?
- 2230 **The Speaker:** Mover to reply.
- Mr Robertshaw:** I could not possibly encapsulate all the possible areas that amendments to registrations may apply. It is beyond this clause, in a sense. These clauses here are determined about the procedure relating to the applications for an amendment to a registration.
- 2235 I beg to move, Mr Speaker.
- The Speaker:** I put the question that clauses 74 to 77 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
- 2240 Clause 78.
- Mr Robertshaw:** This clause states that a registered manager or registered childminder may surrender their registration by notice to the Department. However, this can only take place if no cancellation notice has been issued by the Department. This is to avoid any surrender of a registration before any proceedings have taken place.
- 2245 Mr Speaker, I beg to move that clause 78 do stand part of the Bill.
- The Speaker:** Mr Ronan.
- Mr Ronan:** I beg to second and reserve my remarks.
- 2250 **The Speaker:** I put the question that clause 78 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
- Clauses 79 to 84 inclusive.
- 2255 **Mr Robertshaw:** Clause 79, application of Subdivision; clause 80, surrender only by application; clause 81, restriction on making surrender application; clause 82, how to apply; clause 83, deciding application; clause 84, notice and taking effect of decision.
- 2260 These clauses deal with the criteria and process for a surrender of an application by a registered provider. The provisions here are stronger, because when it is a provider who wishes to surrender registration, this usually means that they want to close down the service and in these circumstances, they must meet certain conditions specified in clause 83, for example, having discussions with service users, their families, social workers and any other interested parties to ensure that individuals are moved to another service that meets their needs and that all are given sufficient time to prepare for the move and be involved in the decision.
- 2265 Again, there are restrictions to avoid any surrender of a registration before any proceedings have taken place.
- Mr Speaker, I beg to move that clauses 79, 80, 81, 82, 83 and 84 do stand part of the Bill.
- The Speaker:** Mr Ronan.
- 2270 **Mr Ronan:** I beg to second and reserve my remarks.
- The Speaker:** I put the question that clauses 79 to 84 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
- 2275 Clauses 85 and 86.
- Mr Robertshaw:** I am grouping these clauses 85 and 86, as they both deal with amendments that the Department may make to a registration.

2280 Clause 85 states that the Department may make minor corrections to a registration, as long as it does not adversely affect the interests of the person or anyone else and they are given notice of the change. This is included to ensure that any administrative errors could be easily rectified.

Clause 86 allows four more general amendments and therefore the Department must ensure it complies with procedural fairness requirements.

2285 Mr Speaker, I beg to move that clauses 85 and 86 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2290 **The Speaker:** I put the question clauses 85 and 86 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 87.

2295 **Mr Robertshaw:** This clause details the criteria when the Department can suspend a registration. This is a new and important power under the Bill. Under the current law, when there are significant concerns about how a service operates, or something comes to light about a registered person, there are frequently further investigations to be done, sometimes by the Police. Until such time as these are complete the Department is unable to either serve a cancellation or legally require a person to absent themselves from the service.

2300 It has been common experience for people to remain registered for up to two years, before the whole process is gone through and a person's registration cancelled. The only other course of action open to the Department in these circumstances is to apply for an urgent cancellation order and for this to be approved, there has to be evidence of serious risk to life, health and wellbeing. Urgent cancellation is the action of last resort.

2305 An additional power to allow for suspension of registration would be used when serious concerns come to the attention of the regulatory authority. It is sometimes preferable to cancellation of registration, although it is possible that cancellation may eventually follow. A good example is if there are concerns about a registered manager, or a childminder who works alone. Registration can be suspended until further investigations have arrived at a resolution.

2310 Mr Speaker, I beg to move that clause 87 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2315 **The Speaker:** I put the question clause 87 stand part of the Bill, Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 88.

2320 **Mr Robertshaw:** This clause states that the Department may cancel a registration under specific grounds. Cancellation is only ever a last resort and the Department will need to comply with procedural fairness requirements. The specified grounds include a care service that has not operated for three years or more. This is to allow cancellation for, say, childminders, who have not operated for some time, as we are still required to inspect them.

2325 I beg to move that clause 88 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2330 **The Speaker:** I put the question that clause 88 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 89.

2335 **Mr Robertshaw:** This clause states what the Department can do in relation to an urgent amendment, urgent suspension, or an urgent cancellation of a person's registration, if there is an exposure to risk. For an urgent amendment or suspension there has to be a risk of harm. For urgent cancellation there needs to be a serious risk to life, health or wellbeing. Procedural fairness requirements do not apply in this instance.

2340 The Department can give the registered person a notice verbally, but this does need to be also given in writing as soon as possible and contain action taken, reasons for the notice for urgent suspension, suspension period and appeal notice. This power would only be used in particular grave circumstances and is an important addition to legislation.

2345 Mr Speaker, I beg to move that clause 89 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2350 **The Speaker:** I put the question that clause 89 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 90.

2355 **Mr Robertshaw:** This clause clarifies the effect of a suspension or cancellation, subject to the tribunal's powers on appeal.

Mr Speaker, I beg to move that clause 90 do stand part of the Bill.

The Speaker: Mr Ronan.

2360 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: I put the question. Mr Quirk.

2365 **Mr Quirk:** I just wondered who the tribunal would be? And what the make up of the tribunal would be?

The Speaker: Mr Robertshaw.

2370 **Mr Robertshaw:** I refer to my previous answers where I have asked the Hon. Member to be patient, because these matters are dealt with in further clauses.
I beg to move.

2375 **The Speaker:** I put the question, clause 90. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 91.

2380 **Mr Robertshaw:** This clause states the Department must give notice of a decision to the stated person for an amendment, except in minor correction, a suspension or a cancellation. It states it must be accompanied by an appeal notice and clarifies when the decision notice takes effect.

Subsection (5) states that if the suspension or cancellation is due to a care offence, it does not take effect until the period to appeal against the conviction ends, or if convicted and an appeal is made, the appeal is finally ended. If the conviction is quashed on appeal, the suspension or cancellation has no effect.

2385 Mr Speaker, I beg to move that clause 91 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2390 **The Speaker:** I put the question clause 91 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 92.

2395 **Mr Robertshaw:** This clause determines the circumstances in which the Department may decide to give the person a cost recovery notice due to their non-compliance with the Act. If the person does not comply, then the amount may be recovered summarily as a debt.

Mr Speaker, I beg to move that clause 92 do stand part of the Bill.

2400 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2405 **The Speaker:** I put the question that clause 92 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 93, 94, 95.

Mr Robertshaw: I will be grouping these clauses 93, 94, 95 together, as they all relate to common provisions for applications.

2410 These clauses give the Department power to refuse non-compliant applications, request additional information and refuse an application if that requested information is not received, or still fails to meet requirements. There is currently no express power in the Interpretation Act 1976 to reject non-compliant applications that do not substantially comply with a form. This results in additional administrative work that is not required. There will always be continued engagement with applicants, but where there are continuing issues, it does give the Department additional powers to ensure scarce resources are appropriately targeted.

2415 Mr Speaker, I beg to move that clauses 93, 94 and 95 do stand part of the Bill.

The Speaker: Mr Singer.

2420 **Mr Singer:** Mr Ronan is exhausted, so I will second.

The Speaker: I put the question that clauses 93, 94 and 95 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 96 to 99.

2425 **Mr Robertshaw:** I will be grouping clauses 96, 97, 98 and 99 as they all relate to the procedural fairness requirements which apply under part 3 of the Bill.

2430 The clauses specify when decisions are required to comply with the procedural fairness requirements, details of notice that the Department must give to an interested person, or duty to consider written submissions and to issue a withdrawal notice, if we do not proceed with a proposal.

Mr Speaker, I beg to move that clauses 96, 97, 98 and 99 do stand part of the Bill.

2435 **The Speaker:** Mr Singer.

Mr Singer: I beg to second.

2440 **The Speaker:** I put the question that clauses 96 to 99 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 100, 101 and 102, Minister.

2445 **Mr Robertshaw:** I will be grouping clauses 100, 101, 102 together as they all deal with the requirements following the death of a registered provider. These clauses only apply if a registered provider, other than a childminder for a care service, is an individual and they die. Specified persons have a responsibility to notify the Department and state what their intention is regarding the future of the service. If they fail to do so, it is an offence. In these circumstances a personal representative may carry on the care service for a limited time, without holding provider registration, but they must comply with the registration conditions, which apply to the deceased provider and the other conditions stated in this Bill, or it is an offence.

2450 Mr Speaker, I beg to move that clauses 100, 101 and 102 do stand part of the Bill.

The Speaker: Mr Singer.

2455 **Mr Singer:** Mr Speaker, I beg to second.

The Speaker: I put the question clauses 100, 101 and 102 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 103 to 106.

2460 **Mr Robertshaw:** I will be grouping clauses 103, 104, 105 and 106 as they all deal with registration-related offences.

These clauses detail offences under this part in relation to registration offences. These include making false statements, failing to display a registration certificate, breaking a registration condition and falsely describing the scope of registration conditions.

2465 The first three offences apply only to the applicant or registered person, but the last applies even if the person is not a registered person for the care service. This is because there may be occasions when senior staff or administrators will be responsible for talking to prospective clients, or producing advertising material. An example of a false description could be that the service purports to be able to provide care for people of a specific category, such as dementia, but are not registered for that category, or do not have the skilled staff to provide that service.

2470 Mr Speaker, I beg to move that clauses 103, 104, 105 and 106 do stand part of the Bill.

The Speaker: Mr Singer.

2475 **Mr Singer:** Mr Speaker, I beg to second.

The Speaker: I put the question that clauses 103 to 106 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

2480 Clauses 107 and 108.

Mr Robertshaw: I will be grouping clauses 107 and 108 together, because they deal with the register of details about registered and responsible persons for care services.

2485 These clauses state the Department's requirements to keep a register and the role regarding the access to and fees in relation to information from the register. Please note that there are restrictions that may be placed on certain information in the register, for example, addresses of children's homes, and that the restrictions can be for everyone or certain persons only.

I beg to move that clauses 107 and 108 do stand part of the Bill.

2490 **The Speaker:** Mr Singer.

Mr Singer: I beg to second and reserve my remarks.

The Speaker: Mrs Cannell.

2495 **Mrs Cannell:** Thank you, Mr Speaker.

In respect of clause 107(1), it says the details must include the prescribed information and may include any other information the Department of Social Care considers appropriate. My question to the Minister is, is the Department protected under data protection and is it compliant with data protection in terms of keeping such information that it considers appropriate?

2500 **The Speaker:** Mover to reply.

Mr Robertshaw: The whole of this Bill is compliant with data regulations.

2505 I beg to move.

The Speaker: I put the question that clause 107 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 108: those in favour, say aye; against, no. The ayes have it. The ayes have it.

2510 Clause 109.

Mr Robertshaw: This clause states that if the Department gives a registered person a notice or other document then their usual last-known place of abode or business is taken to be the address of the care service. An example of why this is required is a provider living most of the time away from the Island not providing their address and not collecting their mail from their recognised business address. When it comes to action being taken, it needs to be done promptly. It is therefore prudent to serve notice on the known business address, rather than attempt to find the current whereabouts of the person.

2515 Mr Speaker, I beg to move that clause 109 do stand part of the Bill.

2520 **The Speaker:** Mr Singer.

Mr Singer: I beg to second.

2525 **The Speaker:** I put the question that clause 109 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 110.

Mr Robertshaw: Thank you, Mr Speaker.
2530 This clause details the circumstances in which a disclosure notice can be given and to whom. This includes an authority under a corresponding Act with similar functions to the Department of Social Care, for example, the Department of Health in England.
I beg to move that clause 110 do stand part of the Bill.

2535 **The Speaker:** Mr Singer.

Mr Singer: I beg to second, Mr Speaker.

The Speaker: I put the question that clause 110 do

2540 **Mrs Cannell:** Mr Speaker.

The Speaker: Mrs Cannell.

2545 **Mrs Cannell:** Thank you. Can I just ask, clause 110, it is the first time I have actually noticed the Data Protection Act 2002 is in fact specified. Can I ask the Minister, whether or not he is when he says that the Bill is compliant with data protection legislation, has the Data Protection Supervisor had input into the wording of this legislation or the provisions that it empowers the Department to have in law?

2550 **The Speaker:** Mover to reply.

Mr Robertshaw: I cannot specifically answer that, other than that I have been advised that it is compliant, but I am happy to give an answer to that question at the next Reading.
2555 I beg to move.

The Speaker: In that case I put the question, clause 110 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 111, 112 and 113, Minister.

2560 **Mr Robertshaw:** I will be grouping clauses 111, 112, 113 as they all relate to the general provisions for inspectors.

I would emphasise that considerable work was undertaken to ensure that the Bill does not give inspectors unnecessary powers. The Bill contains a number of safeguards and qualifications which were included to address the concerns in this area and ensure powers are only used when warranted. The powers are expressed in more detail in this Bill than in other less recent pre-Manx Human Rights Act legislation. This is because, in this Bill, they have much more human interface going into childminders' homes meeting vulnerable people etc. These clauses state the criteria for the Department to appoint appropriately qualified persons to help it perform its monitoring and regulatory functions. Inspectors must be issued with an identity card which contains specific information and must be shown before or displayed during the exercise of the inspectors' monitoring and regulatory powers.

2570 Mr Speaker, I beg to move that clauses 111, 112 and 113 do stand part of the Bill.

2575 **The Speaker:** Mr Singer.

Mr Singer: Mr Speaker, I beg to second.

The Speaker: I put the question that clauses 111, 112 and 113 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
2580 Clause 114.

Mr Robertshaw: This clause explains the inspectors' rights of entry.
Mr Speaker, I beg to move that clause 114 do stand part of the Bill.

2585 **The Speaker:** Mr Singer.

Mr Singer: I beg to second.

2590 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I thought the Minister might have brought to the attention of the House that this was in fact to be dealt with: the question that was raised earlier in the legislation. Am I correct in understanding that the general entry powers, where it states in subsection (a), premises:

2595

—An inspector may enter ó

(a) premises if its occupier consents to the entry or the entry is authorised under a warrantí ø

2600 I know that further clauses relate to the warrant and the emergency procedure and having the ability to be able to go in without even showing ID. But am I to understand in terms of 114 that, as I raised earlier, the inspector has to have the agreement of the care providersø consent, before a general annual inspection is carried out? That was the question I asked at the very beginning and it seems to state in fact that is the case.

2605 So my question, therefore, if that is the case, then, is on what sort of ideal situation might an inspector not seek permission to enter, but have to go in under a warrant? Would he be following intelligence? Is that what we are looking at here? Basically, clause 114 does seem to suggest that a general annual inspection by a supervisor has to have the occupiersø consent, unless a warrant for entry is issued. Can the Minister confirm.

2610 **The Speaker:** Mover to reply.

Mr Robertshaw: Mr Speaker, there are two issues being dealt with at the same time there.

2615 In terms of announced or unannounced, the general process is that an inspection would not be announced. I think the Hon. Member made good argument as to why that should be the case, so I will not regurgitate that element of it. Unannounced and announced ó and they can be either, but normally they would be unannounced ó is a separate process to the entry to the premises.

2620 An entry process is determined under the various clauses here, where the inspector must provide evidence that, effectively, he is who he states he is, but once the entry is required, there are various requirements under different clauses, as to how that process goes ahead, as to whether a warrant is or is not required. I think it is ó if again the Member is patient ó articulated progressively as the clauses unfold.

I beg to move.

2625 **The Speaker:** I put the question that clause 114 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 115.

2630 **Mr Robertshaw:** This clause states the Department may make guidelines for inspections to enter and inspect care premises. An example of what would be contained in these guidelines is the frequency and details of which will be announced or unannounced inspections. The guidelines do not take effect until they have been laid before Tynwald. They are a public document and each registered provider will have access to a copy. The clause also specifies that there are certain circumstances where inspectors have no right of entry. This is a restriction designed to meet the requirements of the Human Rights Act 2001. Examples of this would be attending a childminderø house at times other than when the childminding is being carried out, or is reasonably suspected of being carried out. Other occupiers of the house, such as a childminderø husband can legitimately deny entry. Another example might be in a nursery where part of the premises is privately occupied as domestic premises, such as the providerø own accommodation or a tenanted arrangement.

2640 Mr Speaker, I beg to move that clause 115 do stand part of the Bill.

The Speaker: Mr Singer.

2645 **Mr Singer:** Mr Speaker, I beg to second.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

2650 Can I ask the Minister to clarify then, in subsection (3) it states:

“The guidelines do not take effect until they have been laid for information before Tynwald.”

2655 ó not for approval by Tynwald, as said by the Minister when he moved the clause and the subsection, so can he clarify the position? Is it just for information or do they need to be approved?

The Speaker: Minister to reply.

Mr Robertshaw: I will have to take advice on that, Mr Speaker. I will answer that at Third Reading.

2660 I beg to move.

The Speaker: Third Reading.

2665 I put the question clause 115 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 116.

Mr Robertshaw: This clause is subject to clause 117, but allows the inspector to enter premises if the inspector reasonably suspects the entry is necessary for the performance of the Department’s monitoring function. This clause only relates to premises where an inspector reasonably suspects, or has been given information that a care service is being provided without registration.

2670 Mr Speaker, I beg to move that clause 116 do stand part of the Bill.

The Speaker: Mr Singer.

2675

Mr Singer: Mr Speaker, I beg to second.

The Speaker: I put the question clause 116 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

2680 Clause 117.

Mr Robertshaw: This clause gives details on entry without consent or a warrant. This clause only relates to scheduled inspections made under inspection guidelines. Such premises are already registered and therefore have an obligation to facilitate inspections. Therefore, the inspector does not formally have to either request permission to enter or seek a warrant to do so. However, this does not negate the requirement for an inspector to properly identify himself by having the required ID clearly displayed.

2685 There may be times, for example, if there was a complaint that staffing is low during the evening period, an inspection would take place at a time when there are staff in charge, who do not know the inspector and are not familiar with the process. This would be the sort of scenario where the inspector might have to explain to the person in charge that the law gives the power, as described under section 117. A warrant would only be applied for if, after explaining the powers conferred by the Act, the occupier refuses the entry.

2690 Mr Speaker, I beg to move that clause 117 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second.

2700 **The Speaker:** Mr Quirk.

Mr Quirk: I am just wondering, if the Minister could explain, on the inspection announced or unannounced, the operation hours of the business would be displayed prominently, so the inspector would know the operation on that particular building ó or anybody else.

2705

Mr Robertshaw: The inspectors would know that, because that information is captured in the original registration.

I beg to move.

2710 **The Speaker:** I put the motion that clause 117 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 118.

2715 **Mr Robertshaw:** Mr Speaker, this is an establishing clause that states that this subdivision applies only if, under subdivision 2 or a warrant, an inspector has entered particular premises.
I beg to move that clause 118 do stand part of the Bill.

The Speaker: Mr Singer.

2720 **Mr Singer:** I beg to second.

The Speaker: I put the question. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 119.

2725 **Mr Robertshaw:** This clause lists who has a role for the premises, which is important as the inspector can require anyone with a role to give access to information or documents under clause 122.

2730 Mr Speaker, I beg to move that clause 119 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second.

2735 **The Speaker:** I put the question clause 119 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 120.

2740 **Mr Robertshaw:** This clause states the inspector's powers on entry. These are not new, but are more clearly stated in relation to being able to take photos and copy information.
Mr Speaker, I beg to move that clause 120 do stand part of the Bill.

The Speaker: Mr Singer.

2745 **Mr Singer:** I beg to second.

The Speaker: I put the question clause 120 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 121.

2750 **Mr Robertshaw:** This clause states the criteria for an inspector requesting a medical practitioner or nurse to medically examine a service recipient, if the inspector reasonably believes the person is not receiving proper care. This must be done with the consent of the person, unless they do not have the capacity to make the decision, in which case the examination must be in the person's best interest. As the Island currently has no capacity legislation, best interest will be set out in guidelines which will be available to the public.

2755 I beg to move that clause 121 do stand part of the Bill.

The Speaker: Mr Singer.

2760 **Mr Singer:** I beg to second and reserve my remarks.

The Speaker: I put the question clause 121 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
2765 Clause 122.

2770 **Mr Robertshaw:** This clause states when the inspector can request documents or information from the person who has a role for the premises, which was detailed in clause 119. Before making a request the inspector must confirm that failure to meet a request may be an offence under clause 123.

Mr Speaker, I beg to move that clause 122 do stand part of the Bill.

The Speaker: Mr Singer.

2775 **Mr Singer:** I beg to second.

The Speaker: I put the question that clause 122 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

2780 Clause 123.

Mr Robertshaw: This clause states the inspector may require a person with a role for the premises to give the inspector reasonable help to perform their functions, unless the person has a reasonable excuse and failure to provide reasonable help is an offence and can result in a maximum penalty of £2,500 on summary conviction.

2785 Mr Speaker, I beg to move that clause 123 do stand part of the Bill.

The Speaker: Mr Singer.

2790 **Mr Singer:** Mr Speaker, I beg to second.

The Speaker: I put the question clause 123 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 124.

2795 **Mr Robertshaw:** This is the standard clause relating to procedure for warrants in relation to this Bill.

I beg to move clause 124 do stand part of the Bill.

The Speaker: Mr Ronan.

2800

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: I put the question clause 124 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

2805 Clause 125.

Mr Robertshaw: This clause details that it is an offence to intentionally obstruct an inspector from exercising a power under this division. The meaning of 'obstruct' is defined in the clause.

2810 Mr Speaker, I beg to move that clause 125 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2815 **The Speaker:** I put the question clause 125 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 126.

2820 **Mr Robertshaw:** This clause gives the inspector the power to request within a stated, reasonable period information that is necessary for the inspector to perform the monitoring function. This can include medical records, but they can only be considered by a medical practitioner or nurse.

In making the requirement, the inspector must state that it is an offence for the registered person not to comply.

2825 Mr Speaker, I beg to move that clause 126 do stand part of the Bill.

The Speaker: Mr Ronan.

- 2830 **Mr Ronan:** I beg to second and reserve my remarks.
- The Speaker:** Mr Quirk.
- Mr Quirk:** I just wonder what the Minister's thing of a reasonable period is?
- 2835 **The Speaker:** Minister.
- Mr Robertshaw:** I have not got a specific definition of 'reasonable' but I am sure it will be reasonable, once identified.
Thank you, Mr Speaker.
- 2840 **The Speaker:** I put the question clause 126 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 127.
- 2845 **Mr Robertshaw:** This clause states if the information required under clause 126 is on a computer, then the person must reproduce the material for the inspector to take away or supply it electronically.
Mr Speaker, I beg to move that clause 127 do stand part of the Bill.
- 2850 **The Speaker:** Mr Ronan.
- Mr Ronan:** I beg to second and reserve my remarks.
- The Speaker:** Mr Quirk.
- 2855 **Mr Quirk:** I just wonder in the removal of data from a computer, does that mean the hardware itself, or is the officer entitled to have a stick, a memory stick and whether that data then is protected?
- 2860 **Mr Robertshaw:** In our deliberations over this Bill, we were very careful not to permit a situation where there could be a significant removal of data from premises in such a way that it would deny that proprietor or operator or provider to continue with their business. So we have built into the clauses an opportunity for the inspector to bring in the appropriate equipment to allow him to take photographs, to make copies, he or she to make copies, in an inappropriate way, so that we do not remove information that would inhibit the good running of the business.
Mr Speaker, I beg to move.
- 2865 **The Speaker:** Clause 127. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 128.
- Mr Robertshaw:** This clause takes the person to whom a production requirement is made, must comply with the requirement unless the person has a reasonable excuse, or it is an offence.
Mr Speaker, I beg to move that clause 128 do stand part of the Bill.
- 2875 **The Speaker:** Mr Ronan.
- Mr Ronan:** I beg to second and reserve my remarks.
- 2880 **The Speaker:** I put the question that clause 128 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 129.
- 2885 **Mr Robertshaw:** This clause addresses when an inspector requires a document in order to carry out their functions and specifies it is not a defence that it cannot be supplied, because in doing so, you would incriminate yourself. The clause specifies that the only crimes you can be prosecuted by incriminating yourself are for ill-treatment or neglect. However, if the document itself is false or misleading, then you can be prosecuted, even if it is not for an ill-treatment or neglect offence.

2890 This clause then defines the term "incriminating evidence"
I beg to move that clause 129 do stand part of the Bill.

The Speaker: Mr Ronan.

2895 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: I put the question clause 129 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 130.

2900 **Mr Robertshaw:** This is an important clause, which states the Department's power to prepare and publish inspection reports. This is a change, as under current legislation, the Department cannot publish its inspection reports of services. It is up to individual providers, if they wish to publicise the report.

2905 This clause specifies the information which may not be published. Information that may not be published is personal details, i.e. addresses of certain establishments, for example, children's homes.

Mr Speaker, I beg to move that clause 130 do stand part of the Bill.

2910 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: Mr Quirk.

2915 **Mr Quirk:** Thank you, Mr Speaker.

Would the Minister clarify, under (c) there, "making the report available to public inspection" the way that the Department of Social Care would consider appropriate? I just wonder what that is.

2920 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

2925 It was actually a similar concern. It is rather unusual wording to find in legislation of this nature, "to make available for public inspection in a way the Department considers appropriate". The Minister has touched on it very briefly, when he said that if there was any sensitive information in there to do with children or their addresses or whatever, clearly that would be redacted, but I am wondering if there will be a set of regulations determining what cannot be published in a document that is going to be available to the public?

2930 My second question is, I take it the reports and the inspection by the inspector and the obligation for the inspector to produce a report in a particular timeframe and circulating amongst those he has inspected, then it automatically goes for publication to the public, I find a little odd. Is there not an appeal mechanism built in prior to the publication of the actual document, bearing in mind that the wording, or the findings, or the interpretation may be challenged by the people who have been inspected. They may challenge what is actually written in the report and wish to appeal it.

2935 I am just rather surprised that subsection (c) follows on so swiftly, without referring at least, if it is in another clause further on in the legislation, it should have at least been inserted at this point, I would have thought. If the Minister can clarify please.

2940 **Mr Robertshaw:** I am happy to collect the two questions together, as they are very closely related, if that is acceptable. During the consultation process there was support for the concept of publication and if I can step out of this role for a second and talk about my role before. It is a very important aspect of delivering a personal-care business to an individual, that one is able to publish and publicise how well you conduct yourselves. In fact, that is good for the proprietor, for the providers, it is good for the potential customer, it is good for the customer itself. So we should not shy away from the concept of publicity.

Incidentally, this applies just as much to my Department's functions, as it does to the private sector. It is not a question of two sets of rules, one for the public sector, one for the private sector, built into this.

2950 What we do, as care providers in the Department, will be very much in the limelight, just in the same way as it would be in the private sector. As far as an appeal process is concerned, again there

is a process that one would go through. Once the report was provided, there would be an opportunity for the provider concerned to comment on and engage in dialogue with the inspection service to establish fairness, but ultimately there is a duty of care on the part of the registration and inspections section to produce an accurate and fair report. The only time there would be redactions, are areas of sensitivity and they will be self-advising.

2955

Mr Speaker, I beg to move.

The Speaker: I put the question clause 130 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

2960

Clause 131.

Mr Robertshaw: This clause clarifies the law of defamation in relation to the production of inspection reports under clause 130. All inspection reports must be made on evidence, not hearsay or the opinion of the inspector.

2965

Mr Speaker, I beg to move that clause 131 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

2970

The Speaker: I put the question clause 131 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 132 to 134.

Mr Robertshaw: I will be grouping clauses 132, 133 and 134 together, as they are all dealing with improvement notices.

2975

These clauses allow an inspector to give the registered provider an improvement notice requiring the provider to make the improvement within a stated reasonable period. They specify the contents of the improvement notice and to whom copies of the notice must be given. An improvement notice must include an appeal notice. An example of an improvement notice could be improvements of premises and equipment, for example, renewal and replacement of broken or worn items of furniture, redecoration, toys, equipment in child daycare service.

2980

Mr Speaker, I beg to move that clauses 132, 133 and 134 do stand part of the Bill.

2985

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: I put the question that clauses 132 to 134 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

2990

Clauses 135 to 137.

Mr Robertshaw: Thank you, Mr Speaker.

I will be grouping clauses 135, 136 and 137 as they deal with compliance for registered persons. An inspector may give the registered person a compliance notice requiring a person to, within a stated reasonable period, take stated steps to remedy an offence against this Bill, or an Adoptions Society offence, or prevent it from happening, or happening again. The contents of the compliance notice are detailed, including an explanation that, under section 137 it is an offence to not meet the notice and an appeal notice. The recipient of a compliance notice must comply with the notice and if they do not, it is an offence.

2995

3000

Mr Speaker, I beg to move that clauses 135, 136 and 137 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

3005

The Speaker: I put the motion clauses 135 to 137 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3010

Clause 138.

Mr Robertshaw: This clause applies to a childminder who is not registered and has therefore contravened the registration requirement. In these circumstances, the inspector may give the person a disqualification notice, which states they must stop childminding, that because they have been operating without registration they are disqualified from childminding registration for a year, or until the disqualification is lifted. During this time they cannot apply for registration. If, after the year, they commence childminding without registration, they are again committing an offence.

Every other service we register is either an establishment or an agency and it is highly improbable that this type of service could operate under cover. However, registration inspections are frequently called out to suspected illegal childminding. The clause only says *may* give a disqualification notice. The usual scenario is that, either the person is not childminding within a definition, or agrees to register as a childminder. In the latter case, the process of registration begins and the childminder is asked to cease childminding until registered. A disqualifying notice would only be given in circumstances where it is discovered that the person has continued to childmind after being asked to cease.

Mr Speaker, I beg to move that clause 138 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: Clause 138: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 139.

Mr Robertshaw: This clause defines “social care work” and “social care worker”. This is about personal care, for example, helping or giving advice or support with bodily functions like dressing and washing. It also covers personal support, for example, counselling, emotional support, as part of a planned programme of care. This can be combined with other tasks offering practical assistance, such as shopping and laundering.

Mr Speaker, I beg to move that clause 139 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: I put the motion that clause 139 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 140.

Mr Robertshaw: This clause defines “social work” and a “social worker”. I beg to move that clause 140 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: Clause 140: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 141.

Mr Robertshaw: This clause states that a person other than a registered social worker must not, with intent to deceive, use the title “social worker”. If they do, it is an offence.

“Registered social worker” means under a UK care Act or regulations made under this Bill, to perform social work.

“Use” means implying or stating that you are a social worker.

“Registration” means with the appropriate professional council. The Department has negotiated a memorandum of understanding with the newly merged Health Care Professions Council, the UK professional body, to continue registering Isle of Man social workers. This section will have a separate Appointed Day Order to ensure the necessary agreements are in place, both in relation to department staff and social workers operating in the private and third sectors.

I beg to move that clause 141 do stand part of the Bill.

The Speaker: Mr Ronan.

3075 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: Mr Quirk.

3080 **Mr Quirk:** Mr Speaker, just on the terms, loosely, "social worker" as compared to the Bill there, where it says "registered social worker" lots of people are called social workers and I just wonder whether it is slightly misleading, because people will call themselves social workers, but I think the intent is to be registered social worker.

3085 **The Speaker:** Minister to reply.

Mr Robertshaw: Mr Speaker, the whole point of this clause is to ensure that we are dealing with social workers registered with the Health Care Professions Council, the UK body and that ensures that, in future we will, as he suggests, be able to separate between those properly registered and identified and those using improperly the term "social worker"
3090 I beg to move.

The Speaker: I put the question that clause 141 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
3095 Clause 142.

Mr Robertshaw: Hon. Members will know this clause is worded slightly differently from the above offence for social workers. This is because currently the Healthcare Professions Council is just registering social workers, though they have set out that social care workers may be added in the future. Having an offence for social care workers allows us to follow the UK in any rolling programme for registration of social care workers. Therefore the second offence has been added, but will only come into operation after three months have passed since the UK have brought in any new regulations to give social care workers time to register.

3100 Mr Speaker, I beg to move clause 141 do stand part of the Bill.

3105 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

3110 **The Speaker:** I put the question that clause 142 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 143 to 147.

Mr Robertshaw: I am grouping clauses 143, 144, 145, 146 and 147 as they deal with the establishment of the Care Services Tribunal for appeals and provide for its procedures. The Bill states that the composition of the tribunal is set out under the Tribunals Act 2006 and the rules may be made under section 8 of that Act for appeals under this Bill.

3115 A further appeal can only be made on a question of law from a decision of the tribunal. This is a further development, as appeals are currently heard by the High Bailiff, whereas under this part an independent tribunal will be set up to hear appeals about registration and inspection decisions.

3120 Mr Speaker, I beg to move that clauses 143, 144, 145, 146 and 147 do stand part of the Bill.

The Speaker: Mr Ronan.

3125 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: Mr Quirk.

3130 **Mr Quirk:** I am just wondering whether on a tribunal, what its cost is estimated to be? And where would the funding be coming from?

The Speaker: Reply, sir.

Mr Robertshaw: Mr Speaker, I do not have those sorts of finer details available to me at this time.

3135 I beg to move.

The Speaker: I put the question that clauses 143 to 147 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3140 Clause 148.

Mr Robertshaw: This clause states the offences, if you are involved with a care service and fall under any of the different categories of disqualification.

Mr Speaker, I beg to move clause 148 do stand part of the Bill.

3145 **The Speaker:** Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

3150 **The Speaker:** Clause 148: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 149.

Mr Robertshaw: This clause states the offence and defence for a person who carries on or manages a care service and employs or engages a specified disqualified person at the care service.

3155 Mr Speaker, I beg to move that clause 149 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

3160 **The Speaker:** Clause 149: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 150.

Mr Robertshaw: This clause confirms the persons to whom this division applies. Because the clause is about disqualifications, they do not have to be registered for the offence to apply.

3165 Mr Speaker, I beg to move that clause 150 do stand part of the Bill.

The Speaker: Mr Ronan.

3170 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: Clause 150: those in favour, say aye; against, no. The ayes have it. The ayes have it.

3175 Clause 151.

Mr Robertshaw: This clause specifies that it is an offence: to state that a business is registered or a departmental care service, if it is not; to state that premises have a registered provider or manager, if they do not.

3180 Mr Speaker, I beg to move that clause 151 do stand part of the Bill.

The Speaker: Mr Ronan.

Mr Ronan: I beg to second and reserve my remarks.

3185 **The Speaker:** Clause 151: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 152.

Mr Robertshaw: This is an important offence in relation to ill-treatment or neglect of anyone receiving care from a social care provider, i.e. anyone who provides care services, a registered provider or manager, a responsible person, anyone supervising anyone else, subject to a registration requirement. This includes the manager, officer, or employee of any of the above. This

3190

3195 list is extensive, because this is an extremely serious offence and anyone involved in the offence should be able to be prosecuted.

Mr Speaker, I beg to move that clause 152 do stand part of the Bill.

The Speaker: Mr Ronan.

3200 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: Clause 152: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 153.

3205

Mr Robertshaw: This clause explains that, if a registration-related offence or care offence is committed by a body corporate, and it is proved that an officer of the body authorised, permitted, participated in, or failed to take all reasonable steps to prevent the offence, then the officer, as well as the body, commits the offence. Again, this is an important addition, giving the powers to ensure officers of a body corporate can be held properly responsible for offences.

3210

Mr Speaker, I beg to move that clause 153 do stand part of the Bill.

The Speaker: Mr Ronan.

3215 **Mr Ronan:** I beg to second and reserve my remarks.

The Speaker: The question is that clause 152 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 153

3220

Mr Robertshaw: Mr Speaker, this clause states that the registered provider of an independent care service, other than childminding is taken to be exercising a function of a public nature in carrying out the care service.

3225

The consequence of this clause is that a contravention of convention rights within the meaning of the Human Rights Act 2001 by the registered provider will be unlawful and proceedings and remedies under that Act will be available.

I beg to move that clause 154 do stand part of the Bill.

The Speaker: Mr Ronan.

3230

Mr Ronan: I beg to second and reserve my remarks.

The Speaker: I put the question that clause 154 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3235

Clauses 155 to 157. Mr Robertshaw to move.

Mr Robertshaw: I will be grouping clauses 155, 156 and 157, as they deal with matters for proceedings. This includes the requirement for the Attorney General's consent for specified prosecutions, the meaning of maximum penalty, as used in the Bill and details the time limit for proceedings for a summary offence under this Bill.

3240

Mr Speaker, I beg to move that clauses 155, 156 and 157 do stand part of the Bill.

The Speaker: Mr Singer.

3245 **Mr Singer:** Mr Speaker, I beg to second.

The Speaker: Clauses 155 to 157: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 158 and 159.

3250

Mr Robertshaw: I will be grouping clauses 158 and 159, as they deal with evidentiary matters. These detail that, in proceedings under or relating to this Bill, a person's appointment as an inspector and the Department's or an inspector's powers to do anything under this Bill must be

3255 presumed, unless proof is required. They also state the general evidentiary provisions applying to a proceeding under or relating to this Bill.

Mr Speaker, I beg to move that clauses 158 and 159 do stand part of the Bill.

The Speaker: Mr Singer.

3260 **Mr Singer:** I beg to second, Mr Speaker.

The Speaker: I put the question clauses 158 and 159 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 160, 161 and 162.

3265

Mr Robertshaw: I will be grouping clauses 160, 161 and 162, as they deal with general provisions.

Under these clauses, the Department has the power to make forms for use under this Bill and regulations for the purpose of this Bill. The topics on which regulations can be made are detailed and include the registration of social care workers; consequential, incidental or supplemental matters; applying, adopting or incorporating provisions of a UK Care Act with or without change, where relevant; imposing fees; creating offences with a maximum penalty of £5,000. However, these are not exhaustive and do not limit the general powers in making regulations. All regulations must be approved by Tynwald.

3270

3275

Mr Speaker, I beg to move that clauses 160, 161 and 162 do stand part of the Bill.

The Speaker: Mr Singer.

3280

Mr Singer: Mr Speaker, I beg to second.

The Speaker: I put the question clauses 160, 161 and 162 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 163.

3285

Mr Robertshaw: This clause states the Acts that will be repealed, namely the Nurses and Midwives Act 1947 and the Nursing and Residential Homes Act 1988.

Mr Speaker, I beg to move that clause 163 do stand part of the Bill.

3290

The Speaker: Mr Singer.

Mr Singer: I beg to second.

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

3295

Clause 164.

Mr Robertshaw: This clause states the definitions for this division. Importantly it contains the definition of the registration grace period. A period of grace is given to our registration inspections and service providers the time to register. Until that time, they are required to meet certain basic regulatory provisions, so that they are not unregulated. A period of grace only starts when clause 52, which imposes the general registration requirement, begins under an Appointed Day Order. For childminding, care homes, child daycare centres and nursesø agencies, the period of grace ends six months after the registration requirement commences, or longer if prescribed by regulations. For other care services, the period of grace does not end until a prescribed day under regulations. This is to ensure that registration inspections can handle the registration process with current resources and still continue to undertake inspections.

3300

3305

Mr Speaker, I beg to move that clause 164 do stand part of the Bill.

3310

The Speaker: Mr Singer.

Mr Singer: I beg to second.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

3315 Clauses 165 to 170.

Mr Robertshaw: I will be grouping clauses 165, 166, 167, 168, 169 and 170, as they all deal with the conversion to this Act of existing care services.

3320 These clauses determine the existing care services that are carried across and translated to the new Act. Converting existing registrations significantly reduces cost, as a full registration, as done in the UK, is not required. Furthermore, it allows existing providers to continue to operate, as long as they meet the conditions specified in the subsequent clauses.

3325 **Mr Speaker,** I beg to move that clauses 165, 166, 167, 168, 169 and 170 do stand part of the Bill.

Mr Singer: Mr Speaker, I beg to second all those clauses.

3330 **The Speaker:** I put the question clauses 165 to 170 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 171

3335 **Mr Robertshaw:** This clause sets out how the Act applies to converted registrations. A converted registered provider or registered manager registration is subject to this Bill, including the mandatory conditions. A care service need not have a registered manager or a responsible person if a manager was not required for it under the relevant repealed care law. That is only during the registration grace period. The condition of the registration under the repealed care law for which the person became a registered provider become decided conditions of the provider registration. However, if any of the conditions conflict with the mandatory condition, the mandatory condition prevails to the extent of the inconsistency.

3340 **Mr Speaker,** I beg to move that clause 171 do stand part of the Bill.

The Speaker: Mr Singer.

3345 **Mr Singer:** I beg to second.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 172.

3350 **Mr Robertshaw:** This clause states that, until the end of the registration grace period, the Department may continue to keep registers under a repealed care law to record the registration under this Bill of converted registrants. Until the Department gives a converted registrant or a registration certificate under this Bill for the provider registration, any certificate issued under a repealed care law continues in force for the registration under this Bill.

3355 **Mr Speaker,** I beg to move that clause 172 do stand part of the Bill.

The Speaker: Mr Singer.

3360 **Mr Singer:** Mr Speaker, I beg to second.

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

Clause 173.

3365 **Mr Robertshaw:** This clause states that this subdivision applies to a provider or manager of a care service who is not a converted registrant for the care service. This section is for newly regulated care services that will come under the new Act and states what they must do during the registration grace period.

3370 **Mr Speaker,** I beg to move that clause 173 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: Mr Speaker, I beg to second.

3375 **The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 174.

3380 **Mr Robertshaw:** Mr Speaker, this clause requires the provider and manager, after the registration grace period for the care service begins, to give the Department a care service notice as soon as practicable. The care service notice provides the Department with the necessary information about what the service provides, what registration category they wish to register for, and in respect of that category, that the service meets mandatory conditions and minimum standards, as specified in clause 178. If a care service does not give a care service notice, it is an offence.

3385 I beg to move that clause 174 do stand part of the Bill.

The Speaker: Mr Singer.

3390 **Mr Singer:** I beg to second.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

3395 Clause 175.

Mr Robertshaw: This clause details that a provider's or manager's registration can be deferred during the registration grace period, as long as a care service notice has been given. Therefore they can operate whilst waiting for registration inspectors to come and register them. However, as detailed previously, they must still meet the provider and manager requirements under the Bill. This clause ceases to apply, if the person becomes registered for the care service, or is refused registration for the care service.

3400 Mr Speaker, I beg to move clause 175 do stand part of the Bill

The Speaker: Mr Singer.

3405 **Mr Singer:** I beg to second.

The Speaker: I put the question, clause 175. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3410 Clause 176.

Mr Robertshaw: This clause clarifies that, during the registration grace period for the care service, the provider and manager must comply with the mandatory conditions and the minimum standards, as if they were the registered provider or manager. If they do not, it is an offence. This offence ceases to apply once the person becomes registered.

3415 Mr Speaker, I beg to move that clause 176 do stand part of the Bill.

The Speaker: Mr Singer.

3420 **Mr Singer:** Mr Speaker, I beg to second.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

3425 Clause 177.

Mr Robertshaw: Mr Speaker, this clause states that if a person wishes to make a registration application during the registration grace period and no regulations have been made, then the Department can decide the information, documents and fee. The Department may also decide or defer considering the application until the registration grace period ends. It is not anticipated that the Department will need to use this clause, as all required regulations should be in place. However, it has been added just in case there is any delay.

3430 Mr Speaker, I beg to move that clause 177 do stand part of the Bill.

The Speaker: Mr Singer.

3435

Mr Singer: I beg to second.

3440 **The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 178.

3445 **Mr Robertshaw:** This clause states that, if consent was given by the Department for a disqualified person to be employed for a category of care service under the Children and Young Persons Act 2001, then it will be taken to be an exemption under this Bill for that care service category.

Subsections (2) and (3) relate only to the registration grace period under this Act as described previously. They confirm that there is a defence available for disqualification under this Act, if it did not amount to a disqualification under the Children and Young Persons Act 2001. This provides certainty during the transition.

3450 Mr Speaker, I beg to move clause 178 do stand part of the Bill.

The Speaker: Mr Singer.

3455 **Mr Singer:** I beg to second.

The Speaker: I put the question that clause 178 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 178.

3460 **Two Members:** We have just done that.

The Speaker: Sorry, clause 179.

3465 **Mr Robertshaw:** This clause states that an amendment of the registration conditions under a repealed care law is taken to be necessary or desirable, if the Department wishes to amend them to make them compatible with this Bill, or impose decided conditions to make the carrying on of the care service compatible with this Bill.

Mr Speaker, I beg to move clause 179 do stand part of the Bill.

3470 **The Speaker:** Mr Singer.

Mr Singer: I beg to second.

3475 **The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 180.

3480 **Mr Robertshaw:** This clause states how registration applications and appeals are dealt with, if they have been made, but undecided before the enactment of this Bill. Also a decision made under a repealed care law about a converted registrant continues in operation, but as the corresponding decision under this Bill.

Mr Speaker, I beg to move that clause 180 do stand part of the Bill.

3485 **The Speaker:** Mr Singer.

Mr Singer: I beg to second.

3490 **The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 181.

3495 **Mr Robertshaw:** This clause states that a previously appointed inspector for the Department becomes an inspector under this Bill, subject to the terms and conditions of the old authorisation. Their identity card will be valid until they are issued with a new card under this Bill, or the card expires.

Mr Speaker, I beg to move that clause 181 stand part of the Bill.

The Speaker: Mr Singer.

3500 **Mr Singer:** I beg to second.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

3505 Clause 182.

Mr Robertshaw: This clause explains a reference to a repealed care law is taken to be a reference to this Act. In addition a provision of the repealed care law is taken to be a reference to a provision of this Act that corresponds.

3510 Mr Speaker, I beg to move that clause 182 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second.

3515 **The Speaker:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 183.

3520 **Mr Robertshaw:** This clause applies if no appeal rules have been made. A version of the draft model rules, electronically numbered 140508 and held by the Department of Home Affairs will be taken to be the rules. However, if appeal rules are made before the enactment of this Bill is defined under clause 166, this clause will expire on the enactment of this Bill. Otherwise, this clause will expire when the appeal rules are made.

3525 Mr Speaker, I beg to move that clause 183 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second.

3530 **The Speaker:** Mr Quirk.

Mr Quirk: I am just wondering, what the difference is if the fall back position is the ones from Home Affairs, what differences there will be in the rules?

3535 **The Speaker:** Mover to reply.

Mr Robertshaw: Mr Speaker, the Department of Home Affairs version is satisfactory but may need refinement, and I am happy to deal with that in the next Reading.

3540 **The Speaker:** I put the question 183 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 184.

3545 **Mr Robertshaw:** This clause states that, if, immediately before clause 142 comes into operation, a person was employing or engaging a person to perform social care work, then clause 142 does not apply to the person until three months after the enactment of this Bill. Also if, within the three months, the social care worker or the person applies for registration, then this clause does not apply to the person, until the application is finally decided or withdrawn. This clause is to take into consideration that the registration process can take some time. Hence the clause refers to

3550 applying for registration within three months, not being registered.

Mr Speaker, I beg to move clause 184 do stand part of the Bill.

The Speaker: Mr Singer.

3555 **Mr Singer:** I beg to second.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

3560 Clause 185.

Mr Robertshaw: This clause states a regulation may provide for a matter relating to the transition from a repealed care law to this Bill or the coming under this Bill of a newly regulated care service, about which the Department considers this division does not make provision or sufficient provision.

3565 As transitional provisions have been properly thought through and drafted into the Bill, the normal provision about an Appointed Day Order providing for transitional arrangements is unnecessary. However, in case there are any consequential issues, this transitional regulation-making power has been added.

3570 Mr Speaker, I beg to move that clause 185 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second, Mr Speaker.

3575 **The Speaker:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 186.

3580 **Mr Robertshaw:** This clause states this division, other than the division heading and clauses 178 to 185 expires on the day on which all newly regulated care services have been prescribed under paragraph (b) of the definition of registration grace period under clause 164. As stated in my explanation of clause 164, the registration grace period is prescribed by regulations. The expiry of this part reduces the length of the Bill by 14 pages.

3585 Mr Speaker, I beg to move that clause 186 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: Mr Speaker, I beg to second.

3590 **The Speaker:** I put the question. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3595 Hon. Members, it seems to me that there is a fighting chance we can complete the business before lunchtime, if you are prepared, we will carry on to finish. I understand the presentation scheduled for 1.30 can be moved back. So we will see how we go. I do not want to curtail debate and the Members' rights to speak, but with the groupings about to take place, we may well finish.

So with that, I will call on the mover to move clauses 187 to 189.

Mr Robertshaw: Thank you, Mr Speaker.

3600 I will be grouping these clauses 187, 188, 189, as they all deal with amendments to the Adoption Act. These clauses make minor amendments to the Adoption Act.

I beg to move that clauses 187, 188 and 189 do stand part of the Bill.

The Speaker: Mr Singer.

3605 **Mr Singer:** I beg to second.

The Speaker: I put the question that 187, 188, 189 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3610 Clauses 190 to 200, Minister.

Mr Robertshaw: Thank you, Mr Speaker.

I will be grouping clauses 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, as they all relate to the Children and Young Persons Act 2001.

3615 The Bill makes a number of amendments and repeals to the Children and Young Persons Act. In particular, the Department has made one new insertion for the Department to provide or secure a fostering service and specify that the Department must ensure no child is fostered under the service to someone who, under section 58 disqualifications of this Act, is disqualified from fostering a child privately. This was required to allow fostering inspection and regulation to be covered under this Bill. The repeals are because the topics are now covered under the Bill.

3620 I beg to move that clauses 190, 191, 192, 193, 194, 195, 196, 197, 198, 199 and 200 do stand part of the Bill.

The Speaker: Mr Singer.

3625 **Mr Singer:** Mr Speaker, I beg to second.

The Speaker: I put the question that the aforementioned clauses stand part of the Bill. *(Laughter)* Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clauses 201 and 202.

3630 **Mr Robertshaw:** And to 204: 201, 202, 203, 204.

The Speaker: Well, I am in your hands. Start with 201.

3635 **Mr Robertshaw:** Thank you, Mr Speaker.
I will be grouping clauses 201, 202, 203, 204, as they deal with amendments to the Education Act.

3640 These clauses deal with situations where a child is accommodated at a school or a college. It deals with inspectors' functions in carrying out the inspection of those services. The provisions for the Department of Social Care to make minimum standards for the service. The situation where the Department of Social Care can notify the Department of Education about inspections and the power to impose a fee for inspection. King William's College is already inspected by agreement and has been working to an agreed set of minimum standards for boarding schools.

3645 I beg to move that clauses 201, 202, 203, 204 do stand part of the Bill.

The Speaker: Mr Singer.

Mr Singer: I beg to second.

3650 **The Speaker:** I put the question that clauses 201 to 204 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 205.

3655 **Mr Robertshaw:** This clause states the consequential amendments and revocations. These are all minor amendments, for example, changing of any references to previous Acts in other pieces of legislation and adding new definitions.

Mr Speaker, I beg to move that clause 205 do stand part of the Bill.

The Speaker: Mr Singer.

3660 **Mr Singer:** Mr Speaker, I beg to second.

3665 **The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 206.

Mr Robertshaw: Thank you, Mr Speaker.

3670 This clause states that clause 163 and this part expire on the day after the promulgation of this Act. When this part expires the Bill will reduce by 12 pages, further reducing its size.
I beg to move that clause 206 do stand part of the Bill.

The Speaker: Mr Singer.

3675 **Mr Singer:** Mr Speaker, I am pleased to second.

The Speaker: I put the question, those in favour that clause 206 stand part of the Bill, please say aye; against, no. The ayes have it. The ayes have it.
Thank you, Hon. Members. That brings us to 6

3680 **A Member:** The schedule, Mr Speaker?

The Speaker: The schedule has been approved in an earlier clause.

3685 Thank you, Hon. Members, for the efficient transaction of the business. I congratulate the mover (**Members:** Hear, hear.) of this particular Bill.

Mr Singer: And seconders!

3690

**Leaves of absence
Reminder by the Speaker**

3695 **The Speaker:** Hon. Members, I just want to make one point: a very long Bill, a long piece of legislation. I just remind you of Standing Order 3.1(1):

Every Member, unless that Member has leave of absence, shall attend the service of the House.

3700 (**Mr Quirk:** Hear, hear.) I did read out the leaves of absence at the beginning of this sitting. I just ask you to apply a bit of common sense. An absence for over an hour is not acceptable (**A Member:** Hear, hear.) if leave has not been given for it.

Hon. Members, I have been asked to remind you that the Department of Health is hosting a presentation and launch of the plan for tackling childhood overweight and obesity in the Isle of Man. It was starting at 1.30: it has been put back 10 minutes or so to 1.45 p.m.

3705 That concludes the business of the House. The House will now stand adjourned until next sitting, 10 o'clock, Tuesday, 29th January in this Chamber.

The House adjourned at 1.09 p.m.