



HOUSE OF KEYS OFFICIAL REPORT

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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 26th November 2013

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Present:

The Speaker (Hon. S C Rodan) (Garff);
Hon. D M Anderson (Glenfaba); Mr L I Singer (Ramsey);
Hon. W E Teare (Ayre); Mr A L Cannan (Michael); Hon. T M Crookall (Peel);
Mr P Karran, 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 (Douglas South);
Hon. C R Robertshaw and Mrs B J Cannell (Douglas East);
Mr C C Thomas (Douglas West);
Mr R A Ronan (Castletown); Hon. 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.

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<i>The House adjourned at 12.20 p.m.</i>	<i>320</i>

House of Keys

The House met at 10.00 a.m.

[MR 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

The Chaplain of the House of Keys

Leave of absence granted

10 **The Speaker:** Hon. Members, I have given leave of absence to the Hon. Member for Douglas South, Mrs Beecroft and also the Hon. Member for Douglas West, Mr Shimmin, who is away on ministerial business. I have also granted leave of absence to the Chief Minister, Hon. Members.

Questions for Oral Answer

TREASURY

1.1. Flybe – Closure of Island base

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for the Treasury:

What the impact of the closure of the local Flybe base is; and how Government can work with airlines for the benefit of local people?

The Speaker: We turn to Item 1 on the Order Paper, Questions for Oral Answer, and I call on the Hon. Member for Douglas West, Mr Thomas.

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

The Speaker: I call on the Minister for the Treasury, Mr Teare, to reply.

The Minister for the Treasury (Mr Teare): Thank you, Mr Speaker.

20 The closure of Flybe's base at the end of March 2014 will probably have no direct effect on the Income Tax or National Insurance collected by Government for the 2013-14 financial year, unless redundancies start earlier than this.

25 As a direct consequence of the 49 Flybe job losses, the Government will see a reduction in Income Tax and National Insurance contributions in 2014-15. However, as such information is held in confidence by the Assessor of Income Tax, I am unable to advise you of any projected amounts. We do, of course, hope that those individuals affected by the closure will find new employment on the Island.

In relation to the second part of the Question, it is my understanding that the Minister for Infrastructure will be making a statement on this matter in response to Question 10.

Thank you, Mr Speaker.

30

The Speaker: Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, and thank you very much to the Treasury Minister for providing the information about Income Tax.

35 Even now, the Income Tax paid by the hundred or so of those who live on the Island working for Flybe, Citywing and other airlines dwarfs the money collected in Income Taxes from the film sector, I believe. How does the value added by having an Island-based airline and local people working in aviation compare to the additional cost of maintaining a crew base in the Island, operated by whomever, on a wider basis than just Income Tax?

40 If the Government does not know, how can the Treasury Minister defend what an old hand of Manx aviation –

The Speaker: Hon. Member, I believe you have put the question. You are going into a statement now.

45 Minister to reply.

The Minister: You are quite right, sir; it is a long, wandering, meandering question, and it is difficult to actually see what the hon. gentleman requires. (**A Member:** Hear, hear.)

50 What I have said is that the information is available to Treasury, but I am not able, under statutory constraints, to divulge it. So Treasury is aware of the situation and is able to react accordingly, sir.

The Speaker: Hon. Member, Mr Karran.

55 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh Tashtee not agree that the Hon. Member was trying to get the point over as far as the priorities of Government, where they should be spending their money on the important thing as far as the Island is concerned?

60 Can the Shirveishagh tell me, does he agree that the possibility of the closure of early-morning flights in... out and in, and late flights out from London (**A Member:** Hokey Cokey.) will lead to the substantial loss of business on the Island if we do not have a more effective way of getting those early slots in and out of London for this financial sector that we are supposed to have?

The Speaker: Mr Teare.

65

The Minister: Two parts to that question... priorities. Everybody's definition and perception of priorities has got to be different, sir, I would respectfully suggest.

The second part of that question is we are fully aware of the implications of the importance of good air and sea connections to the Isle of Man.

70 **The Speaker:** Mr Thomas, you have a final supplementary.

Mr Thomas: Thank you, Mr Speaker.

The Treasury Minister and his Department have previously done impact assessments of the film sector and of the Sefton Group. Do I understand, then, that there has been no impact assessment of aviation and of airlines and how they contribute for the benefit of local people?

The Speaker: Mr Teare.

The Minister: I would refer the hon. gentleman to the publication of the GDP figures. It is all included within the GDP figures, sir.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, could the Shirveishagh just actually give us an answer? Has he got any idea as far as the impact if we lose early-morning flights from the Island to London and late flights back in the evening time, as far as the business community is concerned?

If he has not got a clue, could he possibly do some sort of an impact assessment of how it is going to affect this Island?

90 **The Speaker:** The same question in another form.
Mr Teare.

The Minister: The hon. gentleman will be interested to know that, as part of the budget process, Treasury is already speaking to industry and this subject has been mentioned on more than one occasion, sir.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

100 The Question says 'how Government can work with airlines for the benefit of local people', so I would like to ask further details of the Treasury Minister of the franchise-based airline which could be operated by companies and through which airport slots could be bid for, which is described in the Open Skies report we will discuss in coming weeks, probably.

105 **The Speaker:** Mr Teare.

The Minister: The hon. gentleman will be aware that Guernsey has an airline operator, in effect, through its nationalised airline, Aurigny. The difficulty is that it does have very serious financial implications. My understanding is that it does incur a loss, which is met by the Guernsey government.

I would be very concerned with Government becoming involved in an airline company, because there would be the temptation to interfere with the schedules and also fares, and I think politics would be better kept out of this, sir.

115 **Mr Watterson:** Hear, hear.

**1.2. Financial Supervision Commission –
Commissioners' responsibilities**

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for the Treasury:

How the responsibilities of Commissioners at the Financial Supervision Commission differ from those of the directors and persons responsible at the commercial entities it oversees?

The Speaker: Question 2. Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

120 I beg leave to ask the Question standing in my name.

Before doing so, Mr Speaker, with your permission, I just should mention I have recent pecuniary interest in this topic, given that I was a member of both the Financial Services and Collective Investment Schemes Tribunals between 2009 and my election in 2013, and these bodies are independent judicial appeal bodies that consider decisions made by the Financial
125 Supervision Commission.

The Speaker: We note your declaration of interest. Thank you.

Mr Teare to reply.

130 **The Minister for the Treasury (Mr Teare):** Thank you, sir.

The members of all bodies corporate, including the Financial Supervision Commission and the commercial entities that it oversees, have a common-law responsibility to act in a fit and proper manner. This responsibility includes acting in good faith with appropriate care, skill and diligence; acting in accordance with the constitution of the body; exercising independent
135 judgement; avoiding secret profits; avoiding conflicts of interest; acting with fairness and obeying the law.

The statutory responsibilities of the directors of companies incorporated in the Isle of Man, including those overseen by the Financial Supervision Commission, are set out in the Companies Acts 1931 to 2004, the Companies Act 2006 and other associated legislation.

140 The Financial Supervision Commission is a Statutory Board of Tynwald. Except where the responsibilities of directors are specific to companies, the Commissioners comprising the Financial Supervision Commission are expected to adopt similar standards of probity, behaviour and care, skill and diligence as directors of companies. However, in addition to their common-law responsibilities, Commissioners also have specific statutory responsibilities defined and set
145 out within the Statutory Boards Act 1987 and the Financial Supervision Act 2008.

The directors of the Commission's licence-holders and other key persons working for those entities must also ensure that they and the entities that they represent act in a fit and proper manner. Fitness and propriety is assessed in terms of demonstrating a level of confidence, integrity and financial standing consistent with the regulated activities that they undertake or
150 roles that they hold. In addition, they are responsible for ensuring that they and the entities that they oversee comply with the relevant regulatory legislation and the relevant provisions of the Financial Services Rule Book.

Thank you, Mr Speaker.

155 **The Speaker:** Mr Thomas, a supplementary.

Mr Thomas: Thank you, Mr Speaker.

I appreciate the summary of the scope of company and statutory body law that the Treasury Minister has provided.

160 Can I ask the Treasury Minister, please, Mr Speaker, how corporatisation would affect the governance of the Island's Statutory Boards?

More generally, does the Minister agree that if you have fiduciary responsibility for another's assets, you have fiduciary responsibility whatever the context? What I mean is that looking after the financial system on behalf of the public, as FSC Commissioners do, or even looking after the nation's electricity supply and taxpayers' money, as MEA board members do, is just as important as looking after the shareholders' funds for a financial institution, if not more so.

The Speaker: I would ask all Hon. Members to please keep supplementary questions short. We will get through the business more effectively.

170 Mr Teare.

The Minister: Thank you, sir. That would be very helpful.

Corporate effect on governance... In effect, if Statutory Boards and organisations were corporatised, by definition they would then be operating under the terms of a company. It would be a company structure under which they operated, so then they would fall within the terms of the Companies Act 1931 or 2006, and then the Company Officers (Disqualification) Act would also apply to them. So yes, it would possibly improve corporate governance.

The second question was dealing with fiduciary responsibility. Everybody who is in a position of trust has a fiduciary responsibility, and for licence-holders that is exercised by the Financial Supervision Commission to make sure that they are fit and proper people to undertake their responsibility; but for directors of limited companies who act not in the best interests of creditors, or indeed employers, there are provisions within company legislation to take action against them to prevent them from repeating any unsavoury activity.

185 **The Speaker:** Hon. Member for Michael, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker.

Can I ask the Treasury Minister when was the last time an independent review took place on the performance of the FSC, and is it now right that such a review takes place; and would the Treasury Minister be prepared to commission such a review?

The Speaker: Mr Teare.

195 **The Minister:** I would suggest it is outside the terms of this Question, but if the hon. gentleman would like to speak to me separately to give me a better understanding of what is behind this suggestion, I would certainly be happy to do so.

The Speaker: Hon. Member for Onchan, Mr Karran.

200 **Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh explain and reconcile how he can come up with statements... when directors are responsible for illegal loans, massive debts, abusive expenses, and are not then disqualified from the positions as far as their responsibility should be as far as this issue is concerned?

205 **The Speaker:** Minister.

The Minister: I have to say, sir, that I thought I had dealt with that before. The members of the MEA and the Water and Sewerage Authority and other Statutory Boards are exactly that: they are members of a Statutory Board which stands outside the terms of the Companies Act.

210 The Company Officers (Disqualification) Act 2009 relates to those who act in an inappropriate manner in their capacity as directors or servants of companies, sir.

The Speaker: Hon. Member for Michael.

Mr Cannan: Thank you, Mr Speaker.

215 Would the Treasury Minister not agree with me that the FSC, despite being a Statutory Board, appears to be subject to very little parliamentary scrutiny as to its performance, and therefore is it now not time to have a look at its performance and to see that it is suitably prepared for the future?

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

The Minister: The hon. gentleman will be aware that it is important that the licence-holders who are regulated by the FSC have confidence that the FSC stands apart from the political process. This is a point which has been made too by the OECD when they have been reviewing the Isle of Man, and it is a comment that they frequently make that the FSC should stand separate from the political process.

The Speaker: Just a reminder: in the House of Commons there are hon. gentlemen; in the House of Keys there are Hon. Members. (**Several Members:** Hear, hear.)
230 Mr Karran.

Mr Karran: Vainstyr Loayreyder, can the Shirveishagh reaffirm his statement just before, that he is saying that the MEA directors acted reasonably as far as the affair that has left generations with debt as far as this issue is concerned?

235 **The Speaker:** Minister.

The Minister: I did not say that they acted reasonably, sir.

240 **The Speaker:** Mr Cannan.

Mr Cannan: Thank you.

245 Would the Treasury Minister not agree with me that, despite what he has just said, the FSA in the UK is subject to scrutiny by Parliament and regularly does undertake such scrutiny from the Treasury Select Committee, and therefore should the same not apply to the FSC on the Isle of Man?

A Member: Hear, hear.

250 **The Speaker:** Mr Teare.

The Minister: Sir, I just would give the answer to the previous supplementary: the advice and the feedback that we have had from the international body is that the regulator should stand outside and not be subject to political pressure.

1.3. Disqualification of directors – Purpose and criteria

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

What the purpose is of disqualifying a person from being a director and what the criteria are?

255 **The Speaker:** Question 3. Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I ask the Question standing in my name.

The Speaker: Minister for the Treasury, Mr Teare.

260

The Minister for the Treasury (Mr Teare): Thank you, sir.

The statutory provisions relating to the disqualification of directors and other company officers are set out in the Company Officers (Disqualification) Act 2009.

265 The purpose of disqualification is to protect the public and maintain the integrity of the business environment in the Isle of Man. It is not intended as a punishment for past abuses, but is intended to prevent a repetition. Those who become directors or officers of limited companies should carry out their duties with responsibility and exercise adequate skill and care with proper regard to the interests of the company's creditors and employees. The majority of company officers do this effectively, but the Company Officers (Disqualification) Act 2009 is a powerful
270 tool against those who present a risk to the public through abuse of the privilege of limited liability.

The criteria for disqualifying a person from being a director or other company officer are as follows: (1) where an individual is an undischarged bankrupt, they may not act as a company officer without the leave of the High Court; (2) where the High Court makes a direction under
275 section 259 of the Companies Act 1931 – responsibility of directors for fraudulent trading – that an individual is liable to make a contribution to the company's assets, then it shall consider making a disqualification order against that individual for a period of up to 15 years; and (3) where an application for disqualification has been made to the High Court by the Financial Supervision Commission, the official receiver of a company, the liquidator of a company, or by
280 any past or present member or creditor of a company in relation to which an individual has engaged in conduct rendering them unfit, the High Court may, if it is satisfied that they are unfit, make a disqualification order against them for a period of between two and 15 years. In the case of insolvency, the High Court must disqualify if their conduct is unfit.

In assessing whether the conduct of an individual as an officer of a company makes them
285 unfit to so act, the Company Officers (Disqualification) Act sets out a number of specific criteria – at part 1 in all cases and part 2 if a company has become insolvent, of its schedule 1 – that the High Court must take into account.

Thank you, sir.

290 **The Speaker:** Supplementary question, Mr Karran.

Mr Karran: Vainstyr Loayreyder, thanking the Shirveishagh for his reply, what safeguards can we put in place in order to disqualify directors when they abuse their position, instead of a system that seems to take place by many people outside this Hon. Court, where they are kept
295 safe by the status of being part of a club?

The Speaker: Minister to reply.

The Minister: There is no such thing as a club. Basically, if the Hon. Member feels that action
300 should have been taken, could he tell me of those instances where he feels that has occurred?

What I would say is that there are currently proceedings before the High Court which are being launched against persons the FSC feels acted in an inappropriate manner.

The Speaker: Mr Karran, supplementary.

305

Mr Karran: Vainstyr Loayreyder, a supplementary to the Shirveishagh: would the Shirveishagh not agree that, even to the most blinkered, there seems to be an inconsistency as far as the approach of the disqualification of directors?

310 Allowing for the rewriting of history, as far as the MEA is concerned, will he now look into the points that the Hon. Member for Michael has brought up – some sort of independent review – in order that we have a consistent, fair approach as a modern functioning democracy, and not as some sort of banana republic?

315 **The Speaker:** Minister.

The Minister: The FSC has the information at its disposal and it must reflect on whether it is proportionate to take action against individuals, and also whether it is in the public interest.

320 I did say earlier that the FSC acts to protect the general public – that is in the case of regulated activities – but in the instance of directors of companies and officials of companies, they act to ensure that creditors are protected as far as possible, and that if a person abuses the concept of limited liability there are sanctions there to deal with that and to try and stop it happening again.

325 **The Speaker:** Hon. Member for Rushen, Mr Watterson.

Mr Watterson: Will the Treasury Minister confirm that he is already looking at the possibility of provisions for extending the scope of the Company Officers (Disqualification) Act to members of Statutory Boards, should the opportunity arise, and that he is conducting an assessment of that?

330

Mr Thomas: Hear, hear.

The Minister: Yes, I am certainly looking at that to bring in legislation to widen the scope of the Company Officers (Disqualification) Act 2009.

335

The Speaker: Final supplementary, Mr Karran.

340 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree, as a former Chairman of the Water Authority, that the fact is that we were always under the impression that you did have liability as far as the board members were concerned... that this is just a rewriting of the legislation and making it up?

345 Would the Shirveishagh also not look at the fact that we need a consistent approach as far as the disqualification of directors, when we see... particularly in the construction industry, where people are complaining on a regular basis?

345

The Speaker: Minister.

The Minister: It is all very well people complaining, but have they made the complaints to the relevant authorities?

350 Actually, I did say in the Answer to the original Question that liquidators, if they uncover actions which are inappropriate, in their opinion, during the course of a liquidation of a company, can report that to the Financial Supervision Commission, and the Financial Supervision Commission will then consider what action is appropriate.

355 It is not possible to give a blanket assurance that action will be taken in every case, because I have said it depends whether the action is appropriate and also in the public interest – and that applies to all proceedings in any court.

COMMUNITY, CULTURE AND LEISURE

**1.4. Sports, arts, culture and heritage –
Value assessment; new strategies**

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Community, Culture and Leisure:

Whether the value of all sports, arts, culture and heritage organisations and activities have been assessed as planned; and when new strategies for sports, arts, culture and heritage will be published for consultation?

The Speaker: Question 4. Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
360 I beg leave to ask the Question standing in my name.

The Speaker: The Minister for Community, Culture and Leisure, Mr Cregeen.

The Minister for Community, Culture and Leisure (Mr Cregeen): Thank you, Mr Speaker.
365 My Department is conducting detailed data collection from which we will be able to assess the value of sports, arts, culture and heritage. As I am sure my hon. colleagues can appreciate, it is a complex exercise due to the historical absence of the agreed consensus in which baseline measurements... This analysis will be completed by March 2014, the deadline given by the Agenda for Change.

370 The strategy for sport has been developed linked to the planned activities and is due to come to the Council of Ministers shortly. Consultation with key stakeholders... including the value of sport in the context of the strategy linked to outcomes, based on accountability framework.

In relation to arts, culture and heritage, the Department has a strategy at an early stage and it is intended to develop as an overarching cultural strategy to which sports, culture and heritage
375 partner organisations and sponsored bodies will contribute. There is such a wide range of organisations that the Department's strategies will involve a large number of stakeholders, and it is not something that should be rushed.

The Speaker: Mr Thomas, supplementary.
380

Mr Thomas: Thank you, Mr Speaker, and to the Minister for his reply, particularly confirming the deadline of March 2014.

385 Could I ask the Minister how this House... how the public representatives and how the public can be involved meaningfully before March 2014?

The Speaker: Reply, sir.

The Minister: Thank you, Mr Speaker.
390 In developing the strategy for sport, there has been detailed consultation with other Government bodies, Isle of Man Sport and the third sector.

For the cultural strategy consultation, which is at an early stage, whilst data from the organisations and benchmarking is collected, the Department is consulting as widely as practical, given the timescales in delivering objectives for Agenda for Change and the resources available.

395 **The Speaker:** Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

There is also the context of a sizeable deficit this year in the DCCL and that is an investment in arts, culture, sports and heritage.

400 I wanted to know whether the Department was thinking of abolishing itself, because if these organisations are doing very well, providing the strategy without parliament and so on, perhaps we can save money – a chief executive’s package – by abolishing DCCL to contribute to arts, culture, heritage and sport?

405 **The Speaker:** It is loosely associated with the original Question. I am not inclined to accept it, because it will just open up the whole thing about structural reform.

Mrs Cannell, Hon. Member.

Mrs Cannell: Thank you, Mr Speaker.

410 Can I ask the Minister... He talks about going out and consulting with the third sector, sporting organisations etc, but where do the public feature here? Does his Department intend to actually consult the public to make it a public consultation exercise, so that the users’ opinions and regard can be taken into consideration in formulating any future strategy (**A Member:** Hear, hear.) for any of these areas?

415

The Speaker: Mr Cregeen.

The Minister: Thank you, Mr Speaker.

420 The Department will be consulting. There is the Government code for consultation and that will be followed.

The Speaker: Question 5... I beg your pardon, Mr Ronan.

Mr Ronan: Thank you, Mr Speaker.

425 As part of the strategy just mentioned, does his Department liaise with the Department of Education and Children in regard to the lease of sporting facilities to our many sporting clubs to make sure that the rates are fair and affordable? He will probably be aware that a lot of sporting clubs out there are struggling at the moment to survive because the rates at the sports facilities at our secondary schools are too expensive.

430

The Speaker: Mr Cregeen.

The Minister: Thank you, Mr Speaker.

Yes, we are in constant dialogue with my colleague, the Hon. Member for Peel, Mr Crookall.

1.5. Articulated buses – Failure to conduct adequate risk assessment

The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Community, Culture and Leisure:

Why his Department failed to conduct an adequate risk assessment on the use of articulated buses before attempting to introduce them into service on the Island?

435 **The Speaker:** Question 5. Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.
I beg leave to ask the Question standing in my name, sir.

440 **The Speaker:** Again, the Minister for Community, Culture and Leisure, Mr Cregeen, to reply.

The Minister for Community, Culture and Leisure (Mr Cregeen): Thank you, Mr Speaker.
In respect of on-board safety, I refer the Hon. Member back to my Answer to a similar
Question asked in the Keys on 22nd January 2013, where I confirmed that the Department was
445 accepting the professional assessments provided by the manufacturer. That answer has not
changed.

I also promised at that sitting to make available to Members relevant documentation. This
was done by e-mail invitation to all Members on 12th March 2013, with a copy being lodged
with the Tynwald Library. I have received no further comment or response since that invitation.

450 With regard to any route risk assessment, the trial itself was the most practical way of
identifying any real problems. The DoI identified problems with bus lay-bys, either in terms of
inadequate size or absence, which is the situation with a large number of stops currently.

The Speaker: Mr Houghton.

455 **Mr Houghton:** Thank you, Mr Speaker.
It is noted that the Minister, representing his Department, remains to have an arrogant
stance in this matter, but can he just clarify this point – it was asked of him in another place:
does he still support an articulated bus carrying 150 schoolchildren to and from school? (**A**
460 **Member:** Irrelevant.) (**Mr Anderson:** Hypothetical.)

A Member: It is irrelevant.

1.6. Articulated bus trial – Report

The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Community, Culture
and Leisure:

*Why the report of the Independent Working Group assessing the articulated bus trial issued
on 1st July 2013 has taken four months to be issued to the public?*

The Speaker: Question 6. Mr Houghton.

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

The Speaker: Minister to reply. Mr Cregeen.

470 **The Minister for Community, Culture and Leisure (Mr Cregeen):** Thank you, Mr Speaker.
The independent working group's report on articulated buses was a report produced by the
Council of Ministers and was completed in July 2013.

Both the DCCL and DoI had to review the report from their own perspective and agree the
contents and the recommendations contained within the paper which accompanied the report
475 when submitted to the Council of Ministers for approval.

The Council of Ministers agreed that the report should be made public on 7th November. This was subsequently released on 11th November.

The Speaker: Mr Houghton.

480

Mr Houghton: Thank you, Mr Speaker.

485

Can the Minister fill in the gaps in between with a bit more detail, in the fact that the report was sent back to various bodies to be changed on behalf of the Department time and time again, and then, of course, that caused an onset delay... that they did not wish the public to be made aware of the mistakes and errors and arrogance that they performed throughout this whole measure?

The Speaker: Mr Cregeen.

490

The Minister: Thank you, Mr Speaker.

I think the only arrogance comes from the Hon. Member for North Douglas. As a Member of the Department of Infrastructure, he was aware of the trial. The Department was in consultation with the Department of Infrastructure in agreeing the recommendations. I cannot see where there is any arrogance in there.

495

On the publication of the report, the Council of Ministers agreed the recommendation and within days it was released. I cannot see where he is getting the arrogance from.

The Speaker: Mr Thomas.

500

Mr Thomas: Thank you, Mr Speaker.

Can the Minister comment on the perception that the reason it took so long to publish the report is because of the obvious failure of his Department to pre-assess the suitability of our roads for bendy buses? (**Mr Houghton:** Hear hear.)

505

I repeat my earlier question: do we need the Department of Community, Culture and Leisure? (*Laughter*)

The Speaker: You can repeat the question, but it will not be accepted.
Mr Cregeen.

510

The Minister: Mr Speaker, it is quite interesting that the Member constantly goes on about trying to save money. The Department, next year, has to find £1.7 million. It is all very well making remarks like he does, but to come up with something constructive we looked at a way of trying to find extra savings. That was evaluated. It was decided not to progress with that matter.

515

We are now getting criticised for trying to find ways to *save* money. Instead of the Hon. Member expounding excuses... We are actively doing stuff, Hon. Member.

The Speaker: Mr Houghton.

520

Mr Houghton: Thank you, Mr Speaker.

In relation to the Minister saving money, it is to be noted that he has just bought at least one more brand-new bus – a proper double-decker bus – which the Department is to be commended for. Where is the money-saving in that... whereas the money saved in getting rid of the old service buses to the likes of Blackpool, who returned them to service... where is the saving in that? Can the Minister explain?

525

The Speaker: That supplementary question is only very loosely associated with the original, but that will be the final supplementary. Mr Cregeen.

The Minister: Mr Speaker, it is quite interesting that the Member quite clearly does not read the Answers that are provided in Tynwald Court. Those figures were given.

530

Mr Houghton: You said you circulated them both round... [*Inaudible*]

The Minister: The figures *were* given: the fuel saving of over £200,000 in a year; the parts saving was given. They were justified. I would suggest to the Hon. Member, do some further research, actually do some work and read the Answers that were provided.

535

Mr Houghton: You should have provided them... [*Inaudible*]

HEALTH

1.7. Noble's Hospital car parking – Question not asked

The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health:

What action he has taken to resolve the problem with hospital car parking?

540

The Speaker: Question 7. Mr Karran.

Mr Teare: Not here.

1.8. Chlamydia testing – Trial postal scheme

The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health:

If he will develop a trial scheme in conjunction with pharmacies to set up a free, confidential chlamydia testing service by post, similar to that proposed in the UK?

The Speaker: Mr Karran, Question 8.

545

Mr Karran: I ask the Question standing in my name.

The Speaker: Minister for Health to reply.

The Minister for Health (Mr Anderson): Mr Speaker, the Department has been in the process of considering the most cost-effective way of implementing chlamydia screening locally.

550

The options are primarily about the actual tests being carried out. There are some steps in chlamydia screening which would need to be implemented – for example, publicity, treatment, partner notification and treatment – whatever be the option for carrying out the tests.

The pharmacist will be involved in two steps: (a) providing advice and publicity for the screening programme and acting as a distribution point for the test kits; and (b) in providing treatment. The local pharmacists have been enthusiastic in participating in the screening programme and one of their representatives has been working with Public Health in introducing the programme.

555

560 In short, I can confirm that a chlamydia screening programme will be introduced with participation from pharmacists. It will not be a trial, but a definitive programme, which obviously will be modified in the light of changing circumstances.

May I also point out that the scheme is operated in the UK already.

565 **The Speaker:** Mr Karran.

Mr Karran: Vainstyr Loayreyder, could the Shirveishagh son Slaynt just clarify the timescale, allowing for the fact that I raised this issue about four or five years ago, as far as the chlamydia testing is concerned? When does he hope to be in a position to actually get this out as part of the sexual health strategy for his Department?

570

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

575 I cannot be definitive on that; however, there is an aim to have it implemented by March 2014, but that depends on various circumstances. That might be slightly optimistic; but the Hon. Member is correct, we have been trying to roll this out for some time.

The Speaker: Hon. Member, Mrs Cannell.

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

Can I ask the Minister, whilst welcoming this initiative, the Question is suggesting that pharmacies set up the confidential testing service free of charge. Clearly, there must be a cost to this. Does the Minister have an idea of what it is going to cost his Department to roll out this scheme – where he is getting the money from, bearing in mind that he has told us on numerous occasions that there are to be no new services introduced through Health because of lack of money?

585

The Speaker: Reply, sir.

590 **The Minister:** Thank you, Mr Speaker.

In relation to the Hon. Member's question, I have not got definitive costs. However, I think the Department is taking a proactive stance in this in that actually it is going to save money in the long term. I shall try and get some facts and figures for the Hon. Member in respect of that question.

595

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that the issue of chlamydia is a major issue as far as particularly the young people, and with the complications in later life as far as fertilisation, it is a major cost saving if we can try and address that issue?

600

Would the Shirveishagh, if there is not the money to do it free, maybe consider seeing whether they can do it on a charge basis for some positive campaigning, so that people realise that the issue of sexual health strategy on this Island is not under control at the present time and there is a need, as far as public health is concerned, to make people aware of their responsibilities to themselves?

605

The Speaker: Mr Anderson.

The Minister: Yes, Mr Speaker.

610 I do not think the cost implications are extensive in relation to this. Therefore, when I have the information to come back with... I think it is already built into our budgets because we have been trying to roll this out for some time.

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

615

Mr Singer: Thank you, Mr Speaker.

In support of this proposal and the need for sexual health education, particularly amongst young people, would the Minister therefore reconsider his view on the provision of condom machines (**Mrs Cannell:** Hear, hear.) within secondary schools in order to help reduce the amount of STD infections that are, in fact, prevalent on the Island?

620

The Speaker: Minister to reply.

The Minister: Mr Speaker, I have no view on changing the set policy of the Department of Health.

625

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

630

Surely the Health Minister must agree that prevention is better than cure. So why doesn't he reconsider that policy of banning free condoms being available to our young people?

The Speaker: Reply, sir.

635

The Minister: Mr Speaker, I believe that education is better than cure.

INFRASTRUCTURE

1.9. Sea Terminal and Parade Street car parks – Plans to redevelop

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Infrastructure:

What plans exist to redevelop the car parks at (a) the Sea Terminal; and (b) Parade Street?

The Speaker: Question 9. Hon. Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

640

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

The Speaker: Minister for Infrastructure, Mr Cretney, to reply.

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

There are no plans to redevelop the Sea Terminal car parks themselves. Any future redevelopment will be on the two Parade Street sites.

645

In relation to the second part, the Department will be considering options for the redevelopment of the Parade Street east car park site and the Parade Street west car park site, which is the former bus station site, but it can only do this once it has reviewed the report on the consultation on the interim planning guidance for the Lower Douglas Master Plan.

650 The Douglas town centre parking study and parking policy development options report has highlighted the need to develop further off-street car parking. In particular, we will need to consider how we accommodate the temporary off-street parking that will be displaced as various sites are redeveloped. As the two existing Parade Street car parks currently provide around 370 parking spaces, it is likely that we will have to include a significant element of off-street car parking within any redevelopment.

655 Subject to reviewing the report referred to, the Department will be looking to place the sites on the market to maximise the overall redevelopment opportunities whilst providing off-street car parking and taking into account any operational port requirements.

660 **The Speaker:** Mr Thomas, a supplementary.

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

665 Just a point of clarification first, given his comments: I thought that the Lower Douglas planning guidelines were already finalised. I was surprised to hear something in his statement there.

Also, I was a bit surprised to hear the answer about the Sea Terminal car park, because I thought that an application for change of that was made to Planning during phase 1 of the promenade scheme, and in fact it was approved.

670 My question is about publication of the parking study that the Minister has referred to. Wouldn't it be helpful to us all, particularly Douglas Council, if that was put in the Library so everybody could see it?

The Speaker: Reply, sir.

675 **The Minister:** Yes. I have said, in response to an earlier question from the Hon. Member, Mr Speaker, that it is a draft document and it has yet to be approved by the Department. Following that, it will, of course, be circulated widely and be available for public comment.

The Speaker: Mr Thomas.

680 **Mr Thomas:** Thank you, Mr Speaker, and to the Minister for that reply.

Why not publish? Everybody knows you do not agree with all the recommendations, so surely it would be helpful that the findings and the analysis were in the public domain.

685 Along those lines, can I ask the Minister whether he now believes, given what has happened in car park provision, it would be easier if all Douglas car parks were transferred to a single authority as part of the reviews of the scope and structure of national and local government?

The Speaker: Mr Cretney.

690 **The Minister:** I am happy for such matters to be considered.

The Speaker: Question 10 –
Mr Quirk.

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

I just wonder whether the Minister has considered any pay-and-display ideas as part of this particular programme, or the instigation of any parking meters?

The Speaker: Mr Cretney.

700 **The Minister:** Yes, thank you, Mr Speaker.

In response to the first part of the Hon. Member for West Douglas, Mr Thomas's earlier question, some time ago... This matter is included in the draft document. The Hon. Member was obviously a councillor and has previously obviously seen the draft report; and so, unfortunately, the Hon. Member for Onchan has not.

As soon as the Department has a fixed policy on this matter, it will be circulated so that all Hon. Members and the public can take advantage and read its findings and our suggestions in terms of the way forward.

**1.10.-1.12. Airlines –
Services to the Island**

1.10. The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Infrastructure:

If he will make a statement on how Government can work with airlines for the benefit of local people?

1.11. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Infrastructure:

What action his Department has taken to deal with the effects of Flybe ending its service to the Island from March 2014?

1.12. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Infrastructure:

If he will make a statement on the current situation with Flybe and their services to the Island; what impact their proposed cuts will have for the community; how businesses and tourism will be affected; and what action he is taking about this situation?

The Speaker: Question 10, Mr Thomas.

710

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

The Speaker: Hon. Member, Mr Cretney.

715

The Minister for Infrastructure (Mr Cretney): Mr Speaker, you did say that Questions 10, 11 and 12...

The Speaker: If, Minister, you have sought the concurrence of Mr Karran and Mr Henderson –

720

The Minister: Yes, sir.

The Speaker: – you may certainly consolidate your Answer, and I will, of course, give opportunity to the other questioners for supplementaries.
Thanks, Mr Cretney.

725

The Minister: Thank you, Mr Speaker.
Having received permission from the Hon. Members, I would like to answer Questions 10, 11 and 12 together.

730

735 The key relationships for airlines generally are with the operators of the airports they serve and wish to serve. In our case, this falls to my Department. Whilst on the day-to-day operational basis the Director of Ports, as licensee, is the key officer dealing with airline services and standards, the overall policy direction is my responsibility. I am supported, of course, by the Council of Ministers and its subcommittees for environment and infrastructure and for national strategy.

740 The Department also works very closely with the Department of Economic Development regarding the marketing of routes. This is possibly an area that Government may wish to concentrate more on in the light of the recent Flybe news regarding the potential closure of their base on the Isle of Man. Marketing support is already made available to promote key routes, benefiting not only inbound visitor numbers but also improving the viability of the routes.

745 Even though Flybe is looking to close their base and making most of their Isle of Man staff redundant, Flybe is keen to stress that it will be continuing to serve scheduled services to and from Ronaldsway. However, at this stage, the company has not declared which routes it will continue past 31st March 2014. I believe that this news will be forthcoming over the next two or three weeks, and until their determinations are concluded we can only speculate on the effect this may have on business and tourism.

750 Perhaps the most significant potential impact on the community is the threat to the patient transfer contract between our Department of Health and Flybe. This accounts for around 13,000 passenger journeys a year and is valued at over £1.6 million per year. Patients going for treatment in the United Kingdom currently receive a good service to Liverpool, and I will be certainly working with colleagues to ensure the continued provision of this vital link for our community.

755 Hon. Members will be aware, from coverage in the media last week, that I joined the Chief Minister in a meeting with the most senior Flybe executives to discuss the situation. Shortly afterwards, we met representatives from the Flybe staff who are potentially facing redundancy.

760 I would like to make it clear to Hon. Members that the decision Flybe has made is not because of any sort of Isle of Man problems. The Isle of Man is one airport base closure among six regional airports. The company has been losing substantial amounts of money across their operations and has decided to make drastic cuts to try to secure the future of the business as a whole. The airline industry is very challenging and the company's Chief Executive Officer made it very clear that they will have to change the way they operate as currently, he said, only one of their routes is profitable.

765 We are now waiting for more detailed proposals from the company about any alternatives to their closing the local base and will be ready to deal with these promptly when they arrive.

770 We asked if there was any opportunity for the Island-based staff to transfer to the Manchester base but be permanently rostered to cover the Manx routes. This could allow staff to continue to live here and would retain full employment here, keeping the considerable local skills and experience. It would also save Flybe redundancy costs and allow savings on the provision of hotel accommodation, transport and the overnight allowances that they would incur by night-stopping aircraft using Manchester crews. The Chief Executive said that they will look at this proposal; however, it would be dependent on how the aircraft was scheduled, as it is unlikely that one aircraft would fly to and from Ronaldsway the whole day, as happens now. 775 Nevertheless, the proposal is being considered.

The Department is keeping Flybe staff appraised of the ongoing situation, as well as putting them in touch with various bodies such as the Employment Skills Group from the Department of Economic Development, who can offer the staff advice on employment services.

780 At the same time, the Department is talking to a number of alternative airlines regarding the Flybe routes in case Flybe's determination is to not continue with all the current services. Clearly, the ideal solution will be for Flybe's consultation process to conclude that minimal

changes are needed. Flybe has been a good supporter of the Island for some years and I would be very pleased to have them continue to employ and serve local people.

785 If, however, some or all of their plans are put into effect, I will work with my colleagues across Government to secure as many jobs and services as I possibly can.

The Speaker: A supplementary question, Mr Thomas.

790 **Mr Thomas:** Thank you very much, Mr Speaker, and to the Minister for that comprehensive reply, which had some good news in it.

My first supplementary for the Minister, Mr Speaker, is to ask about when the Government first knew about this emerging crisis in the aviation sector and when they went to talk to the airlines about it – not just Flybe, because I remind the Minister that my Question was in terms of all of the airlines. When did the Council of Ministers first consider this potential decimation of our aviation sector in our economy?
795

The Speaker: Mr Cretney.

800 **The Minister:** I regret the language which is being used. I believe that there are opportunities which will come out of the difficulties which are being faced by airlines – not only to the Isle of Man, but globally presently and certainly throughout the United Kingdom.

We have been proactive. We have met each of the operators who have chosen to change things in relation to Isle of Man routes and on an ongoing and proactive basis, as I said at the conclusion of the previous response.

805 Talking specifically about Flybe, if Flybe's plans do come to fruition as they presently intend, prior to this consultative period, then we have other options to make sure that the Isle of Man will continue to be served, and there are interested parties to continue to do such.

In terms of being proactive, I met only yesterday again with senior executives from BA CityFlyer, who were on the Island because of the importance of the London routes – which the Isle of Man Government obviously fully understands, in particular for the business community, as I have indicated previously in this Hon. House and in another place – and they are returning to the Island next week.
810

I remain optimistic that that situation will come to a satisfactory conclusion.

815 **The Speaker:** Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker.

I want to reassure the Minister that using words like 'potential decimation' to me does not sound unrealistic. We want reassurance that things are being managed properly.

820 In that light, can the Minister confirm that the way that the Government can work with airlines has been agreed with the Treasury? I did not see that the Treasury was mentioned in his list of people responsible; and obviously, if we are talking about various arrangements, we need to know in advance what we are discussing.

825 Secondly, is the hospital arrangement up for negotiation with a potentially locally based airline if Flybe cannot actually provide that service in the early morning?

The Speaker: Minister to reply.

830 **The Minister:** In my original response, Mr Speaker, I did indicate that I would be working with colleagues across Government; and so yes, obviously the Treasury falls into that category.

In relation to the hospital contract, which was signed for three years only very recently, we have made it very clear to Flybe that we understand there is an obligation there. However, if the obligation is to be changed in some way, then we understand that there are others who may be

835 able to take on such service. It was probably one of the most important aspects of the
discussions which we had with the representatives of Flybe, because for many people on the
Island this is clearly an important and worrying issue.

The Speaker: Hon. Member for Onchan, Mr Karran, do you wish a supplementary?
Mr Henderson.

840 **Mr Henderson:** No. the Minister has answered the contingency planning element of my
query.

The Speaker: Mrs Cannell.

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

Whilst accepting that the Minister is saying that he is now giving this matter a proactive
approach in terms of prioritising it, can he explain to the House whether or not there is a regular
procedure in place, a formula, to enable him and his chief officers to liaise regularly with the
850 companies that fly in and out of the Island; or is that merely left to the management at the
Airport?

If it is, does he not think that perhaps it is now time to settle a formula to be able to liaise
with these people, given that they are a lifeline to the Island, and without them we would be
855 disconnected from the greater world?

The Speaker: Mr Cretney.

Mr Watterson: The lesser world.

860 **The Minister:** Mr Speaker, the situation is that on a regular – weekly, daily – basis, airport
management liaise with colleagues within the industry.

However, on the point that the Hon. Member has made in terms of myself as political
representative, I can assure her that I – and those who have had my position with responsibility
for ports previously – do undertake such meetings regularly with senior representatives of air
865 operators and obviously the Steam Packet Company, which is also a lifeline operator to the
Island.

EDUCATION AND CHILDREN

1.13. Safer routes to schools – Policies and schemes

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Education and Children:

*What policies and schemes have been developed, promoted and implemented to provide
safer routes to schools?*

The Speaker: Question 13. Hon. Member for Douglas West, Mr Thomas.

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

The Speaker: I call on the Minister for Education and Children, Mr Crookall.

The Minister for Education and Children (Mr Crookall): Thank you, Mr Speaker.

875 The responsibility for establishing safer routes to schools falls within DoI Highways under their responsibility for the public highway, and we have been active over the years in liaising with them and working with them in the promotion and implementation of measures.

Such measures include seeking to ensure the retention of school crossing patrols and/or the introduction of controlled crossing at key pedestrian routes to schools, and suitable footpaths and pavement widths leading to schools.

880 There is extensive consultation during the planning of a new school facility to seek to ensure the safer routes.

The St Ninian's Lower School Scheme at Bemahague incorporates the bridge crossing the A18 TT course and the controlled crossings at Hillberry Road.

885 We are fully engaged with the DoI in the planning of the new Henry Bloom Noble Primary School on Westmoreland Road to ensure that there are safe pedestrian approaches to the school, which will include the addition of controlled crossings.

Thank you, Mr Speaker.

The Speaker: Mr Thomas, a supplementary.

890

Mr Thomas: Thank you very much, Mr Speaker, and to the Minister for his reassuring Answer.

Especially given the hints in respect of charging schoolchildren something for buses, has the Department been liaising with the Department of Infrastructure even more than it does normally, so that we can actually think about providing even safer routes to schools going forward into the future, so that schoolchildren can actually get to secondary schools in particular?

895

The Speaker: Mr Crookall.

900

The Minister: Thank you, Mr Speaker.

The answer to that, very briefly, is yes, I liaise regularly with my colleagues from DCCL and DoI over this, sir.

905

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

Can I ask the Minister is he getting full support from the Department of Infrastructure regarding potential works that are required in and around schools?

910

The Speaker: Mr Crookall to reply.

The Minister: Yes, Mr Speaker, the Department's Highways Division is very helpful in this respect, and always has been, sir.

915

The Speaker: Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker.

Are secondary school heads aware of the Department of Infrastructure strategy, policy and budgets? Can I ask the Minister that, please, Mr Speaker?

920

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

925 I am not sure exactly what he means by are they aware of policy and budgets and things, but as far as I know the answer to that is probably yes – if he would like to clarify that, sir.

Mr Thomas: For safer routes to schools, Minister.

930 **The Minister:** Absolutely, Mr Speaker.

**1.14. Henry Bloom Noble Primary School –
Pre-school provision**

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Education and Children:

Whether pre-school provision in the area of the proposed old Noble's Hospital site primary school is adequate?

The Speaker: Question 14. Mr Thomas.

Mr Thomas: Mr Speaker, can I move that Standing Order 3.5.1(2) be suspended to enable to remaining Questions –

935

The Speaker: It is not 11 o'clock yet, so I am taking Question 14.

A Member: [*Inaudible*] Keep going!

940 **Mr Henderson:** Keep going, Chris.

Mr Thomas: Mr Speaker, thank you.
I beg leave to ask the Question standing in my name.

945 **The Speaker:** Minister for Education and Children.

The Minister for Education and Children (Mr Crookall): Thank you, Mr Speaker.

I am pleased to be able to inform the Hon. Member that the list of registered settings, maintained by the Department of Social Care and accessible from their website, shows that there are 22 pre-school settings listed in Douglas, with many others in the adjacent areas such as Braddan and Onchan. Of these 22, at least four or five can be described as directly serving the area around the proposed new Henry Bloom Noble Primary School.

950

Given that the same Social Care list identifies five settings serving the whole of Ramsey, it is difficult to see how the settings in the area around the proposed new school in Douglas could not be described as adequate provision, sir.

955

Thank you.

The Speaker: Mr Thomas.

960 **Mr Thomas:** Thank you, Mr Speaker, and I appreciate the reply from the Minister.

There have actually been planning applications for Circular Road and Allen Street sites, which to me shows that there is an unsatisfied demand where people want to live. So I wanted to ask if perhaps there is a concentration of pre-school settings in certain areas in Douglas and not in other areas.

965

The Speaker: Minister.

The Minister: Yes, Mr Speaker.

I am not sure exactly what the Hon. Member is alluding to, but I am more than happy to
970 discuss it with him at any time.

As far as we are concerned, and through the list we have, sir, there is adequate provision in
the area.

The Speaker: Mr Karran.

975

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh Ynsee not agree that under the old
system there was a wilderness in this areas as far as provision was concerned, allowing for the
fact that this is an area of social deprivation that needs this sort of facility?

Allowing for that, then anything must be an improvement in the system from the previous
980 policy, where 40% of children throughout the Island would be receiving pre-school education
and 60% would not, and in this area there would have been nothing.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

985

I am happy to be able to confirm what the Hon. Member has just said; and yes, there are
more children accessing pre-schools at the moment, sir.

The Speaker: Mr Thomas.

990

Mr Thomas: Thank you, Mr Speaker, and I thank the Minister for the extra facts and
assessment.

My Question was about adequacies, so can the Minister comment specifically on two
adequacies? The first is adequacy of location, and we have discussed that already: schools need
995 to be where families live and mums and dads come to work.

The second – and this is the extra question – is about adequacy of building, Minister. All sorts
of other things can happen to the detriment of children in a nursery conversion with pokey
corners and hidden places. All sorts of accidents can happen when kids are transported to a
place where parking is difficult. So, does the Minister agree that, if at all possible, we ought to
1000 have purpose-built environments, and the proposed Noble's Primary School is an opportunity to
have that – if money, as ever, were plentiful? (*Interjection*)

The Speaker: Reply, sir.

The Minister: Thank you, Mr Speaker.

1005

I would suggest that interfering in what is obviously a buoyant and dynamic sector in this
area of Douglas, which is a mix of commercial and third sector provision, would not be a good
use of public funds and may only lead to a destabilisation of the existing provision, sir.

As I said earlier, I would offer to the Hon. Member to come and have a talk with me at any
1010 time if he thinks there are issues here.

**Standing Order 3.5.1(2) suspended
to allow continuation of Question Time**

The Speaker: Having reached the appointed time for Oral Questions ending, I call on Mr Thomas.

1015 **Mr Thomas:** Mr Speaker, thank you.
I beg to move:

That Standing Order 3.5.1(2) be suspended to permit the remaining Questions for Oral Answer to be taken at this sitting.

The Speaker: Mr Quirk.

1020 **Mr Quirk:** I beg to second, sir.

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

Please vote, Hon. Members. Sixteen votes are required to suspend Standing Orders.

1025 *Electronic voting resulted as follows:*

FOR

Mr Quirk
Mr Hall
Mr Karran
Mr Ronan
Mr Crookall
Mr Singer
Mr Quayle
Mr Cannan
Mr Cregeen
Mr Houghton
Mr Henderson
Mrs Cannell
Mr Thomas
Mr Cretney
Mr Skelly
The Speaker

AGAINST

Mr Teare
Mr Robertshaw
Mr Watterson

The Speaker: With 16 for and 3 against, we carry on.

SOCIAL CARE

**1.15. Disability Discrimination Act –
Implementation timetable**

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Social Care:

When the Disability Discrimination Act implementation timetable will be published?

The Speaker: Hon. Member, Mr Thomas.

1030 **Mr Thomas:** Thank you very much, Mr Speaker, and to my colleagues for extending Question Time.

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

The Speaker: Question 15. The Minister for Social Care.

1035

The Minister for Social Care (Mr Robertshaw): In April, I gave a commitment to Tynwald to continue the phased approach to the implementation of the Disability Discrimination Act (DDA) and to publish, by the end of 2013, a timetable detailing next steps for the implementation of the Act.

1040 As Hon. Members will be aware, since giving this commitment, the Chief Minister has announced the Government's intention to bring forward new equality legislation based on the UK Equality Act 2010.

1045 The new equality legislation will repeal the Disability Discrimination Act in its entirety. This is because discrimination for disabled people under the proposed equality legislation will go further than the DDA in a range of circumstances covering the provision of goods, facilities and services, the exercise of public functions, premises, work and education.

The Department has been provided with anticipated timescales for the development of the new equality legislation and, given that we have received confirmation it will repeal the Disability Discrimination Act in its entirety, we have had to take this into account when looking at implementation.

1050 I will make a statement to Tynwald next month, providing an update on progress to date, and will publish before Christmas a revised timetable that takes into account the practical implications of implementing the Disability Discrimination Act in light of the accelerated timescales for new equality legislation.

1055 Thank you, Mr Speaker.

The Speaker: Mr Thomas, a supplementary.

1060 **Mr Thomas:** Thank you very much, Mr Speaker, and thank you to the Minister for confirming that the original timetable for publication of the timetable will be met.

I noticed recently the appointment of some excellent people and I am sure we are going to get some success finally in this area.

1065 My first supplementary question is why we needed a new disability discrimination forum and why the Tynwald Advisory Committee for Disability could not have taken this forward. That is a question for the Minister, please, Mr Speaker.

The Speaker: Mr Robertshaw, reply.

The Minister: Thank you, Mr Speaker.

1070 I think with the increased focus and intensity of interest on the whole matter, the forum was an additional facility and did not in any way replace the original one.

Thank you, Mr Speaker.

The Speaker: Mr Karran.

1075

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree... Allowing for the fact that it got Royal Assent on 16th October 2006, what assurances can we have that this administration will not renege, like the Brown administration, on promises made and promises broken?

1080 Would the Minister not agree that this idea of now trying to change the agenda, trying to create jam for tomorrow for this section of the community, when there is legislation there...

which is not perfect, but it is some sort of protection for this vulnerable section of our community?

The Speaker: Reply, sir.

1085

The Minister: I cannot, Mr Speaker, share the Hon. Member for Onchan's sentiment on this. I think my Department is showing a determination and commitment to the process, and that will continue.

Thank you, Mr Speaker.

1090

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

1095

I hope the Minister will take this question, even though it is about implementation of disability discrimination and measures in general.

I notice there is no DSC budget for DDA capital expenditure after 1st April 2014, as indicated in the Departmental Strategy Plan 2013-16. Does that mean that all of the activity is going to take place in the first three months next year?

1100

The Speaker: Reply, sir.

The Minister: I refer to my original Answer, Mr Speaker, where I indicated that the timetables will be available to Tynwald next month.

1105

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

1110

I am just wondering... I am a little bit mystified, really. Given that a champion of the third sector advised the Department some two years, three years ago, that the Equality Act was going to replace the Disability Discrimination Act in full and it had more to it... If the Minister was advised and his officers were advised of that, why is he now, in 2013, the month of November, just saying to the House that he is now satisfied the Equality Act will contain the provisions of the previous Act that we had Royal Assent for? Why so late? What is the delay here?

1115

The Speaker: Reply, sir.

The Minister: Thank you, Mr Speaker.

1120

There is no delay. The original statement I made with regard to timetables on DDA was given in April and the announcement by the Chief Minister that he will be bringing forward equality legislation occurred in May.

I think that answers the question, Mr Speaker.

The Speaker: Mr Karran.

1125

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that the fact is, when we talk about the Disability Discrimination Act – which was supposed to be implemented and had Royal Assent on 16th October 2006 – here is another example of where law is very slowly brought in when it comes to social welfare; but when it comes to other sections of the community, there is not a seven-year delay like there has been for this section of the community on disability discrimination?

1130

The Speaker: Mr Robertshaw.

The Minister: Thank you, Mr Speaker.

I think we are beginning to repeat ourselves here a bit.

1135 The House has, on a number of occasions, expressed its frustration with the lack of progress, and as a result of that, earlier in the year I did indicate the timetable that we will be announcing, and that remains the case.

The Speaker: A final supplementary, Mr Thomas? No.

**1.16. National Insurance and Social Security policy –
Review**

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Social Care:

When the first phase of the review of National Insurance and Social Security policy was completed; and what decisions have already been taken in respect of a new benefits system?

1140 **The Speaker:** Question 16. Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

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

1145 **The Speaker:** Minister for –

Mr Thomas: Also, just for the record, just in case it is relevant, Mr Speaker, I do actually have a disabled child, and over 10 years I have actually interacted with Social Care, Education and Health about that; but I do not think that is of material interest for me to declare.

1150

The Speaker: Thank you.

Minister for Social Care to reply.

The Minister for Social Care (Mr Robertshaw): Thank you, Mr Speaker.

1155 The first phase of this comprehensive root-and-branch review was to understand and agree the scope and how the second and substantive phase of the review would be comprised and conducted. The first phase was completed in June 2013.

1160 Following a presentation to the Council of Ministers on 12th September 2013, Council agreed the recommended scope of the second and substantive phase of the review and to commissioning a firm of consultants to assist both my Department and the Treasury to carry out the review and prepare a report setting out the various options for change for Tynwald to debate next summer.

A key part of the substantive review will be a public consultation of a wide and very substantial nature.

1165 Clearly, Mr Speaker, no decisions will be made regarding a new benefits system ahead of that report being debated in Tynwald.

The Speaker: Mr Thomas.

1170 **Mr Thomas:** Thank you very much, Mr Speaker, and to the Minister for that reassurance, because I had noticed – and that is what I would like the Minister to confirm – that in the progress report of the Agenda for Change it does say that departmental Council decision on a new benefits system will be made in June 2014; so I am reassured, as long as the Minister can

confirm it, that the national parliament and the general public will have the ability to choose
1175 between options, rather than just take it or leave it.

The Speaker: Reply, sir.

The Minister: Thank you, Mr Speaker.

1180 I am very happy indeed to give the Hon. Member for West Douglas full assurance that,
because of the degree and importance of this issue, the level and content of the engagement
with the public will be at an unprecedented level.

Thank you, Mr Speaker.

1185 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

1190 Can the Minister advise the House on who the consultants are that the Department has
appointed, what their remit is, how long they are to be engaged, and what the costs are to the
public purse, please?

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

1195 I am happy to circulate the cost element of the consultants' fees after the sitting.

We have used RSM Tenon in the first stage and continue to use them in the second stage, but
they now have changed their name to C-i65.

1200 The remit is a very broad remit indeed, because we are dealing with some very fundamental
challenges in ensuring that, going forward, our pensions and benefits system remains
sustainable.

The Speaker: Mr Thomas, a final supplementary.

Mr Thomas: Thank you very much, Mr Speaker.

1205 Can the Minister advise whether any decision has already been taken to move benefits closer
to Treasury for efficiency in terms of administration, to avoid duplicative means testing, and also
to minimise risks arising from data protection and security issues, as discussed in another place
recently?

1210 **The Speaker:** Reply, sir.

The Minister: Thank you, Mr Speaker.

1215 The importance of ensuring efficiency in means testing is very much a matter at the forefront
of minds in both my Department and in Treasury, and certainly how we construct that process in
an effective manner is under close deliberation at the present time, Mr Speaker.

The Speaker: That brings us to the end of Questions for Oral Answer.

There are six Questions for Written Answer and the replies have been distributed.

Questions for Written Answer

CHIEF MINISTER

2.1. ICT security – Spending estimate

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

What estimate he has made of ICT security spending by the Government as a percentage of total Government ICT spending in each of the past three years?

1220 **Answer:** Although total ICT spend across Government is not fully centralised, Information Systems Division (ISD) of the Department of Economic Development has responsibility for the majority of Government's ICT spending and ICT security.

1225 Consequently to estimate the ICT security spending, actual expenditure incurred by ISD for the last three full financial years on ICT security activities has been used. This covers security staff costs, security hardware, firewalls, licences, antivirus and threat management software, external and internal penetration tests and internal and external audits in this area.

The estimate of ISD's ICT security spend, as a percentage of the total spend incurred by ISD for the last three years, is as follows:

	2010-11	2011-12	2012-13	Average
ISD ICT security spending as a % of ISD total spend	3.2%	2.6%	3.0%	2.9%

1230 In 2010, a survey was conducted to determine the breadth of ICT activity across Government and the total cost of ICT spend was produced, which included the ISD spend as the majority spender as well as all other Departmental spend.

The estimate of the level of dedicated ISD spend on ICT security for each year when compared to this estimated figure for total Government ICT spend in 2010 is as follows:

	2010-11	2011-12	2012-13	Average
ISD ICT security spending as a % of Gov. total ICT spend	2.2%	1.7%	1.8%	1.9%

1235 Consequently the spend on ICT security as a percentage of the total spend on ICT across Government is between 2% and 3% on average depending on how it is measured.

2.2. Aviation – Meetings involving Chief Minister or Ministers

The Hon. Member for Douglas West (Mr Thomas) to ask the Chief Minister:

What meetings he and other Ministers have had in the last month concerning aviation?

Answer: As the Hon. Member will appreciate, Ministers, including the Chief Minister, attend a number of meetings in different circumstances, some of which cover a broad range of issues.

1240

Given the scope of the Question, potentially covering a number of loosely related topics, I am only able to answer in general terms. Accordingly, I can advise that in the four weeks prior to the date of this sitting, I have had five meetings at which aviation matters were discussed.

I do not hold information on the diary commitments of other Ministers so I am unable to advise how many meetings Ministers have had in the last month concerning aviation.

**2.3. Council of Ministers –
Dates of meetings; publication of Summary of Proceedings**

The Hon. Member for Douglas West (Mr Thomas) to ask the Chief Minister:

When the Council of Ministers met between September 2012 and September 2013; and when the Summary of Proceedings was published in each case?

Answer:

Month	Date	Summary distributed to Tynwald Members on date below and day after request was sent the same be published
2012 September	20, 27	30 October 2012
2012 October	4, 11, 18, 25	13 December 2012
2012 November	1, 8, 15, 22, 29	4 February 2013
2012 December	6, 13, 20,	
2013 January	10, 17, 24, 31	16 April 2013
2013 February	7, 14, 28	Members were advised that future summaries would cover three-month periods
2013 March	7, 14, 21, 26	
2013 April	4, 11, 18, 25	24 July 2013
2013 May	2, 9, 16, 23, 30	
2013 June	13, 20, 27	
2013 July	4, 18, 25	11 November 2013
2013 September	12, 19, 26	

Chief Secretary's Office records show that during this period we received one enquiry from a Member of Tynwald and one from a member of the public.

**2.4. Living wage –
Concept**

The Hon. Member for Douglas West (Mr Thomas) to ask the Chief Minister:

If he will make a statement on the concept of the living wage?

1245 **Answer:** The concept of a living wage has been gaining traction in recent years in the UK on the back of the work of the Greater London Authority and the Centre for Research in Social Policy (CRSP, at Loughborough University) acting on behalf of the Joseph Rowntree Foundation, although it has been estimated that only around 50,000 UK employees have obtained higher wages as a direct result of its adoption.

1250 There are no generally accepted definitions of a living wage nor is there an agreed methodology on its measurement. A living wage has been variously described as one that provides for 'the essentials of life' and a 'basic living standard of a decent life'. When included with other sources of household income, such as state support, the living wage transforms into what has been labelled a 'minimum income standard'.

1255 It should be noted that because the living wage is so subjective and because its measurement and the items costed will vary from country to country (particularly with regard to income levels) and will change over time, its use in making inter-country comparisons and in detecting trends over time is limited.

1260 A living wage could be voluntary or it could be mandatory. If the former, the take-up is limited, with participants being of companies and organisations already paying nearly all their employees a rate above the living wage. If the latter, then it is essentially just a relatively high minimum wage.

The negative economic implications for employers could include:

- 1265
- higher wage bills and lower profits
 - particularly where wage differentials are maintained, and
 - higher prices being charged.

For a government there could be consequent concerns that:

- 1270
- there would be redundancies and higher national unemployment
 - there would be more demands on state income supports from individuals made redundant
 - the general rate of inflation will be bid upwards
- 1275
- economic growth could be slowed
 - it would be a disincentive to inward investment.

1280 On the plus side there is evidence that the living wage can improve employee attitudes and productivity, with workers on the living wage having better attendance records, giving better customer service, and staying in their jobs for longer. Improved productivity in turn can mean a more competitive company.

For a government there is a financial benefit deriving from increases in wages *per se*, from:

- 1285
- increased revenues from personal income tax and National Insurance
 - increased revenues from indirect taxes as a consequence of greater spending
 - reduced state support payments on income-related benefit schemes.

1290 Whether the overall effects of a living wage are positive or negative, the evidence confirms what would only be expected, that the greatest impact is typically in catering and retailing occupations.

**2.5. Chief Minister's role –
Review**

The Hon. Member for Castletown (Mr Ronan) to ask the Chief Minister:

If the Chief Minister will review the Government Departments Act 1987 to give the Chief Minister's role greater direct influence over Departments, Boards and Offices of Government in order to ensure greater cohesion and consistency in policy making and decisions?

1295 **Answer:** The Chief Minister's principal statutory power lies within the Council of Ministers Act 1990, which provides for him to advise the Governor regarding appointment of Ministers and to provide concurrence to such appointments. No more than nine persons may be appointed as Ministers by the Governor and the Chief Minister allocates ministerial portfolios to those so appointed. He has an equivalent power to withdraw concurrence and in effect recommend to the Governor the dismissal of a Minister.

1300 The Chief Minister is statutorily a member of the Council of Ministers and chairs meetings of the Council. His other statutory powers include an ability to require Departments and Statutory Boards to provide him with information and to allow a person appointed by him access to departmental or Board records and accounts etc. He also has statutory responsibility for authorising official interceptions of communications, powers of direction over the Civil Service Commission and for a small number of other matters, including certain appointments.

1305 Although the Chief Minister's statutory powers are limited, his position within Government, particularly in relation to policy making and setting priorities is pivotal. He leads the Government in Tynwald and represents the Isle of Man Government externally and within the Island community. Further powers exist where, in certain circumstances and following appropriate consultation, the Council of Ministers may direct Boards and Offices.

1310 Nonetheless, I recognise there is a need to ensure greater cohesion and consistency in policy and decision making and can confirm that the means of achieving this are under active consideration by the Council of Ministers. I expect to be in a position to brief Hon. Members on our proposals in this regard in the very near future.

TREASURY

**2.6. EU VAT policy reform –
Assessment of impact on revenue sharing agreement**

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

What the expected timescale is on the EU VAT policy reform to shift from the source of supply to the point of consumption basis in all member states; what recent impact assessment he has made of this reform in the Isle of Man revenue sharing agreement with the UK; and whether the expectation is that the UK and the Isle of Man VAT revenue sharing agreement will be replaced on the same date as any system introduced in the UK, or deferred or not applied at all?

Answer: From its inception the intent of the EU Commission ('the Commission') was that the EU VAT system would have an 'origin basis' where VAT would flow to the member state making the supply. However whilst this was the stated policy the reality was that member states would not accept such a basis at implementation. Therefore to get the EU VAT system started the Commission provided for its implementation on the 'destination basis' where VAT would flow to the member state of consumption. The Commission termed this system as 'transitional' in the hope of eventually achieving an origin basis.

In December 2011, following a public consultation and discussions with member states, the Commission finally accepted and announced that the origin basis was politically unachievable.

The Commission stated that consequently, in order to provide a stable and improved VAT system, the EU is focussing on the creation of a more robust and efficient functioning destination-based system whilst recognising that there are highly complex and technical issues to face which require a series of in-depth policy assessments to be performed.

The terms of reference for the initial feasibility and economic study have recently been prepared but the results are not expected to be delivered until mid-2014 at the earliest. Further related studies are planned to commence later in 2014 and throughout 2015. Beyond that there is no specific timetable for a final decision. The implementation of any possible change is therefore sometime distant.

It is Treasury's belief that as the current 'transitional' EU VAT system (which has been in place in excess of 20 years) has, with few exceptions, been fundamentally destination based, with VAT being due in the territory of consumption, the impact on revenue shares of any future change should be small. Furthermore, as the Tax Base Measurement Method (TBMM) is already designed to calculate the Island's VAT share according to the consumption or use of goods and services in the Isle of Man (no matter where they are supplied from or how they are supplied to Island consumers) it is highly improbable that the TBMM will not cope with any change flowing from the above mentioned studies.

Hon W E Teare MHK
Minister for the Treasury

2.7. Public sector employees – Estimated savings if state pension withdrawn

The Hon. Member for Castletown (Mr Ronan) to ask the Minister for the Treasury:

What the estimated annual saving to the taxpayer each year and, in terms of future liabilities, the estimated total saving to the taxpayer for the next 10 years would be if public sector employees no longer were to qualify for a state pension on retirement for members of each of the following schemes –

- (a) PCSPS and by-analogy;*
- (b) Teachers;*
- (c) NHSPS and by-analogy;*
- (d) LGPS and by-analogy;*
- (e) Judicial Pension Schemes;*
- (f) Tynwald Pension Schemes; and*
- (g) Firemen and by-analogy?*

Answer: The state retirement pension comprises three main elements, the basic pension, the additional pension and the Manx Pension Supplement, all of which are funded entirely from the

Manx National Insurance Fund and therefore any reduction in the amounts paid will not result in savings to General Revenue.

1345 The Hon. Member will be aware that the Isle of Man has a long-standing Social Security Reciprocal Agreement with the UK covering National Insurance funded benefits. The Island is therefore required to have the same qualifying conditions and to pay the same rates of benefit in relation to all benefits funded by National Insurance Contributions. As a consequence the Department of Social Care (DSC), which is responsible for paying state retirement pensions, 1350 would be unable to treat public sector employees differently from other employees under the current agreement.

Given the many variables that need to be taken into account when calculating an individual's entitlement to the state retirement pension it is not possible to forecast what savings there might be to the Manx National Insurance Fund if public sector employees were no longer 1355 entitled to receive it. In the next 10 years upwards of 1320¹ public sector workers will reach state retirement pension age, the resources and time need to accurately calculate this number of entitlements means that neither Treasury nor the DSC can provide this information. Additionally, staff now have some flexibility over when they retire and this would introduce more uncertainty into any calculation. However what I can say is that where an individual has 1360 been employed as a public sector employee for the whole of their working life they would be entitled at state retirement pension age to a weekly basic pension of £110.45 plus a Manx Pension Supplement of £53.75, making a total pension of £164.20 per week.

Finally as the Hon. Member will be aware my Department along with DSC have embarked on a comprehensive review of the National Insurance and benefits system currently operating in 1365 the Island. This review is due to be completed in the summer of 2014 and will examine how all future benefits may be funded and who should be entitled to them.

Hon W E Teare MHK
Minister for the Treasury

1370

¹The number of individuals who were employed as public sector workers during the 2011-12 tax year and who will reach state pension age in the next 10 years, as shown on the National Insurance system.

ENVIRONMENT, FOOD AND AGRICULTURE

2.8. Puppy importation – Current legislation and guidelines

The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Environment, Food and Agriculture:

What animal welfare issues arise in connection with importation of puppies to the Island; what current legislation and guidelines govern such importation, especially where disease could be an issue; and if he will publish in consultation with other organisations an information bulletin containing advice on buying puppies, especially if they are imported?

1375 **Answer:** Generally no welfare issues arise with the importation of puppies, as they are imported by, or on behalf of, their owner. All puppies should be of sufficient age and maturity to be separated from their mother, and either continuously monitored, or placed in a commercially available transport box.

The Pet Travel Scheme legislation applies to dogs imported from outside the UK and information on this is available at <https://www.gov.uk/take-pet-abroad>. There is free movement of dogs between the UK and the Island.

1380 My Department has already published advice from the Chief Veterinary Officer on the purchasing of puppies, which I reproduce below:

‘The very best advice that can be given is for prospective owners to “see the puppy with its mother and litter mates”. This enables prospective purchasers to judge the conditions in which the puppy is kept, the behavioural predisposition of the mother and the socialisation of the litter mates. Additionally, this gives the opportunity for prospective purchasers to discuss any health scheme tests that may have been carried out on the dam and sire before breeding. Buying a puppy “sight unseen” is not advisable – unless you know the breeder concerned and have a solid previous relationship with them.

In addition, it would be very prudent to consider:

- how large the dog will be when full grown
- the owner’s ability to provide sufficient regular (daily) exercise
- whether the accommodation is big enough for the time the dog is likely to spend alone
- the cost of neutering, vaccinating and feeding the chosen breed or cross breed
- Whether the parents have been tested for known inherited problems for that particular breed (and to see the certified results)’

While the above will not ensure every purchase is completely risk free, it will seriously reduce the chances of problems occurring. Such actions would also greatly reduce the business of ‘puppy farmers’ compared to responsible breeders.

1385 I would hope that all relevant Manx organisations would agree with this advice.

2.9. Puppy farms – Current policy; planned legislation

The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Environment, Food and Agriculture:

What his Department’s policy is on puppy farms; and what plans he has to introduce legislation in the near future which would restrict the importation of puppies from puppy farms?

1390 **Answer:** My Department controls the breeding of dogs in the Isle of Man under powers provided by the Breeding of Dogs and Cats Act 1981. Premises are inspected at least annually and more frequently if required. I hope to introduce further legislation on the welfare of pets and companion animals; however, it would be difficult if not impossible to introduce control on the importation of dogs based upon their origin. Controls on breeding should be placed at the point of origin, as we have done; distinguishing dogs by their type of origin would be impossible.

COMMUNITY, CULTURE AND LEISURE

2.10. Isle of Man Steam Railway – Dining experience kitchen costs

The Hon. Member for Onchan (Mr Hall) to ask the Minister for Community, Culture and Leisure:

What the (a) upfront; and (b) continuing costs of providing the dining experience kitchen are; whether there are plans to provide another passenger car with extra facilities; and, if so, what

the estimated cost is; and whether he has been given a business case and cost-benefit analysis of such projects?

Answer: It is important to understand that the refurbishment of carriages is an essential part of railway maintenance. All of the carriages used for the dining experience have previously been in service and needed refurbishment. The railway had six saloons delivered in 1905, which are the railways only open saloons of which five were capable of being used for this purpose. The other is in Port Erin Museum. The Department decided take up a business opportunity to provide a unique dining experience for visitors, residents and business by converting these carriages into dining cars. This was at an additional cost to the planned refurbishment of nearly £9,900 per car. This has created 66 dining spaces.

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1400 All of the work has been done within the Department's existing budgets through minor capital works. At no time has additional funding been requested from Treasury.

The unique feature in the dining train is the kitchen car made by converting one of the two stored Empress vans of 1897 previously used on boat trains for the excessive luggage. This vehicle, including schematics, body overhaul, bogies overhaul, new wheels, kitchen fit out totalled an upfront cost of £149,369 over the last two financial periods.

1405
1410 The continuing costs of providing the dining service are minimal for the first few years apart from regular cleaning and items of equipment, which will need replacement as and when required. The main elements of the kitchen hold a life expectancy of approximately 15 years. The carriages themselves will not require major overhauls for a period estimated to be at least 30 years.

Half of dining car operations will involve a scheduled locomotive; therefore any additional running costs will be marginal and profit is near 100%. The Department has estimated that for the other half of all dining car operations (those special events using a non-scheduled locomotive), costs will represent approximately 50% of generated income.

1415 The Department has further spent £46,576 overhauling an existing saloon bar car. This saloon was also already planned for an overhaul as the car had a significant woodworm infestation.

Further refurbishments have been identified but there are no current plans to progress these at this time. These include two compartment coaches and the remaining Empress van.

1420 The Department considers each of its minor capital works schemes in propriety order based on cases made by the scheme sponsors. It is clear from the estimates of income that the payback period for this investment is acceptable.

1425 The case for the dining car revolves around the whole future of the railway and the need to generate new business by increasing income and reducing the bottom line cost to the taxpayer. This has been the key motivation in recent years in order to justify the retention of our heritage railways. This is rather a catch-22 situation whereby spending nothing may mean less business and more risk of closures or taking a calculated risk in trying to build the business and save the railways for the future. The Department conservatively estimates additional net income of around £50,000 each year from the dining car initiative, which when marketed as corporate hospitality is a major income generator for heritage railways throughout the UK. We cannot afford to stand still but we must be clear and sure of our priorities and where we invest in the future. On the back of the Snaefell dining experience success, this was an obvious next step.

1430 I wish that I could report that we could generate additional business without spending a single penny, but that is not the real world. However, we now have an exciting and attractive addition which has already received over 2,000 bookings since its commencement at the end of October. The Department's calculations are based on a modest 3,334 bookings per year. I hope that by next year our business will be much better than the initial forecast due to current bookings and positive feedback. The by-product of this initiative is that heritage rolling stock in poor condition has now been restored and safeguarded for future generations to enjoy.

1435

1440 Initial feedback from organisations such as the Chamber of Commerce and the Manx Breast Cancer Support Group has been more than positive. The dining car is proving to be an exciting new facility for both locals and visitors alike.

HEALTH

**2.11. Teenage pregnancies –
Incidence of pregnancy; number of births**

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

What recent assessment he has made of the incidence of teenage pregnancies in the Isle of Man; how many girls between the ages of 15 and 19 have given birth broken down by each year of age in each of the past five years; and if he will make a statement?

1445 **Answer:** The number of teenage pregnancies is not ascertainable as some such pregnancies will result in miscarriage before attendance at Health Services and others will result in off-Island terminations of pregnancy, the majority of which Health Services have no knowledge of as they can be arranged by the teenager/their parent or carer.

On this basis, the number of births to teenage mothers, rather than pregnancies, has been collected and monitored on a quarterly basis since April 2011, as part of the multi-agency data set pertaining to children and young people. Births to teenage mothers up to age 18 years are collected, monitored and assessed.

1450

The figures are as follows:

Births to teenage mothers up to aged 18yrs	2011-12	2012-13	2013-14 (to date April 2013 to September 2013)
Total	40	18	6

The figures are not broken down by age in this Answer, as the births to mothers below age 16 is so low that to do so would run the risk of providing identifiable information.

1455 Figures from the office of national statistics on teenage conceptions in England and Wales were approximately 35.5/1000, of which half resulted in termination. Whilst it is not possible to compare the Isle of Man figures with the UK figures due to some variables, an educated estimate is that we would expect approximately 53 births to teenage mothers aged 16 to 18 years of age. Whilst the Isle of Man compares favourably with these UK figures, there is no room for complacency in this multi-agency matter; hence the trends of births to teenage mothers will continue to be monitored and analysed as part of the multi-agency children and young person's data set.

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INFRASTRUCTURE

**2.12. Parking fines –
Number and sum; proportion paid**

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

What assessment he has made of the number and sum of parking fines in each of the last five years; what proportion has been paid in each of those years; and if he will make a statement?

Answer: The table below shows the number and sum of parking tickets issued by the Department in the last five years and the approximate proportion paid.

Year	Tickets issued	Value	Cancelled or no further action or unpaid	Paid	Proportion paid
2012-13	10459	£554k	2988	7471	71%
2011-12	13714	£548k	3100	10614	77%
2010-11	13917	£556k	3416	10501	75%
2009-10	12080	£483k	2977	9103	75%
2008-09	11484	£459k	2783	8701	76%

1465 Those tickets cancelled, or where no further action has been taken, are either the result of a parking appeal being upheld or where vehicles not registered on the Island cannot be traced, or where the fine is not paid.

The General Registry is responsible for recovery of unpaid fixed penalties through the Coroner's Office. The Department is working with the General Registry to explore changes that may increase the number of fines paid.

1470 In terms of the amount of fixed penalties issued by the Department, the only point of note is a slight decrease in the amount issued from 1st April 2012 to 31st March 2013. The Department believes this can be attributed to the increase in the fixed penalty amount from £40 to £60 (£120 for parking on a disabled place) which came into effect on 1st August 2012.

**2.13. Planning applications –
DED submissions**

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Infrastructure:

Further to his Answer of 5th November, if he will publish the planning application reference number for each of the 20 planning applications for which the Department of Economic Development made a submission?

1475 **Answer:** The relevant planning applications on which the Department of Economic Development made a submission are:

11/01439/B 11/01232/B 13/00339/A 13/00295/B 13/00246/B 13/00918/A 13/91173/B
13/00869/B 13/91219/C 12/00947/A 12/00136/B 12/00816/B 12/01053/B 12/00443/B
12/00817/CON 12/00904/B 12/01240/C 12/01404/A 13/00868/B 12/00355/B

**2.14. Cycle path, Douglas –
Planning designation and route**

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Infrastructure:

How the proposed cycle path between Douglas promenade and Quarterbridge has been designated in planning terms; and what the route is?

1480 **Answer:** The route of the cycle path between Douglas promenade and Quarterbridge is defined within the Douglas Local Plan 1998 Written Statement dated November 1998. This document on page 28 within the Tourism, Leisure and Recreation Section at paragraph 5.17 prescribes the following additional policies:

‘D/TLR/P9: In the redevelopment of the Lake Road area between the Steam Railway Station and the River Douglas, attention should be paid to the potential for tourism/leisure/recreation. It is clear that there is potential for a pedestrian link and cycle link from the harbour along the northern bank of the river to the open space bordering the river and ultimately to the National Sports Centre and Steam Heritage trail to Peel.’

1485 The Douglas Local Plan 1998 Written Statement has not been formally adopted by Tynwald however; it is a material consideration when assessing planning applications in the Douglas area.

In addition, the Isle of Man Strategic Plan for Town and Country Planning Act 1999, which was approved by Tynwald in 2007, includes cycling as a core development objective by stating the following:

1490 Transport Policy 1: New development should where possible be located close to existing public transport facilities and routes including pedestrian, cycle and rail routes.

Transport Policy 2: The layout of development should where appropriate make provision for new bus, pedestrian and cycling routes including linking into existing systems.

1495 Transport Policy 3: New development on or around existing and former rail routes should not compromise their attraction as tourism and leisure facilities or their potential as public transport routes, or cycle/leisure footpath routes.

Transport Policy 5: Any improvements to the Island’s highway network including the provision of new roads, footpaths and cycle routes, should be undertaken in accordance with the environmental objectives of this plan.

1500 The route of the cycleway has been designated on both the North Quay environmental works completed by the Department of Transport in 2008 and for the first phase of recently completed property development adjacent to the Lake Road/Bridge Road junction. The planning consents for both these developments included the construction of a designated cycleway route within the approved drawings. The remainder of the route to Quarterbridge will be designated when further redevelopment takes place adjacent to Lake Road in accordance with the Douglas Local Plan 1998 Written Statement and the requirements of the Isle of Man Strategic Plan 2007.

1505 In addition, when the Department of Infrastructure is undertaking major road maintenance or improvement works, the existing highway characteristics are reviewed to ascertain if the needs of all users can be better met. This has resulted in the inclusion of a cycle facility on the Peel Road major maintenance project which is currently in progress and the future Douglas promenade works.

1510

EDUCATION AND CHILDREN

**2.15. Free school meals –
GCSE grades attained by eligible pupils**

The Hon. Member for Onchan (Mr Hall) to ask the Minister for Education and Children:

What percentage of pupils eligible for free school meals gained five GCSEs grade A to C including English and Mathematics in each of the past five years?*

Answer: The Department of Education and Children neither holds, nor receives, data specifically on which pupils are 'eligible' for free school meals. The Department and its schools only see completed application forms for free school meals and therefore only have data on
1515 which pupils actually 'receive' free school meals.

There is likely to be a significant difference between those whose family income may indicate eligibility and those who are actually in receipt of free school meals. These numbers are reduced and skewed both by the ineligibility of families who may have recently moved to the Island to access free school meals and by the reluctance of some low-income families to apply for the free
1520 school meals to which they would be entitled.

For this reason schools have not routinely compiled the figures being asked for and because the DEC is currently unable to readily collect management data of this kind, due to the delays experienced in implementing a central pupil database, it is not information which is held by the Department.

Schools have been able to supply us with statistics for the year 2012-13 and these are included below. However, it should be reiterated that the schools are only able to indicate percentages in terms of those students who have taken up the option of free school meals as they have no information on the numbers who might actually be eligible for them. For this reason it is not possible to make direct comparisons with England where the data will be based
1530 on eligibility. It is also important to note that the figure provided below may include pupils who would not be included in English data as they would have Special Educational Needs at a level that would mean they were excluded from the analysis of examination statistics.

On that basis the DEC can confirm that 33% of pupils who were in receipt of free school meals in 2012-13 achieved five GCSEs grade A*-C including English and Mathematics.

If the Department were to ask schools to produce this data for the preceding four years it would take considerable time and resource on their part as it would involve manually researching archived data and trying to match it to free school meals records. For this reason, the Minister feels it would not be reasonable to ask schools to undertake this task.
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**2.16. Ballakermeen Post-16 and Dining Extension Scheme –
Tenderers; scoring spread; comparative cost**

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Education and Children:

If he will publish (a) the list of tenderers; and (b) the scoring spread for Ballakermeen Post-16 and Dining Extension Scheme; and what the results were of any investigation of the comparative cost of construction of such buildings in the Island and elsewhere?

Answer: The first stage competitive tenders for this Scheme, received in March 2013, were
1540 scored out of 100, based on a price/quality weighting ratio of 80:20. As requested the tenderers and respective scores were:

Tenderers	Score
Auldyn Construction Ltd	64.8
Dandara Contracting Ltd	56.4
Tooms Building Contractors Ltd	92.4

Accordingly Tooms Building Contractors Ltd were selected to progress to the second stage, which was concluded successfully and ultimately resulted in them being awarded the contract for the works approved in Tynwald in June 2013, and now progressing on site.

1545 The two unsuccessful contractors were informed of their price, quality and overall scoring, how their scores compared with the other tenderers, and also how their tender price compared with the other tenderers.

1550 In compliance with Treasury procedures it is a requirement to benchmark the construction costs throughout the design process and prior to award, against other similar schemes in the Island and in the UK.

It is normal to benchmark costs based on the construction cost per m² gross floor area, excluding external works. The Ballakermeen Scheme equates to £1,287/m².

1555 Comparison with previous DEC projects identified the following range of costs – Victoria Road extension £1,590/m², and at a common 2008 cost base – Scoill Ree Gorree £1,484/m², St Johns £1,667/m², Auldyn £1,395/m² and Peel Clothworkers' extensions £1,568/m².

Comparison with the Royal Institution of Chartered Surveyors BCIS data for similar completed projects in the UK identified a mean cost of 1,389/m², excluding any uplift for Isle of Man pricing, with a range of £1,086/m² to £1,805/m².

1560 The Ballakermeen extension was therefore established as comparing very favourably with Manx/UK cost benchmarks. The Scheme benefits from being an economic design, with a large footprint over three floors, with the upper floor accommodated partially within the roof space.

ECONOMIC DEVELOPMENT

2.17. Central Douglas Master Plan – Provision of documents to consultants

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for Economic Development:

Which (a) published; and (b) unpublished documents will be provided to the Central Douglas Master Plan consultants?

Answer: There is not currently a contracted consultant to undertake the work on the Central Douglas Master Plan; however a preferred consortium of consultants has been selected to deliver the service subject to contract.

1565 In order for the consultants to undertake their work, they will require a number of published and unpublished documents. An initial list of documents has been prepared; however this is not exhaustive and there may be further documents, either published or unpublished, which may be identified as work progresses. The contract for the work includes a confidentiality clause.

1570 Published documents to be provided to the Central Douglas Master Plan consultants are:

- All-Island Strategic Plan 2007
- Douglas Local Plan Order agreed by Tynwald 1998 and the Written Statement
- Lower Douglas Master Plan – interim planning guidance for key town centre sites in Douglas
- 1575 • Constraints Maps – relevant maps showing constraints on development such as flooding and areas of environmental importance which can be made available for the study
- Market Street, Douglas, Development Brief 2006
- Douglas Transport Strategy 1998
- 1580 • Register of Buildings
- Conservation Area Reports
- Current Economic Strategy ‘Isle Of Man Where You Can Discover the Agenda for Change in our Economy’
- Douglas Town Centre Regeneration Final Report
- 1585 • Digest of Economic and Social Statistics.

Unpublished documents, which will be made available to the Central Douglas Master Plan consultants, are:

- Draft Employment Land Review (to be prepared and ready for use by March 2014)
- 1590 • Colours of Mann
- Purple Flag Snapshot and Overnight Assessments
- Retail Sector Strategy (available December 2013)
- Draft Douglas Car Parking Study (available late Autumn 2013)
- 2013 Economic Strategy Vision 2020 (available late Autumn 2013)
- 1595 • Pedestrian Principles Manual 2010
- Douglas Car Parking Study 2013.

Order of the Day

3. BILL FOR SECOND READING

3.1. Copyright Etc (Amendment) Bill 2013 – Second Reading approved

The Speaker: Item 3 on our Order Paper, Bill for Second Reading – the Copyright Etc (Amendment) Bill. I call on the mover, Hon. Member for Rushen, Mr Skelly.

1600 **Mr Skelly:** Gura mie eu, Loayreyder.

The Copyright Etc (Amendment) Bill seeks to make changes to the Island's law in relation to copyright, design right and rights in performances.

1605 The Bill is very much part of a wider programme of intellectual property modernisation currently being undertaken by the Department of Economic Development. The driver to these changes is the importance of intellectual property – commonly abbreviated to ‘IP’ – to the Island's economic growth.

IP rights exist to encourage the creation of intellectual property by allowing the creator to control its exploitation and to benefit financially from such exploitation. Such diverse areas as e-

1610 business, including e-gaming, the space industry, clean technology, software development and high-specification manufacturing areas are all important to the Island's economic prosperity and are all underpinned by intellectual property. It is in the Island's economic interest to ensure that the IP assets of all its businesses are sufficiently protected and the Island is seen to be a suitable location for the establishment of companies that hold IP.

1615 The focus of the modernisation programme is to ensure that our intellectual property laws are in line with those in the UK and the European Union so that businesses and individuals can expect a regime of IP protection at least as good as in those jurisdictions.

Intellectual property law is a complex area and it would probably be helpful for me to provide an overview for Members.

1620 IP rights can be divided into two categories. The first category, registered rights, requires registration with an institution. This covers patents, trademarks and designs. The second category, unregistered rights, are rights that exist from the moment a work is produced and covers copyright, performance rights and design rights.

1625 In the area of registered rights, the UK's legislation on patents, trademarks and designs extends to the Island with modifications. A separate registry would increase bureaucracy and costs and would offer no significant advantages over the Island remaining part of the UK system of registration.

For unregistered rights, Tynwald passes its own legislation, the principal Acts being the Copyright Act 1991, the Design Right Act 1991 and the Performers' Protection Act 1996. The last IP Act passed by Tynwald was the Copyright (Amendment) Act in 1999.

1630 As regards registered rights, few changes have been made in the last 10 years, whereas in the UK and the EU there have been many significant changes. With this in mind, in 2011 the Department undertook a review of the Isle of Man's IP laws, the purpose of which was to ensure that the Island's legislation was up to date and offered an appropriate level of protection.

1635 The basis for the current changes is the consultation document 'Intellectual Property in the Isle of Man', which was published in May 2011.

A review of consultees' comments was subsequently published in February 2012. The consultation paper put forward 81 proposals for modernisation of the Island's IP regime.

1640 Following consultation, it was decided to take forward 76 of those proposals. In addition, subsequent to review, the Department identified some additional IP measures that would be progressed by the UK Parliament and it was decided that these too should be implemented. The Department is progressing these changes in a number of ways through subordinate legislation, Orders in Council and the present Bill.

1645 The Bill before us today deals with unregistered rights and amends the Copyright Act 1991, the Design Right Act 1991 and the Performers' Protection Act 1996. It should be noted that some revisions of these Acts have already been made this year through the Copyright (Amendment) Regulations 2013, the Performers' Protection (Amendment) Regulations 2013 and the Design Right (Amendment) Regulations 2013, all of which were made under the European Communities (Isle of Man) Act 1973. The Bill implements those changes which are outside the enabling powers conferred by the 1973 Act and require primary legislation.

1650 The main changes that this Bill makes include an increase in maximum penalties for infringement of copyright and additional powers for forfeiture of infringing copies. Normally, breach of copyright is only a civil wrong, but the increase in maximum fines and custodial sentences will ensure that copyright piracy on a commercial scale is dealt with appropriately.

1655 There is a new provision to allow publication of works where the copyright owner cannot be traced – what is known as 'orphan works'. There are many works – such as books, photographs films and music, in a collection of libraries, archives, museums and galleries – where the copyright owner cannot be traced and therefore institutions are limited in what... they can make the works available to the public without threat of legal action. The provision will allow the Department to make regulations to enable the licensing and commercial exploitation of these works with appropriate safeguards.

1660

1665 A further provision is to streamline copyright clearance where copyright is owned by more than one individual – for example, in the case of a film copyright, it may be owned by the screenwriter, the producer, the director and the composer of the soundtrack. The agreement of all is required before a public performance can take place. As all need to opt into the agreement, this can take time. The change would allow a copyright owner or licensing body, subject to safeguards, to grant licences on behalf of all owners of the copyright in a work except those who opt out.

There is a new right giving protection to the first publisher of an out-of-copyright work, allowing the commercial exploitation of such works.

1670 A further provision will allow the ownership of commissioned designs... from the commissioner to the designer. The UK is making this change too and it will bring the Isle of Man and UK in line with the European Union.

1675 There is an increase in maximum penalties for infringement of performers' rights, on similar lines to the increases in respect of breaches of copyright, which I have just touched upon, and additional powers of forfeiture of illicit recordings.

Finally, there is a provision for performers' moral rights. Moral rights are independent of a performer's economic rights and so they remain with the performer even when economic rights of a particular work have been transferred. The rights are, firstly, to be identified as the performer; and secondly, to be able to object to derogatory treatment of the performance.

1680 These rights were introduced by the World Intellectual Property Organisation's Performances and Phonograms Treaty in 1996. They were put into effect in the UK in 2006 and this Bill will introduce these rights to the Isle of Man for the first time.

1685 Loayreyder, I beg to move that the Copyright Etc (Amendment) Bill be read for the second time.

The Speaker: Hon. Member for Middle, Mr Quayle.

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

1690 **The Speaker:** Hon. Member for Onchan, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

1695 I was just intrigued with some of this information and I just wonder whether the Member... He quotes a lot of the documentation, and actually, if he does have links, would his Department then pass them on to Members who require them for all the Acts that were done?

1700 Just a general enquiry regarding the enforcement or investigation when a complaint was made, if the Member could maybe respond, to say who is going to do that and what sort of resources his Department or other Departments are going to have to tool up to.

The Speaker: Hon. Member for Onchan, Mr Karran.

1705 **Mr Karran:** Vainstyr Loayreyder, it was very nice of the Shirveishagh to say that he was not going to have a presentation, if I remember rightly, but that Members could go to the Department.

I do feel that, whilst obviously this Bill will almost certainly be a vast improvement on the existing legislation, copyright is a major arterial flow if we are to try and look to new areas as far as the Manx economy is concerned, and I think that that is very important.

1710 My concern – which worries me, and I have made it quite clear over the years about the issue of the Royal Assent – is whether this Bill will facilitate certain new markets to be developed, but by the Royal Assent maybe stop the flexibility, as far as this jurisdiction is concerned, to take on

the opportunities of trying to bring copyright to the Island. I would ask that the mover reassures this House that there will not be any problem as far as that is concerned.

1715 One of the things that I am concerned about is the fact of whether many of these proposals should be developed on secondary legislation, which gets around the position as far as Royal Assent is concerned, so that we can move swiftly and effectively when opportunities arise as far as copyright opportunities as far as the Manx economy is concerned, and whether the Department has thought about the issue of whether it needs to have a more flexible approach.

1720 I think, as I moved in another place many years ago – and basically it was killed off because it did not come from the right section as far as the other place was concerned – the issue of the patents office... We have briefly discussed it with the mover the other day about the issue of the patents office. One of the issues, when it comes down to patent offices, is the fact of being able to protect your patent. I do feel that there is an opportunity there, where people would be able to lose part of their patent's profit in order that there was a more progressive patents office that
1725 actually would fight to protect patents in other jurisdictions and might be a way of creating an engine in this jurisdiction, which we are going to need with the fact that the party is over, as far as the economy is concerned, that we have had for the last 25 years, which has been fantastic... that we are now going to have to look for new engines.

1730 One of the things that does interest me, Vainstyr Loayreyder, is the fact that, if you pay someone for an item, you do not own the copyright as far as that item is concerned. It is interesting to see that... Maybe that is something that needs to be clarified at the clauses stage by the Hon. Member on that position, because it does seem rather bizarre that you pay for something yet you do not own the copyright, and that might be something that could be clarified at the clauses stage.

1735 The final point that I wanted to raise is the issue of safeguarding of new developments in health. I notice that many Third World countries now have taken the unilateral decision as far as not allowing certain drugs which will have a major health implication on their people if they are allowed to be used, but because of the cost of patents have stopped that. I just think that this is something that maybe the hon. mover can clarify.

1740 I think all of us in this House, as far as the Copyright Bill is concerned, applaud any initiatives that are going to bring us into the vanguard as far as creating money to try and keep the tremendous social improvement that we have seen over the last 30 years. But I do think that maybe the Minister or the mover should be considering whether they should be doing the presentation to Members because, at the end of the day, we can all want services – like I have
1745 been on about my chlamydia testing for people, and all these other wonderful services that we need – but we have to earn the money to do so. I just think maybe it was a missed opportunity not to have a presentation as far as this Bill is concerned.

1750 **The Speaker:** Mr Skelly to reply, please.

Mr Skelly: Gura mie eu, Loayreyder.

1755 First of all, thank you very much, Mr Quirk, for raising the issue with regard to enforcement. It is an important issue to consider and I am delighted to say that the Office of Fair Trading will be that enforcement vehicle. They have been consulted, as I am sure he knows, so they will be appraised of the situation going forward.

Mr Karran raises quite a few points there, the first one being will this make us competitive: absolutely, it will make us competitive and that is what this Bill is all about.

1760 Intellectual property is a complex area and it does cover a number of different industries, and particularly the emerging industries. I did mention it in my briefing notes, but he did raise it there, and that is health – biomed – a very new industry that is emerging for us here on the Isle of Man. There are significant opportunities, significant markets that we can actually hopefully take advantage of and make the Isle of Man an attractive place to do business.

1765 The patents office – he picked up a point there. I did say in the briefing notes that a separate registry would increase bureaucracy and costs and would offer no significant advantages over the Island remaining part of the UK system of registration.

It is worth noting that the Isle of Man does not have its own register but it does have access to the Patents Acts 1949 and 1977 in Westminster that extend to the Isle of Man; and accordingly, those patents registered in the UK Intellectual Property Office or the European Patents Office are thus protected under Manx law for 20 years from application for registration.

1770 This is particularly advantageous for the Island as it allows Manx companies to enjoy the benefits of key intellectual property treaties. That, in effect, means that the UK Intellectual Property Office performs all the functions of a domestic patent and trademark registry for the Isle of Man and its businesses, and therefore provides the resources and expertise that are needed with regard to this particular Bill.

1775 He did raise another point on the clauses factor and we will bring that up.

I do apologise to Members that we did not do a presentation if there was significant interest there. There was an opportunity to come forward and speak to us independently, but I do take his point on board.

Gura mie eu.

1780

The Speaker: Thank you. I put the question, under Item 3, that the Copyright Etc (Amendment) Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

4. BILL FOR THIRD READING

4.1. Income Tax (Amendment) Bill 2013 – Third Reading approved

The Speaker: Item 4, Bill for Third Reading: the Income Tax (Amendment) Bill.

1785 I call on the mover, Mr Teare.

Mr Teare: Thank you, Mr Speaker.

1790 This Bill confirms two Temporary Taxation Orders and part of a third. It makes various amendments to the Income Tax Act 1970 and the Income Tax (Instalment Payments) Act 1974 as well as two small amendments to the Interpretation Act 1976 and one amendment to the Customs and Excise Management Act 1986.

Clauses 1, 2 and 3 provide respectively for the short title of the Act, its commencement on 6th April 2014 and the expiry of the Act on the day following its promulgation.

1795 Clause 4 confirms two Temporary Taxation Orders and part of a third. These simplify the Income Tax position for certain companies with dual residence, amend the Island's legislation concerning the European Union Savings Directive and ensure the compliance of financial intermediaries with the UK disclosure facility. They also consolidate and broaden international legislation, enable the Assessor to appoint authorised officers and introduce inspection and document-related powers for those officers. Finally, they amend the Assessor's current information-gathering powers.

1800 Clause 5 confirms the purpose of part 2 of the Bill.

Clause 6 inserts two categories of income on which tax is payable.

Clause 7 substitutes section 48 to consolidate legislation concerning the taxation of Social Security benefits and to allow Treasury, by Order, to exempt a benefit from tax.

1805 Clause 8 introduces a new part heading and an offence of fraudulent evasion.

Clause 9 inserts one definition into the Temporary Taxation Order legislation and amends another.

1810 Clauses 10 to 13 form part 3 of the Bill and concern amendments to the Income Tax (Instalment Payments) Act 1974. Part 3 introduces legislation to stop the use of personal service companies for deferring Income Tax payments.

Clause 10 confirms the purpose of this part of the Bill.

Clause 11 introduces a new part heading.

Clause 12 inserts definitions that are required by the amendments made by this part of the Bill.

1815 Clause 13 inserts two new part headings and a new part consisting of six sections. The new parts will prevent a third party, such as a personal service company, from being used as a structure to defer the payment of tax.

Clause 14 gives effect to the schedule.

1820 The schedule makes minor and consequential amendments to the Income Tax Act 1970, the Income Tax (Instalment Payments) Act 1974, the Interpretation Act 1976 and one to the Customs and Excise Management Act 1986.

Mr Speaker, I beg to move the Third Reading of this Bill.

1825 **The Speaker:** Do we have a seconder? Mr Anderson.

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

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

5. BILL FOR CONSIDERATION OF CLAUSES

5.1. Foreign Companies Bill 2013 – Clauses considered

1830 **The Speaker:** We turn now to Item 5, Bill for consideration of clauses.
Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would like to move:

That the clauses of the Foreign Companies Bill be referred to a Committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and to report to the House.

1835 Whilst I am not against the Bill as it stands, what I am concerned about is that I think sometimes we need to be doing a little bit more parliamentary scrutiny on some of these pieces of legislation.

1840 I also would like to put in consideration of the two clauses that I was unable to get into this piece of legislation: one dealing with the issue of foreign companies being prohibited from holding land in the Isle of Man; and the other was to modify the Preferential Payments Act 1908. This would prohibit foreign companies from holding land in the Island, except those that already do so.

I believe that the debate needs to be discussed some time about who should own land in the Isle of Man. When you look at many of these countries – not necessarily Third World countries,

1845 but even countries the likes of Norway and more progressive jurisdictions have restrictions on that opportunity. I believe that it is important that this sort of issue needs to be debated.

As far as the other issue, there are problems with the other issue. This would make Manx residents preferential creditors in the winding up of a foreign company in the Island. The only thing would be that they would come above the general creditors as far as the company is
1850 concerned, and I do believe that if we are to have these foreign companies working within our jurisdiction... and if they do fail, all we seem to have at the moment is all the bad press of that potential failure and the issue would be that there would be little or no chance of any person on the Island, who has in good faith done work with these companies, getting back any of their funds, as they would just end up on the long list of creditors as far as the company is concerned.

1855 With that, Vainstyr Loayreyder, I do wish to move that the Foreign Companies Bill 2013 be referred to a committee of three and have my two clauses investigated along with the clauses that go.

I think it would do no harm for us to investigate... that we should be looking at the issue of whether we should be stopping foreign companies from being able to hold Manx law. I am fully
1860 aware that this is only a stumble in the policy as far as foreign ownership of land on the Island, but I do think that we need to be looking at that and I think it would give the opportunity to any select committee to look at other jurisdictions and how they deal with this issue.

Yes, there are arguments about whether this would affect investment on the Island, but I do feel that it is something that needs to be investigated; and whilst the Foreign Companies Bill will
1865 be more than likely unscathed by this process, it would give that opportunity for that and the issue of Manx creditors as far as foreign companies are concerned.

So I do move that the clauses and the two new clauses be part of the investigation as far as the committee is concerned and report back to a future Keys.

What I would like to see is whether there is any urgency, as far as this piece of legislation is
1870 concerned, from the mover and any implications that that would have if we were to support such a move.

The Speaker: Mr Thomas, Hon. Member for Douglas West.

1875 **Mr Thomas:** Thank you very much, Mr Speaker.

Especially in the light of the last comment that the mover made, I rise to second the motion.

Initially, it was just on the principle that the Treasury is doing a thousand-clause Bill on company law and it is a good principle that, at the clauses stage, this House should set up a select committee to review some of those issues. So I am pleased to rise to support it, especially
1880 given that the mover has actually asked the Minister to assure us whether or not there is any urgency – like he assured us a month or so ago, at the beginning of the Income Tax Bill, that there was urgency, and we were persuaded to go along at probably the fastest speed in parliamentary democracy from the oldest democracy that has been in continuous existence.

1885 **The Speaker:** Hon. Member, Mr Teare.

Mr Teare: Thank you, Mr Speaker.

I have to say I am exceptionally disappointed – and that is the politest way I can put it – that this has come out at the 11th hour. The Hon. Member, Mr Karran, has not come and seen me,
1890 he has not discussed it with me, he has not articulated any reasons why this should be done – and really, I feel that this could be tantamount to an abuse of process.

One of the difficulties is that this – the clauses which he is asking, if he is successful, this Hon. House to consider – could have a major impact on businesses seeking to relocate to the island.

The Hon. Member for West Douglas has asked what is the urgency. To be honest with you,
1895 there is not any urgency because a large part of this legislation is consolidation. It is putting items which are in the 1931 Act into a standalone Bill, or a stand-alone Act if it is successful. But

what he is doing here is he is, in effect, trying to make it more difficult for foreign companies to operate in the Isle of Man. (**A Member:** Hear, hear.)

1900 Let's go into that in more detail. The Independent Commission on Banking has the potential to completely restructure banking operations in the UK and also in the Crown dependencies, including the Isle of Man. That will mean that the preferred way that banks, for example, operate would be as branches of the UK parents. If a new bank wanted to come to the Island and set up and buy premises, under the terms of this Act they would not be able to do it.

1905 We need to diversify our economy, we need to be open, and one thing that this proposed amendment would do is not to make the economy open. It is, in effect, blatant protectionism. (**Mr Watterson:** Hear, hear.) I will go on... and that is a further feature of the modification of the Preferential Payments Act. It is protectionism.

1910 It is almost like saying we will prefer Isle of Man creditors to creditors from other jurisdictions. We need to consider the impact of that and the potential conflict with the legislation in the home jurisdiction of that company. We could well finish up with contradictory pressures upon the liquidator or the receiver of the external company.

So how is it going to be enforced? How is it going to work? It is entirely unclear.

1915 I have to say, with respect to the Hon. Member, he has not done himself any good by not coming and talking to me beforehand. We would have had a better understanding of exactly what he is proposing, rather than, 'Here you are, just drop it in your lap, and let's get on with it.'

I do not think that this sends out a strong message at all, and if it is sending out a message it is the wrong message: we are not open for business. It is going to create uncertainty, and I would not want to do that.

1920 We have substantial investors who are not based on the Island but do make a major contribution to the Island. There is a dichotomy here because he is framing this legislation to deal with foreign companies: what about non-resident individuals who buy property on the Island? Surely, if he is wanting to deal with companies holding property on the Island, it should be a level playing field – and this is definitely not going to do that.

I am strongly resisting this, Mr Speaker.

1925

Mr Watterson: Hear, hear.

1930 **The Speaker:** Hon. Members, we are debating the motion of Mr Karran, under Standing Order 4.10, that the clauses of this Bill be referred to a committee of three for consideration and report, and Mr Karran has made his argument, his case, as to why that should be. So what we are debating is that particular matter – whether the clauses be referred.

Mrs Cannell.

1935 **Mrs Cannell:** Thank you, Mr Speaker.

No doubt the Minister moving the legislation is irritated by the move of the Hon. Member for Onchan, Mr Karran. Nevertheless, there is provision within Standing Orders to do just what we are doing now, and that is to have a matter like this, moved and seconded, referred to a committee of the House. It is not the first time that it has been done. In my experience, in the last 18 years it has happened on two separate occasions.

1940 I am easy either way, but having listened to the Hon. Member for Onchan, Mr Karran, and the Minister, I now am beginning to feel that the House should give it additional scrutiny, and the reasons for that are the Minister has said (*Interjection*) there is no urgency, but then he did speculate and said that it could impact on new companies and businesses wanting to come and set up here.

1945 There is no guarantee, given the impact, whether or not that would in fact be a negative or positive one, because in his own words we need to consider the impact of this, which tells me that Treasury have not considered the impact of not doing it.

A Member: You're just shooting yourself in the head.

1950

Mrs Cannell: I am just going by what I am hearing in the debate so far, and I am keeping an open mind about it.

What I would say is that businesses do not necessarily need to come here to buy premises or to buy land in order to operate favourably, given our very favourable tax regime for business.

1955

That gives us the edge.

On the one hand, I see the concern that is coming from the Members in terms of trying to preserve our small Island – we are not that big; we have not got that much land – to try and preserve it from becoming used and abused, I suppose, in Government's charge to try and get new and innovative investment here. I think there has to be a sensible compromise and a sensible balance.

1960

On the one hand, we need to preserve what we have because that is a big marketing tool. On the other hand, we need to grow, but that too has implications in terms of the infrastructure and whether this small Island can cope with continued massive population... that we have witnessed over the last 10, 15 years. All of those come into the mix when thinking about this.

1965

Yes, it is important to establish new and upcoming technology and employment opportunities in the Island. Yes, it is very important we continue to grow, but it is equally important that all of that does not cause negative and damaging impact in the future.

For that reason alone, given the Minister has said there is no urgency with this one, I would feel more satisfied – and he should too – for an independent examination of the House by the appropriate membership that would understand this complicated foreign company legislation and also anything to do with companies *per se*. It is not my forte, I have to say. (*Interjections and laughter*)

1970

Social issues, yes. Come to me with a social issue (**A Member:** You'll learn!) and... I know all about social issues and that is where my interest lies; but the finance side and business is important and I value the contribution of those who have a background in this area in this House. So I would support the move to take it to a committee of the House.

1975

The Speaker: I call on the mover to reply. Mr Karran.

Mr Karran: Vainstyr Loayreyder, I know that I have been here a very long time but I am amazed that the Minister for the Treasury can be so aloof of what a parliamentary process is about. He says that this is an abuse of process. The problem for years has been the fact that gradually we have not scrutinised primary legislation. Every Member of this Hon. House needs to realise that the first role of an elected MHK is the scrutiny and the moving and the passing of primary legislation, so I just fail to see how he can argue that this is an abuse of process.

1980

(**Mrs Cannell:** It's not.) This is what should be happening far more often, as far as this House is concerned, when dealing with primary legislation.

1985

One of the things that we have is... Just like I have got limited resources behind myself to try and do the work that needs to be done on some of these very complex matters, the Minister and the Treasury are in the same situation as far as resources are concerned.

1990

I have put this down as we are supposed to be a parliamentary democracy. I have moved that this should go to a committee and the two new clauses be part of that committee in order to give the opportunity of whether we should be looking more at how we look at primary legislation – more than just nodding it through from the UK and, to many extents, holding us hostage to fortune at a later date.

1995

I have already explained in my moving of this why I am concerned about the Royal Assent. The situation is that we must allow for the fact that if this House is happy as far as that is concerned, then that is okay with me; but if it is not happy, then it should support the proposal as far as setting up a committee.

2000

It concerns me with the Minister when he talks about the Banking Commission and the input of that – banks from the UK will be purely branches from the UK – which obviously must have a

severe... *[Inaudible]* as far as the bankers'... Depositors' Compensation Scheme, if they are not going to be part of that Scheme but branches from another jurisdiction... that the exposure as far as that is concerned...

2005 I made it quite clear – and obviously the Minister needs to maybe follow me in having to get my hearing sorted out. I am not saying that this is the panacea as far as stopping foreign companies from owning land. This is only part of the stumble, as I said, in that position. I believe that that does need to be looked at. I leave it to this House to decide.

I thank the Member for West Douglas for his support and the Member for East Douglas.

2010 The bottom line has to be, when we are talking about a parliamentary democracy, by sending this Bill to a committee will it do damage – that is what we need to try and work out: would it do any damage if we were to do that? I personally have not been reassured by the mover that there will be damage by sending it to a committee.

2015 This House will decide whether it wants to send this to a committee, but I do feel that it is important, if we are to try and resurrect the parliamentary process from being just an extension of the executive function in this House, that we start looking at the processes.

2020 Yes, it will need a lot of hard work and maybe there will be duplication as far as the parliamentary process through a select committee looking at this actually agreeing with every part of the Bill and the two new clauses not being part of that Bill. I just think that this Hon. House should take that step and start looking at developing new processes to make sure that we do not end up being a hostage to fortune at a later date.

I so move, Vainstyr Loayreyder.

2025 **The Speaker:** Hon. Members, the motion is that the clauses of the Foreign Companies Bill be referred to a committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act, to consider and to report to the House. That is the motion.

Those in favour, please say aye; against, no. The noes have it. Division called.

Just confirming, Hon. Members, it is an electronic vote. Please vote now.

Electronic voting resulted as follows:

FOR

Mr Karran
Mrs Cannell
Mr Thomas
The Speaker

AGAINST

Mr Quirk
Mr Hall
Mr Ronan
Mr Crookall
Mr Anderson
Mr Singer
Mr Quayle
Mr Teare
Mr Cannan
Mr Cregeen
Mr Houghton
Mr Henderson
Mr Robertshaw
Mr Cretney
Mr Watterson
Mr Skelly
Mr Gawne

2030 **The Speaker:** With 4 votes for and 17 against, the motion therefore fails to carry and we resume the order of business, which is the consideration of clauses of the Foreign Companies Bill.

I call on Mr Teare to move clauses. Clause 1.

Mr Teare: Thank you, Mr Speaker.

2035 This Bill is the first phase of a project to update and consolidate the Isle of Man's companies legislation.

This Bill will replace part XI of the Companies Act 1931 with separate and stand-alone legislation. This legislation will apply only to those companies or other legal persons that meet the criteria for being foreign companies.

2040 The Isle of Man is unique in having legislation that applies to foreign companies that operate out of the jurisdiction. Whilst this is called the Foreign Companies Bill, the definition of a company under this Bill is wider than this. The Bill makes provision for other types of legal persons to be included within the definition of 'foreign company'. These include foundations and partnerships with separate legal personality. I will elaborate further at clause 4.

2045 The Bill applies to all foreign companies whose activities fall within the definition of carrying out business from the Island to holding land in the Island. This is consistent with the current scope of application of part XI of the Companies Act 1931.

The Bill now also makes provision to permit companies incorporated outside the Island that wish to demonstrate a nexus with the Island to elect to register under the legislation.

2050 The Bill contains 27 clauses.

Should the branches of Tynwald support this Bill, it will come into operation by order made by the Treasury.

Mr Speaker, turning to the Bill, clause 1 provides the short title of the Bill.

I beg to move that clause 1 do stand part of the Bill.

2055

The Speaker: Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2060 **The Speaker:** I put the question that clause 1 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2, sir.

2065 **Mr Teare:** Clause 2 provides for the Bill to come into operation on one or more days appointed by the Treasury.

Provision is made to allow the Treasury to make saving and transitional provisions by order.

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

The Speaker: Mr Watterson.

2070

Mr Watterson: I beg to second and reserve my remarks, sir.

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

2075

Clause 3.

Mr Teare: Clause 3 gives definitions for certain words and expressions used in the Bill.

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

2080

The Speaker: Mr Watterson.

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

2085 **The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 4.

2090 **Mr Teare:** Clause 4 defines a foreign company as a legal person incorporated outside the Island. This definition of 'foreign company' includes other types of legal persons, such as foundations and limited partnerships with a separate legal personality.

Clause 4(2) lists the types of legal persons who can apply for inclusion on the F-Register. It does this by providing examples of Manx legal persons who would, if incorporated outside the Island, be eligible for entry on the F-Register. These include 1931 and 2006 Act-style companies and limited liability companies.

2095 The Treasury has the power to amend this list by order. Before making an order under this clause, the Treasury must undertake consultation. An order made under this clause must be approved by Tynwald before it takes effect.

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

2100 **The Speaker:** Mr Watterson.

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

2105 **The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 5.

Mr Teare: Thank you, Mr Speaker.

2110 Clause 5 sets out those circumstances in which a company must apply for inclusion on the F-Register. For the most part, this replicates the existing requirement to register. This includes the carrying on of business from an established place of business in the Island or where a foreign company is the beneficial owner of land in the Island.

2115 In a departure from the old part XI of the Companies Act 1931, legal persons who wish to demonstrate a nexus with the Island may now make an election to be entered on the F-Register. This is permissible, even where there is no place of business and no land held in the Island.

Clause 5(3) brings clarity to an area that has caused confusion for many years on what the definition of a place of business is. This is achieved by expressly confirming the activities that, when undertaken from the Island, do not necessarily count as carrying on business from an established place of business in the Island.

2120 The Treasury can, after consultation, amend the circumstances and activities listed to make further additions to, or exclusions from, the requirement to register. An amendment to this clause, by way of order, is subject to the express approval of Tynwald.

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

2125 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

The Speaker: Mr Quirk.

2130 **Mr Quirk:** Just if I can ask the Minister, regarding the establishment of a place, I presume that means the registered office and therefore it would have to have a person who – if I am correct; maybe I am wrong – is domiciled on the Island?

The Speaker: The mover to reply.

2135 **Mr Teare:** It would not be a registered office because, by definition, the company or the organisation will be incorporated elsewhere, and that would be its registered office. There would not be any requirement under this legislation for the person who was in the office or the branch of the organisation in the Island to be an Isle of Man national; but, of course, under employment regulations, they would be caught by the Control of Employment Act.

2140 **The Speaker:** I put the question 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.

2145 **Mr Teare:** Clause 6 requires the Department of Economic Development to maintain a register of foreign companies. This mirrors the current requirement under part XI of the Act. This is the public register that has become known as the 'F-Register'.

The Department must, on payment of a fee, produce a certificate stating whether or not a foreign company is registered under the legislation. This certificate will be admissible in legal proceedings.

2150 Mr Speaker, I beg to move that clause 6 do stand part of this Bill.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2155 **The Speaker:** Mr Quirk.

Mr Quirk: Just a minor thing. I just want to ask the Minister regarding 'available for inspection' – I presume that is by electronic means as well?

2160 **The Speaker:** Mr Teare.

Mr Teare: Yes, it will, in effect, replicate what we already do. It will be available for inspection electronically. More detailed information, there would be a fee charged for; but basic information is available for general inspection.

2165 **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.
Clause 7.

2170 **Mr Teare:** Under clause 7, a foreign company that meets the requirement for registration must do so within one month of meeting the requirement. Again, this mirrors the existing provision under part XI of the 1931 Act.

A foreign company that elects to apply for entry to the Register must do so within one month of making the election. Failure to register when required to do so will be an offence.

2175 Mr Speaker, I beg to move that clause 7 do stand part of this Bill.

The Speaker: Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2180 **The Speaker:** I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 8.

2185 **Mr Teare:** Clause 8 requires an application for registration to be made to the Department of Economic Development. The application must be in the approved form, include all the required

details which are set out in clause 9, and be accompanied by the appropriate fee. A company that fails to include all the required details in its application for registration will commit an offence.

2190 Mr Speaker, I beg to move that clause 8 do stand part of the Bill.

The Speaker: Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2195

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

Clause 9, sir.

2200

Mr Teare: Clause 9 lists the details that must be provided on application for registration. These include the name under which it is registered in the foreign jurisdiction; the jurisdiction of incorporation – the home jurisdiction; the date of incorporation; its registration number in the jurisdiction of incorporation; its business address in the Island; the address, if any, of land held in the Island; and the names and addresses of persons who are authorised to accept service of process and notices on the company.

2205

A new provision has been included in the Bill. This takes account of those circumstances in which a company does not maintain an address as a place of business in the Island, but may own land in the Island. Where this is the case, a foreign company may elect to register the address of its registered office or principal place of business in its own jurisdiction. This addresses a deficiency in part XI of the Companies Act 1931. It was included to ensure that the Manx public is protected by being able to identify and, where necessary, contact the non-resident owners of land or buildings in the Island.

2210

The Treasury may, by order, amend the details required to be disclosed on registration. As before, there is the requirement for the Treasury to consult before making any order under this clause; and again, any order will only come into operation if it is approved by Tynwald.

2215

Hon. Members, I must draw your attention to the fact that the information to be included in the application for registration has been considerably pared back. In a measure designed to cut red tape and the administrative burden, the bulk of the information that must now be disclosed is that which permits identification within the home jurisdiction. This is in sharp contrast to the current position, which often sees far more information about a company held on the F-Register than on the register in the home jurisdiction.

2220

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

The Speaker: Mr Watterson.

2225

Mr Watterson: I beg to second, sir.

The Speaker: Mr Quirk.

2230

Mr Quirk: Thank you, Mr Speaker.

I just want to ask the Treasury Minister regarding the sharing of information. I presume that the information, the basic stuff, would be online but the in-depth information would not be shared with other Government Departments, other organisations, for security purposes.

2235

The Speaker: Mr Teare to reply.

Mr Teare: In effect, the Register is a public register, so the information that is recorded as part of the F-registration process will be available to the public. It will also give details of the

2240 company's home jurisdiction and its registration details in that home jurisdiction. So any further information which may be available in the home jurisdiction would be traceable through the information provided on the F-Register.

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.
2245 Clause 10.

Mr Teare: Thank you, sir.
Clause 10 extends the scope of the Company and Business Names etc Act 2012 to foreign companies registered in the Isle of Man.

2250 However, clause 10(2) requires a company to apply for registration under its original name of incorporation in the first instance. All efforts will be made to accommodate the name under which it is registered in its home jurisdiction. This will apply even where there is a Manx company or other entity of the same name.

2255 It is the intention that the Island's F-Register will act primarily as a gateway to the home jurisdiction. The maintenance of the F-Register is demonstrable evidence of the Island's commitment to openness and transparency.

A foreign company that changes its name in its home jurisdiction must register that change in the Island. The Department is given the discretion to refuse to register a company under its name in its home jurisdiction if the name contravenes section 7(3) of the Company and Business
2260 Names etc Act 2012.

Under clause 10(6), a foreign company may only carry on business from the Island under the name which appears in the F-Register. The exception to this is where a foreign company has a business name registered under the Registration of Business Names Act 1918.

2265 It is an offense to fail to comply with the requirements of this clause.
Mr Speaker, I beg to move that clause 10 do stand part of this Bill.

Mr Watterson: I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 10 do stand part of the Bill. Those in favour,
2270 please say aye; against, no. The ayes have it. The ayes have it.
Clause 11.

Mr Teare: Under clause 11 a foreign company must have an address at which it can accept service of process and notice. In most cases, this will be the address in the Island at which the
2275 foreign company has an established place of business.

Where a foreign company owns land in the Island, the address for service of process and notice should be either at an address in the Island or, if the foreign company has no address in the Island, at an address outside the Island.

2280 The latter is a new provision included to ensure that there will be, in all cases of Manx land owned by a foreign company, an address for service of process and notice. This is again for purposes of transparency and protection of the public. In all cases, the foreign company must ensure that there is a person appointed to accept service of process and notices.

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

2285 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

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

2290 Mr Teare.

Mr Teare: Thank you, sir.

On receipt of an application for registration of a foreign company, the Department of Economic Development must, under clause 12, either approve the application or refuse the application.

2295 In the case of refusal to register an application, the Department must give reasons for its decision. The reasons for which the Department can refuse to accept an application include non-payment of the application fee and illegible documents.

On approval of an application, the Department must assign the company a unique reference number and issue it with a certificate of registration.

2300 Mr Speaker, I beg to move that clause 12 do stand part of this Bill.

The Speaker: Mr Watterson.

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

2305

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.

2310 **Mr Teare:** Under clause 13(1), a foreign company must notify the Department on the occurrence of certain events. These include a change of the address for the service of process and notices or the person authorised to accept these; the appointment of a liquidator or receiver under the laws of the foreign jurisdiction; a foreign company ceasing to exist or to have legal personality, or ceasing to need to be registered as a foreign company.

2315 In all cases, notification must be in the approved form and accompanied by any fee payable.

The Department must be notified of any of these events within one month of their occurrence. Failing to do so will be, as it is now, an offence.

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

2320 **Mr Watterson:** I beg to second and reserve my remarks.

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.

2325

Mr Teare: Under clause 14, a foreign company must, as now, make an annual return to the Department of Economic Development. Again, as now, the return must be in the approved form and accompanied by the appropriate fee.

2330 The annual return must be made up to the company's return date, which will ordinarily be the anniversary of incorporation. It will be an offence for a foreign company to fail to file its annual return.

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

The Speaker: Mr Watterson.

2335

Mr Watterson: I beg to second, sir, and reserve my remarks.

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.

2340 Clause 15.

Mr Teare: In clause 15, the Treasury is given the power to make regulations in respect of certain trading disclosures.

2345 Regulations made under this clause should include the following: the inclusion of certain information in a foreign company's communications; and the provision and disclosure of certain information to parties doing business with the company.

This clause makes provision for the detail of what must be included in trading disclosures to be set out in the regulations. This is a new flexible approach.

2350 The Island will be able to respond quickly to increased or decreased expectations of the information that must be disclosed. The current disclosure requirements under the Companies Act 1931 are onerous and in excess of comparable provisions in the home jurisdiction. This can mean that the Island's legislation is in direct conflict with the legislation of the home jurisdiction.

Hon. Members, this is a further reduction in red tape.

I beg to move that clause 15 stand part of the Bill.

2355

The Speaker: Mr Watterson.

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

2360 **The Speaker:** I put the question: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

2365 **Mr Teare:** Clause 16 gives the Treasury the power to require a foreign company to comply with another enactment of the Island by regulation, as if the foreign company was a company incorporated in the Island.

This clause also considers the modification of an enactment in order to secure compliance by the foreign company.

Mr Speaker, I beg to move that clause 16 stand part of the Bill.

2370

Mr Watterson: I beg to second, sir, and reserve my remarks.

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

2375

Clause 17.

2380 **Mr Teare:** Mr Speaker, under clause 17, the Department of Economic Development may remove a registered foreign company from the Register either if the company ceases to meet requirements for registration or the company fails to submit an annual return within four months after the company's return date.

The Department of Economic Development must publish notice of the removal of a company from the Register.

2385 A foreign company that has been removed from the Register may make a further application for registration under clause 8. The re-application must be accompanied by all the outstanding returns and fees.

A foreign company seeking re-entry to the Register must do so under clause 8 and submit the appropriate fee.

Mr Speaker, I beg to move that clause 17 do stand part of the Bill.

2390

The Speaker: Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2395 **The Speaker:** Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.
I just wonder, on a notification, is it in both jurisdictions; and what that method would be.

2400 **The Speaker:** Mr Teare.

Mr Teare: The notification would be to the Isle of Man Companies Registry and it would be in a form which is prescribed by the Department of Economic Development, as tabled in the regulations.

2405 **The Speaker:** I put the question that clause 17 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 18.

Mr Teare: Thank you, Mr Speaker.
2410 Under clause 18, a person dissatisfied with a decision of the Department may appeal the decision to the High Court. The court has the power to confirm, vary or revoke the Department's decision. The court's decision will be binding on the Department and the appellant.
Mr Speaker, I beg to move that clause 18 do stand part of the Bill.

2415 **The Speaker:** Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The
2420 ayes have it.
Clause 19.

Mr Teare: Clause 19 provides that a person who makes a statement to the Department, which is known to be false or is made recklessly, commits an offence.
2425 Mr Speaker, I beg to move that clause 19 do stand part of the Bill.

Mr Watterson: I beg to second, sir, and reserve my remarks.

The Speaker: I put the question: those in favour, say aye; against, no. The ayes have it. The
2430 ayes have it.
Clause 20.

Mr Teare: Clause 20 sets out the penalties in respect of offences committed under the Bill.
Express provision is made to consider and include circumstances in which offences may be
2435 committed by legal persons in addition to individuals. Where an offence has been committed by a body corporate or other legal person, the officers of that body corporate will also be held liable for the offence.

This clause provides a defence for any person who took all reasonable precautions and exercised all due diligence to avoid committing the offence.
2440 Mr Speaker, I beg to move that clause 20 do stand part of the Bill.

Mr Watterson: I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 20 do stand part of the Bill. Those in favour, say
2445 aye; against, no. The ayes have it. The ayes have it.
Clause 21, please.

Mr Teare: Clause 21 gives power to the Treasury to make regulations about a wide range of matters concerned with the detailed operation of the Bill.

2450 Clause 21(2) lists examples of the regulations which may be made under this clause. This includes matters such as prescribing circumstances in which a company or other legal person meets the definition of a foreign company under the legislation, the provision of information and documents in electronic form, and the exemption of persons or a class of persons from any of the provisions of the legislation.

2455 Before making any regulations under this clause, the Treasury must consult with the appropriate persons.

Regulations under this clause will only come into operation if they are expressly approved by Tynwald.

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

2460 **The Speaker:** Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2465 **The Speaker:** I put the question: those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 22.

2470 **Mr Teare:** Under clause 22, the Department of Economic Development may publish forms that must be used when submitting information that is required under the legislation. Any form that is required to be in the approved form must contain the required information. Any other documents required by the Department must be attached to the form.

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

2475 **The Speaker:** Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2480 **The Speaker:** I put the question: clause 22. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 23.

Mr Teare: Clause 23 gives the Department the power to prescribe fees by order. Before making such an order, the Department must consult with the Treasury. An order made under this clause only comes into operation if expressly approved by Tynwald.

2485 Mr Speaker, I beg to move that clause 23 do stand part of this Bill.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2490 **The Speaker:** I put the question that clause 23 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 24.

2495 **Mr Teare:** Under clause 24(1), the Department may keep information and documents submitted to it in any form that it approves, including electronic storage. This is subject to the requirement for the Department being able to reproduce the information and documentation in a legible form.

Hard copies of information and documents submitted to the Department may be destroyed if they are being kept in a form that will allow for them to be reproduced in a legible form and/or they relate to a foreign company removed from the Register more than 10 years previously.

2500 Mr Speaker, I beg to move that clause 24 do stand part of this Bill.

The Speaker: Mr Watterson.

Mr Watterson: I beg to second, sir, and reserve my remarks.

2505

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

Clause 25.

2510 **Mr Teare:** Under clause 25, the Department may, in certain circumstances, refuse to accept a document for registration. This includes circumstances where a document does not comply with the legislation, is not completed correctly or contains a material error, is not legible or is not accompanied by the prescribed fee.

2515 If the Department refuses to accept the document, it must return the document to the person who submitted it and provide reasons for its rejection. A rejected document would be treated as having not been submitted.

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

The Speaker: Mr Watterson.

2520

Mr Watterson: I beg to second, sir, and reserve my remarks.

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

2525 Clause 26 and the schedule.

Mr Teare: Thank you, sir.

Clause 26 gives effect to the amendment specified in the schedule. The effect of this is to make consequential amendments to other legislation, as required.

2530 It also provides for this clause and the schedule of amendments to be repealed on the day after the last provision is brought into operation. The automatic repeal will not affect the continuing operation of any of the amendments to enactments made by this clause.

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

2535 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

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

Clause 27.

2540

Mr Teare: Clause 27 makes provision for a company that has already registered under part XI of the Companies Act 1931 to be treated as a company that has been registered under this legislation.

2545 Before moving this clause, sir, I would just like to thank my seconder and my colleagues in the Department of Economic Development and the Treasury for the work that they have undertaken on this legislation.

With that, sir, I beg to move that clause 27 do stand part of the Bill.

The Speaker: Mr Watterson.

2550

Mr Watterson: Happy to second, sir, and reserve my remarks.

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

2555

Hon. Members, that concludes the clauses stage of the Foreign Companies Bill. It also concludes the business of the House today.

Can I remind Members of a short presentation taking place at 1.45 p.m. in the Barrool Suite on behalf of the Tynwald Management Committee regarding broadcasting Tynwald website proceedings.

2560

The House will now stand adjourned until the next sitting, which will take place at 10 o'clock on 3rd December in this Chamber.

The House adjourned at 12.20 p.m.