



HOUSE OF KEYS OFFICIAL REPORT

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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 28th January 2014

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Present:

The Speaker (Hon. S C Rodan) (Garff);
The Chief Minister (Hon. A R Bell) (Ramsey);
Hon. D M Anderson (Glenfaba); Mr L I Singer (Ramsey);
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 and Mrs K J Beecroft (Douglas South);
Hon. C R Robertshaw and Mrs B J Cannell (Douglas East);
Hon. J P Shimmin and Mr C C Thomas (Douglas West);
Mr R A Ronan (Castletown); Hon. G D Cregeen (Malew and Santon);
Mr L D Skelly and Hon. P A Gawne (Rushen);
with Mr R I S Phillips, Secretary of the House.

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House of Keys

The House met at 10.00 a.m.

[MR SPEAKER *in the Chair*]

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

Members: Good morning, Mr Speaker.

5 **The Speaker:** The Chaplain will lead us in prayer.

PRAYERS

The Chaplain of the House of Keys

Leave of absence granted

The Speaker: Hon. Members, I have given leave of absence to the Hon. Member for Ayre, Mr Teare and Hon. Member for Rushen, Mr Watterson for today's sitting; and for this afternoon to Mr Robertshaw and Mr Cregeen.

Questions for Oral Answer

CHIEF MINISTER

1.1. Britannia International closure – Effects and mitigation

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

If he will make a statement on the effects of the closure of Britannia International in the Isle of Man, and on any steps being taken to mitigate any negative outcomes of this announcement?

10 **The Speaker:** We turn to Item 1 on our Order Paper, Questions for Oral Answer. I call on the Hon. Member for Douglas North, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Ta mee shirrey kied yn eysht y chur ta fo my ennym. I beg to ask the Question in my name.

The Speaker: I call the Chief Minister, Mr Bell, to reply.

15

The Chief Minister (Mr Bell): Mr Speaker, the winding down of Britannia International's operation in the Isle of Man during 2014 was announced on 10th January. The decision was made at main board level.

20 During 2013, we had met senior representatives of the Co-operative Group where they explained the operational challenges in their Group and the requirement for restructuring, which has been subsequently covered in the national press. While there was a strong desire to find a solution, the requirement to address UK issues led them to this decision.

25 There are likely to be 31 people affected by the winding down of the operation and the direct effect on the Isle of Man will be through Income Tax and National Insurance collected by Government for the 2014-15 financial year, as redundancies take place. However, as such information is held in confidence by the Assessor of Income Tax, I am unable to advise you of any projected amounts.

30 We will of course work with both the company and the individuals affected by the closure to find new employment on the Island. Members will remember that we have warned previously of the seismic changes taking place in banking and while certainly not welcome, it is unlikely to be the last restructuring that we see. The job losses experienced to date are in line with Government forecasts.

35 As a Government we are working very closely with the industry and UK Government to ensure that we maintain an environment where our banks can be supported and thrive as we move forward.

1.2. UK and Crown Dependencies' relationship – MoJ implementation of UK Justice Committee recommendations

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

If he will make a statement on the recently published report of the House of Commons Justice Committee on the implementation by the Ministry of Justice of recommendations made by the Committee in 2010 about the relationship between the UK and the Crown Dependencies?

The Speaker: Question 2. Again, I call Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Ta mee shirrey kied yn eysht y chur ta fo my ennym. I beg to ask the Question in my name.

The Speaker: Chief Minister to reply.

40

The Chief Minister (Mr Bell): Mr Speaker, the Isle of Man Government welcomes the latest report from the House of Commons Justice Committee and the improved relationship with UK that it sets out. Arising from the recommendations of the original report in 2010, there is now a much greater awareness of the Isle of Man across Whitehall.

45 We have greater and relevant interaction with key political and officer policymakers and opinion-formers within UK Government departments, especially HM Treasury, the Foreign and Commonwealth Office and the Department of Business, Innovation and Skills. This is very helpful in ensuring we have an understanding of matters or emerging issues which have a potential to impact on the Island.

50 In addition, officials in the Isle of Man and the UK have worked to streamline the Royal Assent process for legislation and, as we know, greatly reduced the time taken to obtain Royal Assent for Isle of Man Bills.

The Isle of Man has developed an excellent working relationship with the Justice Committee, particularly the Chairman, Sir Alan Beith, who takes a very active interest in Island affairs. We
55 have also developed an excellent working relationship with Lord McNally at the Ministry of Justice and his team of officials, and I am confident that this will continue under his successor, Lord Faulks. Such relationships have proved very valuable, and we welcome them greatly.

The stability of our constitutional relationship with the United Kingdom is important to the Isle of Man and we have prospered within that framework. Although there are always occasional
60 tensions in any relationship, improved lines of communication with the UK have brought greater recognition of the Island as a mature and responsible democracy, along with increasing opportunities to represent ourselves on the international stage. We shall continue to build on this work initiated by the Justice Committee report, working in collaboration with the Ministry of Justice and Whitehall departments for the benefit of the Isle of Man.

65

The Speaker: Mr Henderson, supplementary.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Just to thank the Ard-shirveishagh for his positive message that he has given out this
70 morning.

1.3. Former politicians and senior civil servants – Taking up of company directorships

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

To what extent former politicians and senior civil servants can benefit from knowledge acquired inside Government by taking up directorships of companies; what his view is of this practice; and if he would support legislation to stop it?

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

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

75 **The Speaker:** Chief Minister to reply.

The Chief Minister (Mr Bell): Mr Speaker, it is, I believe, inevitable and in no way surprising that those individuals, whether they are former Members of Tynwald or former members of the civil service, who choose to take up directorships with local or other companies may benefit to
80 at least some extent from knowledge gained when serving with, for example, a Department, a Board or Office of Government. It is, no doubt, equally true to say that they might well also benefit from the skills developed and experience gained during their time in Government.

From my perspective, as long as the knowledge used is not confidential, then there can be no fundamental objection to its use and indeed, along with an individual's skills and experience, it
85 may well be beneficial not only to their employer, but also to the Manx economy.

However, it would in my view be wholly unacceptable for such knowledge to be used when it is clearly confidential to Government and I would deplore the use of any confidential knowledge gained while serving in Government for the benefit of a company, whether local or not, where

90 such knowledge is used to the detriment of the commercial or other interests of Government or of a third party.

While I understand the Hon. Member's concerns, I do not believe that the introduction of new legislation at this point is necessary and therefore I would not support its introduction.

95 **The Speaker:** Mr Karran.

Mr Karran: Vainstyr Loayreyder, thanking the Ard-shirveishagh for his reply, but does he not feel, in light of the fact that we are going to more likely see more privatisation, that this issue becomes more apparent and that we need to be looking at this legislation?

100 **The Speaker:** Chief Minister.

The Chief Minister: Again, I can understand where the Hon. Member is coming from on this, Mr Speaker, but we have absolutely no evidence at all of this situation having been abused in any way. There have been no example quoted to us, and I think particularly because of the point
105 that the Hon. Member makes, that there will be changes in Government. We are looking to downsize Government. There will be many people leaving Government still of very active working age, who will want to engage or be engaged with alternative employment in the private sector, and it is inevitable that we are going to get some crossover experience there.

110 But until we have any evidence at all that this is being abused, and going back many years we have not been able to find any evidence of that, I still think, although we will keep the issue under review, we still do not believe there should be a need for further legislation on this.

The Speaker: Hon. Member, Mr Quirk.

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

Could I ask the Chief Minister, could he give us the assurance of the House today that we do have a register of conflicts of interest and declared or perceptions of bias that happen in Government Departments and meeting that take place?

120 **Mr Karran:** This is after you have left.

The Speaker: Chief Minister.

125 **The Chief Minister:** Well, yes, we do have a register of business interests: all Members have to sign that, Mr Speaker, but I think the hon. questioner is coming from a different angle on this.

The Speaker: Mrs Beecroft, Hon. Member.

130 **Mrs Beecroft:** Thank you, Mr Speaker.

Would the Chief Minister acknowledge that there is a big difference between people leaving – senior civil servants, etc leaving – and taking up employment to leaving and taking up directorships? There is a huge difference and in the private sector, there is usually a clause in your contract of employment that prevents you from doing certain things within a certain time of leaving an organisation. Would the Chief Minister consider introducing such a thing?

135 **The Speaker:** Chief Minister.

The Chief Minister: I have answered the question, I think, Mr Speaker, as regards legislation. I do not see there is a huge difference between leaving Government and going to be an employee

140 or leaving Government to become a director. They are still employees directly or indirectly of that company.

Again, I can only repeat, we have no evidence of any conflict of interest, nothing has ever been raised with us and, at this stage, we do not see there is any need to bring in unnecessary legislation.

145

The Speaker: Supplementary, Mr Karran.

Mr Karran: Vainstyr Loayreyder, thanking the Ard-shirveishagh for a very reasonable reply, would the Ard-shirveishagh not agree that with the FSC and the likes, where we have had people directly conflicted in the past, when we talk about banks collapsing, we should reconsider this – even though I can appreciate the priority is to expand the economy? Would he not agree, it would help him, as far as the issue, if we do end up with more privatisation on the way, then there would be no conflicts of interest, to make sure the taxpayer gets the best deal?

155

The Speaker: Chief Minister.

The Chief Minister: I think there is a danger, if we are talking about a regulator or various similar sorts of bodies where, in the first instance, we want to attract people from the private sector to come into Government and to work for us in that capacity. If there was an onerous restriction on what they do subsequently, then the likelihood is that we will not get these people in the first place, and it is absolutely vital where we have regulatory bodies, that the people appointed to those bodies have a sound and up-to-date knowledge of the area that they have responsibility for. Without that commercial knowledge, they would not be able to be making a positive contribution to that particular regulator.

165

The Speaker: Mrs Beecroft, final supplementary.

Mrs Beecroft: Thank you, Mr Speaker.

170 Would the Chief Minister agree with me that there is actually a huge difference between being an employee and being a director? By definition, a director directs the course of the business, whereas an employee does as directed. So would he acknowledge that there is actually a big difference in those two roles?

175

The Speaker: Chief Minister.

The Chief Minister: There is a difference in definition, but the overall position is still the same: it is a Government employee at whatever level leaving Government employment to work for the private sector. The original Question here refers not just to directors, but to employees in sensitive positions.

ENVIRONMENT, FOOD AND AGRICULTURE

1.4. Coastal erosion around Kirk Michael – Seeking solutions

The Hon. Member for Michael (Mr Cannan) to ask the Minister for Environment, Food and Agriculture:

If he is willing to convene a working group to proactively seek solutions to coastal erosion around Kirk Michael?

180 **The Speaker:** Question 4, Hon. Member for Michael, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker.
I ask the Question standing in my name.

185 **The Speaker:** I call on the Minister for Environment, Food and Agriculture, Mr Gawne.

The Minister for Environment, Food and Agriculture (Mr Gawne): Gura mie eu, Loayreyder.

Coastal erosion along the north-west coast of the Isle of Man is a significant but sadly inevitable process which, without the investment of tens if not hundreds of millions of pounds, cannot be halted. It may be possible to slow the pace of erosion adjacent to Kirk Michael village, but even this cannot be achieved cheaply and would be likely to speed up erosion elsewhere along the coast.

190 That said, I share the legitimate concerns of the people of Kirk Michael and am pleased to confirm that I have agreed to establish a working group as requested by the Hon. Member for Michael.

195 The working party is to be made up of: the DEFA Minister as Chairman; the Member for Michael; a representative of Michael Commissioners; a member of local community; DEFA officers, as appropriate; and officers from other Departments, as appropriate.

200 I have written to Michael Commissioners and requested that they suggest names of possible representatives for the working group, and I hope to arrange a first meeting of the group early in February.

The Speaker: Mr Cannan.

205 **Mr Cannan:** Mr Speaker, this is excellent news, and I thank the Minister for his proactive response to this matter.

Could I ask him for a bit more detail about his thoughts on the working group and is he able to enlighten us a little bit on the terms of reference?

210 **The Speaker:** Minister.

The Minister: Gura mie eu, Loayreyder.

Yes, I have to be cautious on this, because we are talking significant amounts of money to do anything meaningful to slow the pace of erosion.

215 That said, I do think it is important for us to at least look at this with people from the community, to see whether there are things that we could be doing, whether there are low-cost options and the like.

I have a draft set of terms of reference, which I think will form the basis of future discussions, and I can certainly share those with Members at this stage. These would be: to review the current Government policy in respect of coastal erosion as it applies to the Kirk Michael Management Zone; review best practice in the UK and identify any lessons to be learned for the Isle of Man; explore whether there is any practical opportunity with support from local businesses and residents to put forward a scheme to reduce coastal erosion at Kirk Michael; and also consider further action which would be required to identify the implications of any proposals for the northern coastline outside the Management Zone.

220 I think that is probably the biggest concern for the Department. Yes, it would be relatively straightforward for us to agree to certain attempts to try and slow the erosion in a specific area, and I think we are particularly talking about the area adjacent to Kirk Michael, but what the

230 engineers that have been advising the Department in the past have said is that unless we did a fairly significant length of coastal defences, the risk is that we will cause more damage in the places that we do not put coastal defences.

So that is the concern, but as I say, I am more than happy for a working group to be established to look at these issues to see whether there is anything that can be done at a relatively low cost.

1.5. Larch tree disease – Proposals to clear plantations

The Hon. Member for Middle (Mr Quayle) to ask the Minister for Environment, Food and Agriculture:

If he will make a statement regarding the proposed actions to be taken by his Department to clear plantations on the Island as a result of the disease phytophthora ramorum (larch tree disease)?

235 **The Speaker:** Question 5, Hon. Member for Middle, Mr Quayle.

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

240 **The Speaker:** I call on the Minister, Mr Gawne.

The Minister for Environment, Food and Agriculture (Mr Gawne): Gura mie eu, Loayreyder. *Phytophthora ramorum* was first identified in the Isle of Man in 2010. It is a fungus-like pathogen that has the potential to infect a wide variety of trees and plants and, if uncontrolled, could have a devastating effect on native vegetation.

245 Until this year, only local contractors have been employed in felling the diseased and buffer zone trees but, primarily as a result of climatic conditions last year, our plantations have experienced a rapid spread of the disease, with the area of infection exploding to now affect over 50% of the larch within the Department's plantations. This equates to over 700 acres of the 7,000-acre Forestry estate.

250 As a result of this and the need to make major inroads into disease management before the trees have needles again, and can naturally spread spores, the Department has been forced to rethink its strategy. Due to the seasonal pressure, the Department made a decision to commence works using an experienced UK-based contractor with appropriate specialist machinery to fell or destroy diseased or protection zone trees at an increased rate.

255 The trees are being felled by a tree shear device and stacked in a manner which will allow future collection and processing. Where it is not economically viable to utilise the diseased timber, due to landscape features or where young or poor quality timber is infected, the trees are being mulched where they stand, using a top-down mulcher.

260 Local contractors will also continue to harvest infected larch and the Department will also be preparing a formal tender package to take the works past the current contract period which ends on 1st May this year.

265 During the work to tackle this disease, the Department will need to close certain areas off, but this will be publicised and planned to minimise the impact on recreation. In general, areas where tree felling is not taking place will be open but with bio-security control requested of all Forestry and plantation users.

The Speaker: Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

270 Could the Minister advise: (a) was there enough done to stop this disease entering the Island,
through checks of imported wood; and (b) could he confirm whether all varieties of trees in
these affected plantations are going to be cut down, or just the larch trees? Surely we are talking
of some 700 acres of land – a significant amount of land – and this is going to leave some
horrible scars in our countryside for a considerable amount of time, affecting wildlife and the
275 beautiful scenery of the Island.

The Speaker: Minister to reply.

The Minister: Well, how can you answer, ‘Has enough being done to stop this?’ when clearly
280 it has not been stopped? The simple answer is no, enough has not been done to stop it.

But that is with the benefit of hindsight. That said, we have done what we felt was
appropriate to try and limit the increase of this disease, but quite frankly, it is just as likely that
the disease has arrived on the Island through climatic reasons as it is through garden plants. But
we have not fully identified what the source of this is.

285 In relation to part (b), then clearly, we will be focusing on felling the diseased trees. That said,
if there are other trees that in the midst of the trees or preventing access to these trees, then
clearly we will have to fell some of those as well, but we are minimising the number of healthy
trees that we fell. We are just really trying to focus on the really badly diseased or the trees
which are prone to this disease, which is the larch.

290

The Speaker: Hon. Member for Michael.

Mr Cannan: Thank you, Mr Speaker.

I just want to ask the Minister about the actual contract that is being undertaken at the
295 moment. I am pleased to hear that from 1st May, local contractors will play a much more
significant role, but it was awarded, it would appear, to a UK contractor. I accept that very heavy
machinery was needed here, and there was obviously a significant amount of urgency, but why
was there no approach to local contractors, to at least establish whether they had the means to
provide the same service through hire of the machinery from the UK?

300

The Speaker: Mr Gawne.

The Minister: Gura mie eu, Loayreyder.

305 My understanding is that local contractors are still involved; it is just we have brought in a
specialist UK contractor to enhance the work. I am sure that the local contractors that are
currently involved will at some point have written in to the Department as a result of an
‘expressions of interest’ or tendering exercise. I cannot be absolutely sure or tell you the
absolute dates as to when all this sort of thing would have happened.

310 But I do take on board the point that perhaps we could have been a bit more proactive in
ensuring that all local contractors had been written to.

That said, this is a serious disease. We are really struggling to keep on top of it now and it has
taken us quite a lot of time to try and get the planning right, to try and find a way in which we
can do this, with very, very limited resources. The impact of this is going to be far worse than
just 700 acres, if we do not get on top of it this year.

315

The Speaker: Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

320 Could the Minister expand on... or give us some proposals that his Department have to maintain the mountain bike tracks in the affected plantations? There is a high number of the Island's population use these tracks for their leisure and for sport, and in fact, we as a Government are encouraging members of the UK and worldwide public to come to the Isle of Man and use these tracks. Could he give us an update on what is being done to maintain where possible, or offer new tracks that are going to be lost as a result of the plantations being cut
325 down?

The Speaker: Minister.

The Minister: Gura mie eu, Loayreyder.

330 Yes, clearly we are very aware of the impact that this could have on users of our plantations, not least the mountain bike fraternity. I think it is unfortunate that, having done so much work, both in terms of our Department, I know the Department of Economic Development, Department of Community Culture and Leisure: we have all been behind the push to try and get more use out of our estates, so it is disappointing that we are going to have to inevitably close
335 some of these tracks, while felling takes place.

But clearly, we will do this as quickly as we possibly can. We are going to ensure that as many tracks as we possibly can will remain open. But this is a *serious* disease and the risks of not doing anything are *far* greater than the inconvenience that will be caused to some plantation users.

340 **Mrs Cannell:** Hear, hear.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

345 Can the Minister outline for us just what the consequences are if the disease was left to run its course?

And then the obvious question, Vainstyr Loayreyder, as a part (2) is: in the background, there will be large swathes of forest cut down, gaps in the hillside, the impact on the amenities of areas and wildlife will be hugely considerable – is some mitigation work, replanting, being
350 looked at in the background? Obviously that will take a lot of time, but are those kinds of things being considered?

The Speaker: Mr Gawne.

355 **The Minister:** Gura mie eu, Loayreyder.

It is difficult to predict what the full implications could be, if we do not do anything to try and tackle this disease, but one very obvious implication would be about 1,400 acres of dead larch trees, which first of all form a risk in terms of the trees actually falling over on top of people or next to footpaths or roads, and secondly present a very significant fire risk. If we left the 1,400
360 acres of dead larch and they caught fire, then there is a severe risk that the fires would spread both to other trees in the plantations, as well as further onto uplands and the like. So that is one very significant risk.

The other risk of this – and this is why we are particularly keen to get the trees felled as quickly as possible – is that once the pine needles start coming back on the trees, the trees then
365 have the ability to assist the *phytophthora ramorum* by sporulating, which means basically releasing clouds and clouds of spores of the fungus into the air, which can then be spread over a wide area. They do very readily transfer... This disease very readily attacks many garden plants, but also it has a severe risk of attacking a lot of the upland shrubs, particularly blaeberry, so it could very easily transfer onto that. If it attacked blaeberries, then that has a significant impact
370 on all the wildlife in our uplands. So that is a big, big issue.

As far as mitigation, once these trees are felled, quite frankly at the moment the amounts of money that we are looking for are so great that we have just about managed to get agreement with Treasury on how we can afford to fell the trees. Beyond that, at this stage, there is no further budget.

375

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, could the Shirveishagh inform this House, even allowing for the environmental consequences, was the contract an open and transparent contract? Was it done under the normal procedures of Government contracting?

380

The Speaker: Minister.

The Minister: Gura mie eu, Loayreyder.

385

I am assuming that the Hon. Member for Onchan means the UK contract. Basically, we went to Treasury and sought an FD8 waiver on the contract because we could not identify any contractors on the Isle of Man who were ready to go with the equipment that we needed to deal with the problem. So we followed all the correct financial procedures in that regard.

390

The Speaker: Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

Could the Minister inform us what they are going to do with this vast amount of cut wood? Would it be economically viable to buy a debarker, for example, so that the wood can then be used either for local consumption on the Island or put into the incinerator to help fire that up, rather than using oil?

395

If he could just give us his thoughts, please. *(Interjections)*

The Speaker: Reply, sir.

400

The Minister: Gura mie eu, Loayreyder.

There is, of course, some of the timber already going into the Energy from Waste Plant. As far as buying a debarker, I think it was going to cost something in the region of £200,000 which is quite a lot of money.

405

So at the moment, the thinking the Department has is we will leave the trees stacked for a year, because it does appear that if you leave larch trees for a certain period of time in the right conditions, it naturally debarks. So we are going to wait and see whether that works. If that does not work, then we will have to think of looking at getting a debarker, because effectively we are talking about up to 1,400 acres of larch trees. Many of those trees will be saleable wood – whether that be for firewood, whether it be for chipping, whether it be for use in the sawmill, it is a valuable product, so we may be able to get some money back from this unfortunate incident.

410

The Speaker: Two more Members have indicated supplementaries. After that, we will move on.

415

Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

Will the Minister confirm that in fact the nature of this pathogen does not just affect larch, it actually spreads to all sorts of other species – that is why the Department is so concerned; and that such areas of heathland moorland are now at a greater risk, but there has been confirmed

420

infection in the UK of bilberry and heather species, and this is probably the reason, to satisfy Hon. Members, why the Department is moving as quickly as it possibly can?

425 Will the Minister further confirm that there is a ballpark figure of £2.56 million, if we are to eradicate this, and to do it properly and forever, if you like – although there is no guarantee of that – and that as the Department stands at the moment, we do not have £2.56 million in order to do it, so that the Department is doing the very best that it can with limited resources?

The Minister: Gura mie eu, Loayreyder.

430 You will not be too surprised to hear that I agree with everything that the Member for Forestry has to say on the matter.

Several Members: Hear, hear.

435 **Mr Anderson:** On *this* matter.

The Speaker: Final supplementary, Mr Karran.

440 **Mr Karran:** Could the Shirveishagh tell us: so there was not an open and transparent tender, as far as this is concerned, so that local businesses who are finding it hard on the Island did not even have the opportunity, as far as the tendering for this?

Will the Minister reconsider that, with his ministerial colleagues, to be looking more at this issue to see whether there is a way of making sure that all tenders, especially in these hard economic times, are open and transparent as far as tendering is concerned?

445

The Speaker: Minister.

The Minister: Gura mie eu, Loayreyder.

450 My glass is always half full. The Hon. Member for Onchan's glass is always half empty. *(Interjection by Mr Karran)*

The issue here really is that we have an emergency situation, we have been working extraordinarily hard to try and tackle that emergency situation. So the Hon. Member suggests that local contractors have not had an opportunity to get involved. They *are* involved.

455 What we are doing here is supplementing the work of local contractors with an off-Island specialist contractor who is already geared up and ready to come straight in at very short notice to help us out. So local contractors are already engaged in felling these diseased trees. So to suggest that in some way we are favouring the UK contractor over our local contractors is... *[Inaudible]* ... a fair suggestion.

460 I do appreciate that there may be other local contractors on the Island, other than the ones we are already engaging with. And as I have already said in my Answer, the contract with the UK specialist comes to an end on 1st May and in advance of that, we will be putting out further tenders to look for local contractors to support us in this work.

The Speaker: Mrs Cannell.

465

Mrs Cannell: Thank you, Mr Speaker, for your latitude.

470 To be helpful to the Minister, *(Interjections)* would the Minister like to share with me an invitation for all Members to actually look at the DEFA website, where one can see one of these pieces of equipment that has been brought over by the UK-based company that is eradicating the trees and mulching them up and leaving them on site, and that if they look at that, they might be better informed?

The Speaker: Minister.

A Member: Give a briefing.

475

The Minister: Gura mie eu, Loayreyder.

Yes, I certainly would. I think the Department has been engaged in trying to improve the way it communicates with the public and there are some quite good, useful pictures and video now on our website, so that people can understand.

480

That said, I do appreciate the comments from some Members that perhaps, had they known, local contractors could have bought in some of this equipment, but the timescales we are looking at, we urgently needed to get this done before that the pine needles come back on the trees in the springtime.

485

So we just did not feel it was likely, in the short timescales we had, that we would be able to set this up, so that local contractors could be engaged quick enough to help us out. But that said, we are certainly going to work with local contractors, we are certainly going to engage with local contractors, in terms of ongoing work which will be taking place in the coming financial year.

INFRASTRUCTURE

1.6. Douglas town centre parking – Options and recommendations

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

If he will make a statement on (a) Douglas town centre parking policy development options and (b) the recommendations in the recently published study and consultancy report?

490

The Speaker: Question 6, Hon. Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

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

495

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

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

500

The Department, working with partners such as Douglas Corporation, will be using the information contained within the Douglas Town Centre Parking Study and Parking Policy Development option report to assist in formulating future policy and identifying necessary development in the Douglas area.

This report is one of four parking reports the Department has undertaken, with the other reports covering Ramsey, Peel and Castletown. The aims of the reports are to assist the Department in developing parking policy across the Island.

505

Following completion of all the reports, officer meetings have now commenced with representatives of each of the local authorities concerned, to see if a common approach and policy can be developed with regard to some of the issues associated with parking.

510

All of the reports contain recommendations and these will be considered as part of the development of future parking policy. This does not mean that the Department will accept any or all of the recommendations; they will be worked through in consultation with relevant interested parties.

The Speaker: Mr Thomas, supplementary.

515 **Mr Thomas:** Thank you, Mr Speaker, and thank you to the Minister, both for publishing this report eventually, and also for his reply just now.

Mr Speaker, would the Minister comment, then: when he has his discussions with Douglas Corporation, will he consider transferring the car parks that the Department has to the local authority, negotiating everything in terms of the deficiency payment for parking and also the ownership going forward of the car parks in Douglas which the Department owns?

520

The Speaker: Minister.

The Minister: As the Hon. Member indicates, there is a significant deficiency which is paid to Douglas Corporation for the operation of their Shaw's Brow car park.

525 I think that my position would be is that we are prepared to look, in the present financial climate, at the best way forward for the Isle of Man, and that is what we are embarking on. So I am not counting anything in and I am not counting anything out at this stage.

The Speaker: Mr Thomas, supplementary.

530

Mr Thomas: Thank you, Mr Speaker.

Would the Minister comment on a statement in the report which is that:

'... unconstrained free parking is unlikely to remain the optimum solution for Douglas.'

The Speaker: Mr Cretney.

535 **The Minister:** Well, I was wondering whether the Hon. Member... He has not given me a reference point for that particular statement, but one of the things it does say in the report is about on-street parking charges, and it says:

'The present system of controlling time through the use of disc permits is being used less and less. Even small towns are introducing paid parking, particularly for on-street spaces and we believe that it is inevitable that if resources are constrained this option should be seriously considered, if only to offset the cost of implementing the parking strategy and enhanced enforcement.'

It also speaks about residents' permits, and I know this was discussed on Manx Radio on Sunday.

'Residents permits are also currently provided free of charge. We feel that this is unsustainable and a charge to cover administration and enforcement should be introduced.'

540 So I have already said in this Hon. House or another place, or at least publicly, that this option has already been put to me, in terms of charges being introduced for on-street car parking in Douglas, starting with Douglas promenade was the suggestion, and I, at this stage, do not believe that is the way forward. I think that we have to be very aware of the difficulties which are currently being encountered by the retail sector in particular, and we need to be sensitive to those. The ability to have adjacent parking which is free, where people can go in and go out,
545 rather than parking for a longer time is important as far as I am concerned, and that is why I said no at this stage to that suggestion.

The Speaker: Mr Karran, supplementary.

550

Mr Karran: Vainstyr Loayreyder, thanking the Shirveishagh for his reply to the previous question, would he not agree that many people outside now see that if we were to bring in on-street parking, it would be a death knell, to add Douglas to the other towns around the Island, as far as the retail sector is concerned with the pressures they have already got with internet
555 shopping?

The Speaker: Minister.

The Minister: I can confirm that is a view, not necessarily that it would be the death knell, but it would certainly not assist in a difficult time, and I do believe that what we should be doing – and I think what we *are* doing as a Government – is to try and assist each of the sectors that are presently encountering difficulty.

Another suggestion was put to me, when I was the Member responsible for Highways, before Mr Singer joined the Department, that the free parking on the promenade at Christmas on the promenade walkway was something that should not happen. I disagree with that as well. I believe we should be doing whatever we can to facilitate and assist that sector at this time, and that is what I will continue to do whilst I am Minister.

The Speaker: Mr Thomas, supplementary.

Mr Thomas: Thank you very much, Mr Speaker.

In the report, another observation is that Chester Street is underutilised. Would the Minister comment on the potential to use what is called ‘variable message systems’ to point people to where there is parking? Also, would he consider making the car park cheaper or free, to encourage people to use it, whereas perhaps charging for better places to park, relative to what people want to do when they come into town?

The Speaker: Reply, sir.

The Minister: In terms of the variable messaging, I certainly agree with that. What that is, for Hon. Members, is that when people travel into Douglas, for example, they would see that a certain car park had availability. I think that is long overdue and people can then direct themselves to the appropriate car parks which have spaces available. So I am certainly in favour of that, and that is something I would like to get on with as soon as possible – subject to finance, of course!

In relation to Chester Street, yes, there are occasions when Chester Street is underutilised and that is why the officer said to me, at Christmas time in particular, ‘Chester Street is underutilised, there is space there – why are we allowing free car parking on the promenade walkway?’ I just do not think it is as simple as that. I think we have to, as I have said twice already, we need to try and do whatever we can at this time to assist that sector.

1.7. Peel sewage – Tidal flow sewage dispersal surveys

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

Why a tidal flow survey for dispersion of sewage is to be conducted at the edge of Peel harbour when the feasibility study for a sewage works to serve Peel has not yet been produced; and why no tidal survey for sewage dispersion is being carried out at Traie Cabbag ‘Knockaloe’ when the Water and Sewerage Authority has declared that Knockaloe is being evaluated as a location for the sewage works to serve Peel?

590

The Speaker: We turn now to Question 7. Hon. Member for Onchan, Mr Karran.

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

595 **The Speaker:** Again, Minister for Infrastructure to reply.

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

Based on the information provided by the Water and Sewerage Authority, I can confirm that the tidal flow survey and coastal dispersion modelling which is currently being progressed in Peel Bay will predict the effect that the discharge of treated sewage effluent from various outfall locations will have on the bathing waters at Peel.

600 The outcome from the coastal dispersion modelling will then form part of the feasibility study to determine the most appropriate and cost-effective location for a sewage treatment works to service the Peel sewage catchment.

605 I am advised that the modelling will consider the impact of discharging treated effluent from various outfall locations, including one at Traie Cabbag 'Knockaloe' – I hope I have spelled and pronounced that right.

The Speaker: Mr Karran.

610

Mr Karran: Thanking the Shirveishagh for his reply, since WASA has progressed its study on the sewage works provisions for Peel on the strength of a draft feasibility study, will the Minister consider, in the interests of openness and transparency, putting the draft report in the Tynwald Library, so that the public can inspect it? Obviously, if he cannot get an answer today, if he could circulate one...

615 Does the Minister understand that with the sewage outfall located in Peel Bay, this will be in direct conflict to the Peel Commissioners' mission to achieve Blue Flag bathing water quality at Peel –

620 **Mr Crookall:** No, it will not.

Mr Karran: – and has he any comments as far as that is concerned?

The Speaker: Minister.

625

The Minister: I think some people may question the last statement the Hon. Member made. (Mr Crookall: Absolutely.) (Mr Houghton: Hear, hear.)

In relation to the documents that he refers to being put in a public place, I obviously have no problem at all about that – I think we as a Government are all for openness and transparency – but in this particular instance, it would be in the first instance for the Water and Sewerage Authority to decide whether that was appropriate or not.

630 **Mr Houghton:** The answer is no.

635 **The Speaker:** Mr Karran.

Mr Karran: Vainstyr Loayreyder, so the Shirveishagh is quite clear on the point that the location as far as the tidal study is concerned will not obstruct the achievement of Blue Flag bathing water standards as far as the Commissioners want in Peel, as far as getting the Blue Flag style? I just want it on record.

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

The Minister: The Hon. Member is probably asking the wrong person, because the Authority responsible for this, first and foremost, is the Water and Sewerage Authority. (Mr Quirk: Hear,

645

hear.) However, the advice I have received is that is the case: that it will not have any detrimental effect.

**1.8. Ellan Vannin Line –
Ultimatum to Government**

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

Whether the Ellan Vannin Line has presented the Government with an ultimatum, and if so, what the terms of the ultimatum are?

The Speaker: Question 8. Hon. Member for Onchan, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

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

The Speaker: Minister for Infrastructure to reply.

The Minister for Infrastructure (Mr Cretney): Yes, thank you.

655 I am pleased to be able to have the chance to give Hon. Members the full details of this matter.

My Department has made sustained efforts to accommodate the various changing plans of Ellan Vannin Lines, with the aim of them starting a service from Douglas.

660 It might help if I first made it clear that the company has never at any time been denied access to Douglas Harbour. The legal position in the Harbours Act is that this is a publicly owned and operated harbour that is available for use by all.

665 Members will know that my Department owns one linkspan. That is subject to a long-term commercial agreement, often known as the User Agreement. The linkspan agreement is with the Isle of Man Steam Packet Company on a commercial basis and ensures all-year-round lifeline services. The agreement is publicly available and can be found in the Tynwald Library. Indeed, a copy has been placed on the website of a company that has links to the Ellan Vannin Lines, so the company is fully aware of the terms of the agreement.

I referred to the company's changing plans. I will provide a brief summary of some of these.

670 In early 2013, the first proposal from Ellan Vannin Lines was to operate an 'every other day' lift on/lift off freight service. By July 2013, when the company first met the Director of Ports, the proposal had changed to a daily lift on/lift off service, with a side ramp capability. Ellan Vannin Lines announced that it was looking to buy a suitable ship.

675 Following detailed discussions with my officers, it was subsequently decided that the preferred berth for the service would normally be berth 6. The timings of the service were to be arriving overnight, depending on the tides.

In early October 2013, the company informed the Department of a delay in starting the freight service and that they were interested in obtaining the *MV Cometa* for operation from March 2014. My officers were told that the company had:

'carefully selected this vessel for its manoeuvring abilities in the limited space of Douglas and Heysham harbour',

but that:

'the owners required use of their ship until the end of the year, and that this ship was worth waiting a few months longer'.

680

In October, Ellan Vannin Lines changed its proposal again. The company now wished to operate two ferries. This proposal involved the somewhat surprising plan to unload a roll on/roll off cargo vessel through the stern ramp onto a double-ended ferry. Both ships were to be moored behind each other.

685 In late October 2013, whilst still discussing the freight service, Ellan Vannin Lines asked to meet and discuss an application for the direct use of the Government linkspan during TT 2014 and the summer season. The company sought to access the reserved use of the linkspan as part of the annual 24 'en route' visits allowed under the terms of the User Agreement. The company also advised that it wished to make an application for the use of the Government linkspan on a
690 daily basis from March 2014, for a roll on/roll off ferry carrying both passengers and freight.

Earlier this month, the Department became concerned about comments on the Ellan Vannin Lines website that suggested that the company was ready to operate, but saw the Department as a delay. The lack of availability of the linkspan was again made clear and a meeting was arranged for the 14th to discuss the operation of the *MV Cometa* and its side-loading facility.
695 The aim at this stage was to study drawings and agreed operational procedures for harbour staff. However, at that meeting the company advised that it would not be proceeding with the side-loading proposal due to the impact of tides on services and a delay on the availability of the *Cometa*. That is earlier this month.

This left only the proposals to use the linkspan, at this time for a freight vessel. However, on
700 15th January, two e-mails were received from Ellan Vannin Lines. The first e-mail was in their own name to apply for use of the Government linkspan for a daily service with a suitable roll on/roll off passenger vessel, with additional reference to a TT service between Holyhead and Dublin calling *en route* to Douglas. That is 15th January.

The second e-mail was in the name of the UK company, CB Marine Ltd, London, a ship
705 management company, for whom Ellan Vannin Lines were acting as agent. CB Marine Ltd is a company unknown to the Department that appears to manage cargo vessels. This second e-mail was an application to operate a service between Heysham and the Isle of Man using a roll on/roll off vessel with a stern ramp, using the linkspan.

When asked if Ellan Vannin Lines was not now going to operate the Isle of Man–Heysham
710 freight service, using berth 6 routinely, a non-linkspan berth, Ellan Vannin Lines replied:

'We still intend to use the non-linkspan berths and we understand that there is no problem'.

Ellan Vannin Lines also confirmed that they would give two months' notice for this service to begin.

In response to the Ellan Vannin Lines' applications, the Department advised that there is not
715 the opportunity to operate a daily service using the Department's linkspan unless it is outside the port range – a defined catchment area – for passengers and passenger-accompanied vehicles, but that the Department may permit use of the linkspan for May 2014, 2015 and 2016, but not more than twice a week, if an operator wishes to call in to Douglas as part of a service operated between two ports outside the Island.

In response to the CB Marine application, the Department advised any daily service using the
720 linkspan would need to come from outside the port range defined in the User Agreement and would be in respect of passengers and passenger-accompanied vehicles only. As Heysham does not qualify, the application was refused, though a passenger and passenger-accompanied vehicle service from a more distant port outside of the port range remains potentially acceptable.

725 On 24th January, Ellan Vannin Lines posted on their website that:

'... following rejection to their application for the use of the linkspan bridges in Douglas by the Director of Harbour and Airports',

they

'cannot keep the March start date and cannot give a definitive new start date at the moment for any operation to and from Douglas. This applies to both, the freight and the planned TT passenger /RoRo service'.

730 The Department would like to state that it has not prevented access to Ellan Vannin Lines to Douglas Harbour, but has advised Ellan Vannin Lines on the options that are available. With seemingly no intention to operate a freight service of any sort, despite the many proposed variations of service and a clear statement about the User Agreement, I can only ask Hon. Members to draw their own conclusions.

735 Whatever the views of Hon. Members, recent years have seen both the Mezeron freight service introduced and subsequently closed, and a legal challenge to the User Agreement subsequently settled. I confirm that there is no reason why Ellan Vannin Lines cannot operate a ferry service from Douglas using a non-linkspan berth – as my Department had expected for many months.

The Speaker: Mr Quirk, supplementary.

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

I do thank the Minister and his Department for all that information. Can I just... there are a couple of questions I want to ask. Could I ask the Minister regarding the particular company, when did the company actually start trading, if he is aware of that?

745 And is your Department or Government happy about the scenario where it is a fairly new company and I do not think it has any financial backers?

The Speaker: Mr Cretney.

750 **The Minister:** I am afraid I am not able to answer the first point. I do not know when the company started.

In relation to financial backers, or the financial ability of the company, then those are questions that were put to the company, in terms of credit that may be required upfront, etc. Those answers... those questions remain.

755 **Mr Quirk:** Unanswered?

The Speaker: Question 9. Hon. Member for Onchan, Mr Quirk.
Mr Karran – you had a supplementary?

760 **Mr Karran:** Vainstyr Loayreyder, the Ard-shirveishagh... Has the Shirveishagh had any direct communications with the company itself, and does he not agree that the issue about ultimatums as far as the company is concerned, there was never... given any ultimatum as far as the company is concerned to his Department from that, allowing for the fact that I was discussing their concerns yesterday, as far as this is concerned? And when did he did he last meet with them direct, as far as this proposal from Ellan Vannin shipping?
765

The Speaker: Minister.

770 **The Minister:** I am not sure which proposal the Hon. Member is referring to. However, I have met with Ellan Vannin Lines. I met with the Captain who has been at the forefront of this proposal... of the various proposals, some time ago. I cannot recall the exact date. I have not met him very recently. Those meetings have been at officer level, which is entirely appropriate.

775 I have to say, though, one of the things I am most concerned about, I consider my financial integrity and my integrity politically to be very important. One of things that has happened in the last couple of days, in terms of Facebook, is there have been a number of comments and criticisms of my Department and myself regarding the Ellan Vannin Line. I want to say here and

now that they are totally false, inaccurate and without foundation. I advise that some of the comments made on this Facebook page may be considered to be defamatory. (**A Member:** Hear, hear.)

780 I think it is *most* important that people in public office, that they have integrity in these matters, (**Mr Gawne:** Hear, hear.) and I am disappointed that the person who operates that Facebook page has chosen... has obviously editorial powers over the page, has left some of the quotes on there which are on there which are accusing things that I would never contemplate.

785 **Mr Quirk and Mr Quayle:** Hear, hear.

The Speaker: Mr Karran.

Mr Karran: Further supplementary.

790 Would the Shirveishagh not agree that I am unaware of what has gone on on Facebook?

The Minister: Well, you should be.

Mr Karran: I totally agree with the Hon. Member as far as that course of action is concerned.

795 But does he not agree that the concern is that we have got to make sure that the general public is reassured that there is no protectionism as far as the Steam Packet is concerned? Maybe the answer would be to actually have a meeting with the directors of the Ellan Vannin Lines, in order that we can clarify those points, allowing for the fact of the misrepresentation, I believe, from the company that there was no ultimatum given by them, but it was just a matter of the press picking it up that way.

800

The Speaker: Minister.

The Minister: Yes, I am sorry, I did not respond to that point in my earlier answer. Yes, the headline in the newspaper was 'Ultimatum given to Department'; Ellan Vannin Lines said something different. I really think, in the overall scale of things, that is not the most important thing here.

805

What I think we have done as a Department is demonstrate, clearly and transparently, that throughout this process, we have played a straight bat completely, and we have spoken to this potential new operator and let him know what the options are for him to operate a service. Those options from his point of view have changed several times along the way and they now appear to be options which are not achievable within the agreement which the Government has with the Steam Packet Company.

810

815 **Mr Thomas:** Hear, hear.

1.9. Eastern Area Plan and all-Island Strategic Plan – Update

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

If he will make a statement on the new Eastern Area Plan; and if he will give an update on the review of the all-Island Strategic Plan?

The Speaker: Question 9, Hon. Member for Onchan, Mr Quirk.

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

820

The Speaker: Minister for Infrastructure.

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

825 The Department is aware of the importance of the Eastern Area Plan for future economic development, particularly in respect of employment and housing land allocation. The limited review of the Strategic Plan currently being prepared, and subject to consultation, was put forward as the quickest way to allow development of a new Eastern Area Plan. As agreed with the Environment and Infrastructure Committee, the aim is to publish a draft Area Plan for the East by 2016 and a public inquiry in 2017.

830 Hon. Members will be aware that the Department is currently carrying out a preliminary consultation for the Strategic Plan Review. At the end of this month – that is, at the end of January – all the representations will be analysed and the Department will determine how best to proceed. I would encourage any Member, organisation, individual or business that has not commented to do so quickly.

835

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker, and I thank the Minister for those frank comments.

840 But would he not agree with me, really, that if we are to stimulate the economy and to provide opportunities for businesses to flourish, that we need to make sure that resources are given to the planning department to make sure the Island Strategic Plan is done first and any other plans can follow?

The Speaker: Minister.

845

The Minister: I think the Chief Minister – no less than the Chief Minister – has made it quite clear that if additional resources were acquired within the planning element of my Department, those resources will be made available. That has always been clear. Obviously, we would have to make a business case, as any other Department would have to, but the importance of the planning in terms of taking forward the economic development, which is so crucial in the time ahead, has been recognised by Council of Ministers and there is no problem in that regard.

850

The Speaker: Mr Karran.

855 **Mr Karran:** Vainstyr Loayreyder, could the Shirveishagh inform this House, as part of this review, whether the issue of what some of us have raised about the idea of house for life for first-time buyers, and the putting in minimum standards as far as how many houses can be put on per acre, as far as development of first-time buyers' houses are concerned, for the future, as part of that strategy, must be taken on, especially when I see in my own constituency where I have a ridiculous amount of houses pushed on to a very small acreage, which is not the way forward when we are dealing with the people who are dealing with bringing up the next generation for the Manx nation.

860

The Speaker: Minister.

865

The Minister: The consultation which is currently being undertaken is in relation to housing, and in particular since the last census was undertaken. That is what this particular exercise is about.

870 **The Speaker:** Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

I was not going to ask this question of the Minister but another Hon. Member has raised this. The Minister and myself have been in negotiations over a certain item.

875 Could the Minister look into housing policy 14 of the Strategic Plan? I have obviously asked the Minister this question and been told that it is going to cost a small fortune, but surely... I just feel that this is unacceptable. The costs given were horrendously expensive and obviously, we do not want to waste taxpayers' money but can the Minister relook into it, given the fact that during my time as Chairman of Planning, we have reviewed permitted development on a very
880 small amount of money?

The Speaker: Minister.

885 **The Minister:** Yes, the point the Hon. Member makes is one which is well made and has been made by others to me. It is one about which I have concerns. However, what we are doing a whole is letting the consultation run. I will then, together with colleagues, consider the results of the consultation and so, as I said during my Answer, I would encourage anybody to get their concerns in to me about the elements of the Strategic Plan, which is currently being undertaken and if they wish to see that widened, then that needs... [*Inaudible*]

**Standing Order 3.5.1(2) suspended
to complete Oral Questions**

890 **The Speaker:** Now, Hon. Members, we have reached the end of our appointed time. Mr Thomas, Hon. Member.

Mr Thomas: Mr Speaker, I beg to move that Standing Order 3.5.1(2) be suspended to enable the remaining Questions for Oral Answer to be taken at this sitting.

895

The Speaker: Mr Cannan.

Mr Cannan: I beg to second, Mr Speaker.

900 **The Speaker:** Is that agreed, Hon. Members? (**Several Members:** Agreed.) (**Several Members:** No.)

We proceed to a vote.

Electronic voting resulted as follows:

905

FOR

Mr Quirk
Mr Hall
Mr Karran
Mr Ronan
Mr Singer
Mr Quayle
Mr Cannan
Mr Cregeen
Mr Houghton
Mr Henderson
Mrs Beecroft

AGAINST

Mr Crookall
Mr Anderson
Mr Bell
Mr Shimmin

Mrs Cannell
Mr Robertshaw
Mr Thomas
Mr Cretney
Mr Skelly
Mr Gawne
The Speaker

The Speaker: With 18 votes for, 4 against, the motion therefore carries.

**1.10. Local government total expenditure 2012-13 –
Douglas Corporation percentage**

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

Of the total gross expenditure in 2012-13 of local government bodies what percentage was represented by Douglas Corporation?

The Speaker: We move on to Question 10. Hon. Member for Douglas West, Mr Thomas.

910

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

The Speaker: I call the Minister for Infrastructure to reply.

915

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

The percentage figure requested for financial year ending 2012-13 cannot be accurately determined until all audited accounts have been received by the Department. However, the most current figure that the Department can provide is based upon figures currently in circulation as part of the consultation process on proposed changes to Audit and Accounts Requirements.

920

This shows that gross expenditure of local government bodies totals approximately £56.7 million per annum, which is the figure taken from the most current income and expenditure accounts of local authority bodies.

925

Douglas Borough Council gross expenditure is approximately £30.4 million per annum which is 53.52% of the total spend.

The Department is scheduled to lay the accounts for all local authorities, committees and boards before Tynwald in March 2014, and at the same time, a full copy of all the sets of accounts listed in the report will be provided to the Tynwald Library, should anyone wish to peruse them.

930

The Speaker: Mr Quirk.

Mr Quirk: Thank you.

935

Could I ask the Minister – he indicated that there were a number of local authorities which were falling... to get their audited accounts in. Could he... if he has not got the information today, would he circulate it to Members who they are?

The Speaker: Mr Cretney.

940

The Minister: Yes, I am advised that the situation is a whole lot better than it was several years ago, but as at 22nd January 2014, there are eight authorities whose accounts have not yet been completed, totalling 11 sets of accounts. Six sets of accounts have not yet been received for the current 2012-13 period with regard to local authorities, committees and boards.

945 With regard to the burial authorities, two sets have not been received for the period 31st December 2012, with a further three sets relating to previous years also yet to be received.

950 However, almost 85% of all local authority accounts for the period have been received and this is a significant improvement from 2010-11 when the Department first acquired reporting responsibility for local authority accounts, when 62.5% of local authorities had accounts outstanding. That is 62.5% had accounts outstanding, some being in arrears by five years; 40% of other boards and committees had accounts outstanding; and 40% of burial authorities had accounts outstanding.

The Speaker: Mr Thomas.

955

Mr Thomas: Thank you, Mr Speaker.

960 Can the Minister comment on whether or not he was surprised to learn that Douglas Corporation had substantially more than half of the total gross expenditure? And would he comment on the idea, perhaps, that what we are looking at with local authorities is Douglas Corporation and everybody else? Perhaps we do not need –

Mr Quirk: Anybody else, you mean!

965 **Mr Thomas:** – more than two local authorities?

The Speaker: Mr Cretney.

The Minister: No, I was not surprised.

970 **The Speaker:** Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

975 Could the Minister just confirm that when authorities are behind with submitting their accounts, his Department actually checks when they were submitted to the auditors? Is there any backlog there that the Department is aware of or possibly unaware of?

The Speaker: Minister.

980 **The Minister:** I am sorry, I am not able to answer that point of detail, but I will come back to the Hon. Member and others with that response. I am sure that that is the case, but I would need to check first. I would not want to mislead the House.

The Speaker: Mr Quirk.

985 **Mr Quirk:** Could I just seek an assurance from the Minister, if you fall by the wayside on your Income Tax form filling-in there is a penalty? There is a penalty too for non-compliance with regulations. I am sure the Minister will be looking at that particular avenue.

990 Also, could I ask from the Minister: I am sure he is not wanting or advocating a super local authority of one?

The Speaker: Mr Cretney.

The Minister: No, I am not advocating a super local authority of one. I would like to see some reform of local authorities, but perhaps not quite that radical.

995 In terms of penalties for the various matters that the Hon. Member has outlined, clearly the situation has improved considerably. It would be our intention to make sure it is made even better in the time ahead.

The Speaker: Mr Karran.

1000

Mr Karran: Vainstyr Loayreyder, could the Shirveishagh inform this House, just because they spend over half of the money that is spent by local authorities, that is no recommendation as far as any issue is concerned? (**Mr Thomas:** Hear, hear.)

1005 Will he not look upon the issue that just because they spend a lot of money, the fact that they might not be doing such a good job –

Mr Singer: Or value for money.

1010 **Mr Karran:** – just because they are spending money, that does not give them the criteria? And does he not agree that maybe when it comes to some capital schemes, maybe that inference – that somehow because you spend more, you get a better job done, and a more effective – is not the case?

Mrs Cannell: Yes.

1015

The Speaker: Minister.

The Minister: Well, I note the comments the Hon. Member has made in relation to Douglas Corporation, and no doubt there will be conversations in the time ahead.

EDUCATION AND CHILDREN

1.11. Director of Education post – Method of review

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

How the need for a post of Director of Education was reviewed?

1020

The Speaker: Question 11, Hon. Member, Mr Thomas.

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

1025

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.

The need for the Director of Education post was reviewed in the same way as we review the need for all posts which become vacant within the Department.

1030

This involves considering whether the post is still required, whether any of the duties and responsibilities can be removed or passed to other staff, and whether there is an opportunity to restructure to achieve greater value for money.

1035 There is an ongoing need for the role of the Director of Education, which is a key role within the Department's small senior leadership team, comprising just the Chief Executive Officer and three Directors. The Director of Education provides strategic leadership and direction for the schools and the Isle of Man College of Further and Higher Education, aspects of the Department of Education and Children, and leads and manages the Department's Education Improvement Service.

1040 There is no scope to restructure this service and dispense with this role or indeed, capacity in other posts within the Education Improvement Service or elsewhere to allow duties and responsibilities for this role to be delegate.

1045 The job description and person specifications were reviewed in detail to ensure that they accurately describe the role and the qualifications, experience, knowledge and skills required to fulfil that job. The job description makes it very clear that this role takes lead responsibility for raising standards of teaching, learning and attainment through the delivery of an effective Education Improvement Service, and rigorous and robust quality assurance of education provisions.

1050 A review was also undertaken by an officer of the Office of Human Resources with experience in the application of the JESP job evaluation methodology, to assess the extent to which, if at all, there was a requirement to subject the job role to formal evaluation by way of a JESP scoring panel. Having conducted an initial assessment of the job role as described in the role description, the officer advised that the role continued to be applicable to the JESP 5 to 8 band.

1055 This was accepted by the Chairman of the Civil Service Commission and the role was advertised on that basis.

Thank you, Mr Speaker.

The Speaker: Mr Thomas, supplementary.

1060 **Mr Thomas:** Thank you, Mr Speaker.

1065 I appreciate the Answer from the Minister, and we learn that there are three Directors under the Chief Executive Officer. Can the Minister advise when that situation was created? When did we last have two Directors or one Director? Obviously the budget of the Department of Education is going down, we have empowered heads of schools, so perhaps that central administration eventually can now be reduced, and one way to do that is to cut senior leadership roles.

The Speaker: Mr Crookall.

1070 **The Minister:** Thank you, Mr Speaker.

1075 There may be some confusion arising from the job title, as 'Director of Education' was the title given to the role heading the Department until February 2011, when this was changed to the 'Chief Executive Officer'. At that point, the post previously titled 'Senior Adviser' was amended to 'Director of Education' to better reflect the duties and responsibilities of the role.

The Director of Education heads a small team of advisers who are responsible for quality assurance of the education provision delivered through the schools. If the Department did not have an Education Improvement Service to quality assure education provision, then it would cost between £20,000 and £40,000 per school inspection – in the region of £¼ million annually.

1080 **The Speaker:** Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, and to the Minister for that very full reply.

So, can the Minister reassure us then that this leadership structure is being benchmarked against equivalent education providers across and elsewhere where it is relevant?

1085 **The Speaker:** Minister.

The Minister: Absolutely, Mr Speaker, and we will continue to do so, sir.

**1.12. School laptop replacement programme –
Numbers and cost; re-use of old equipment**

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

How many new laptops have been issued to pupils and teachers recently; what the cost is of the replacement programme; and whether the old laptops will be made available to charitable causes?

The Speaker: Question 12, Hon. Member for Douglas North, Mr Houghton.

1090

Mr Houghton: Thank you, Mr Speaker.

I beg to ask the Question standing in my name, sir.

The Speaker: Minister for Education and Children to reply.

1095

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

Since the start of the academic year, my Department has completed and planned replacement of teacher laptops, which has involved purchasing 946 new laptops. This programme was undertaken to replace the four-year-old laptops previously in use. Laptops are an essential item for teachers and are both used to prepare and to deliver teaching materials, to update records and reports, as well as for such things as completing the registration of pupils.

1100

To meet the need to replace the oldest pupil laptops, and to expand the number of laptops available for pupils for curriculum use, the old teacher laptops are being retained within the school for this purpose. We have also added an additional 57 new pupil laptops to meet the specialist requirements identified for some pupils with special needs, such as being able to operate dictation software.

1105

At the end of this process, we are left with 265 pupil laptops which are more than six years old and have been removed from schools because they are likely to require an increasing amount of work and money in the very near future to keep them serviceable in terms of replacing hard drives and batteries.

1110

Despite their age, these retain a financial value and will be sold via a tendering process. To make this manageable and cost efficient, they will be sold as a single lot rather than as individual units. The cost of replacement programme has been £742,973 and part of this cost will be offset when we realise the value of the older machines.

1115

Thank you, Mr Speaker.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

1120

I thank the Minister for his comprehensive reply.

Would he be good enough to consider the main ambit of my Question, insofar as rather than sending these old computers off as a job lot, would he consider taking say 100 of them out of that job lot and allowing charities who apply to his Department for them to have possession?

1125 **Mr Quirk:** Hear, hear.

The Speaker: Mr Crookall.

The Minister: Thank you, Mr Speaker.

1130 I take the point that the Hon. Member makes and it is a very valid one, but the money raised from the sale of these laptops will supplement the cost of providing new ones, which is also a very valid reason for doing so.

1135 Making a bulk sale will transfer all the future responsibility for the laptops to the new purchaser at the point of sale, in a way which may not prove to be the case if they were to be sold piecemeal or given to charities. They would be coming back to us if there were difficulties to arise. So we will continue the way we do, sir.

The Speaker: Mrs Cannell.

1140 **Mrs Cannell:** Thank you, Mr Speaker.

Does the Minister have any idea of what sort of value is attached to these second-hand (**Mr Quirk:** Six-year-old.) laptops, which is what they will be, and how that will impact positively on his budget?

1145 **The Speaker:** Minister.

The Minister: Not at the moment, Mr Speaker, but I would have been happy to give that out if I did have. They will go out to tender, sir.

1150 **The Speaker:** Mr Quirk.

Mr Quirk: Could I just ask the Minister, would he not really consider the thought that has been given by the Member for North Douglas there to the value that we would be giving to those charities and organisations? Even if he does get a certain amount of money back, they are six-year-old laptops – in a modern age now, nobody probably would buy them for £10 apiece.

1155 **The Speaker:** Mr Crookall.

The Minister: Thank you, Mr Speaker.

1160 It has proved in the past that they have been able to offload these. I do not have the price of what they were able to do that at, but they were able to sell in bulk.

Mr Speaker, I will speak to the Department again, on whether we are able to offload some of these to local charities, but I am sure it is not cost-effective, sir.

1165 **Mr Houghton:** Thank you.

SOCIAL CARE

1.13. Child day care facilities – Inspection

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

What approach is currently adopted to the inspection of child day care facilities, and what plans there are to modify this approach?

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

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

1170

The Speaker: I call on the Minister for Social Care, Mr Robertshaw.

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

1175 All child day care inspections are carried out by inspectors from my Department's Registration and Inspection Unit. Inspectors for child day care are very experienced individuals who do not only rely on inspecting against agreed standards that we have in place, but also their knowledge of childcare and their professional judgement to ascertain the quality being provided.

1180 Inspections take place usually at least annually, but the frequency can be increased. They are scheduled in such a manner that they do not take place at the same time every year. Our approach to inspecting child day care is under constant review. We reflect and learn, adapting our practice accordingly, and we expect all providers to do the same.

1185 An inspection visit consists of gathering evidence, which is all held at the premises, checking policies and procedures, reading children's records, and where appropriate, talking with the staff and children in their care.

Immediate feedback is given to the provider on what the facility is doing well, as well as any areas for improvement. The provider also has the opportunity at the point to give feedback to the Department on the general conduct of the inspector and their views on the inspection process itself.

1190 The visit is followed up with a full inspection report which the provider can respond to, with an action plan for implementation of any changes that need to be made. This approach helps to ensure that the provider takes responsibility for ensuring the safe welfare of the children. Under the Regulation of Care Act 2013 all inspection reports are publicly available.

1195 The Department inspectors are currently looking to develop questionnaires for nursery staff and parents, which can be issued throughout the year so they can gather information on satisfaction levels in the various services and to hear about any concerns they may have. All child day care standards are currently being reviewed, in the light of the introduction of the Regulation of Care Act 2013. My Department will be seeking the views of the public on any proposed changes, to ensure we take every opportunity to assess and refine our practice and procedures. This consultation will commence at the end of February.

1200

Thank you, Mr Speaker.

The Speaker: Mr Thomas, supplementary.

1205 **Mr Thomas:** Thank you, Mr Speaker and also thanks to the Minister for his comprehensive description of how the standards are being reviewed and how the processes are developing.

1210 At the theoretical level, what I heard – I would like the Minister to confirm this – is that we are moving away from what might be perceived as brainless box ticking to a risk-based approach. In a very specific case, there was an unfortunate incident a couple of years ago in one of our pre-school child day care facilities and I wanted to see perhaps if the Minister could advise in practical terms how the Registration and Inspection Unit would vary its work in the light of an unfortunate incident?

The Speaker: Mr Robertshaw.

1215 **The Minister:** Mr Speaker, thank you.

I am disinclined to respond to a particular case, but if I can answer in light of that, and answer the questioner in a more generic sense, he pinpoints quite rightly a move towards a more holistic approach to understanding the provision of childcare. As I tried to allude to in my answer, we are trying to move to a more open learning process – more holistic – and I am sure and hope that the Hon. Member will wish to engage himself in the consultation process, as we move away from, as he says, the tick-box approach.

1220

Thank you, Mr Speaker.

The Speaker: Mr Houghton.

1225

Mr Houghton: Thank you, Mr Speaker.

If the Minister could advise that day care staff that his regulations cover will be subject to a DBS Police check on entering their employment?

1230 Would he offer any comment as to whether he would see it appropriate or otherwise to have continual DBS checks, say on a tri-annual basis?

The Speaker: Mr Robertshaw.

The Minister: Mr Speaker, the questioner is correct: there is that initial inspection. I am open-minded as to whether that process should be reviewed periodically, and I am happy to take that as part into the consultation process that we are about to embark upon.

1235

Thank you, Mr Speaker.

The Speaker: Mr Thomas.

1240

Mr Thomas: Thank you, Mr Speaker.

Can the Minister comment on whether or not the resources that have had to be devoted to the Registration and Inspection Unit had to increase once pre-school provision was not provided by the Department of Education directly?

1245 And secondly, does he envisage the amount of resources needing... will it need to be increased with the new Act and with the new arrangements for providing this registration and inspection service?

The Speaker: Minister to reply.

1250

The Minister: Thank you, Mr Speaker.

I can confirm that, internally, we have reallocated our resources, such that those available to registration and inspections are increased.

Thank you, Mr Speaker.

1255

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

1260 Can I ask the Minister, would he not agree with me that these facilities there, that registers of child attendance are paramount to the inspections?

And could I ask – I do not know whether the Minister has got any information – are any of these facilities, or have they been, under improvement notices or actually had... if he would give us any information regarding if any of these units have had their licence withdrawn?

1265 **The Speaker:** Minister.

The Minister: Mr Speaker, can I just draw the Hon. Member's attention to a statement I made in my original Answer, which said that all the information is now available in the public arena on our website. So if he wants to look at a particular resource or care centre, that is available once the inspections have taken place.

1270

Thank you.

**1.14. Social care professionals –
Training and education**

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

How training and education are currently provided for social care professionals, and what development is envisaged for this provision?

The Speaker: Question 14, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

1275

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

The Speaker: Minister for Social Care.

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

1280

My Department provides a range of training and education opportunities for the development of Social Care staff that are available to both care staff and social workers. For all staff, my Department has a mandatory training programme, which is currently under review to ensure that the training offered continues to meet the needs of our staff and our service users. As part of this, we are currently undertaking a comprehensive learning needs analysis across the entire Department, which is resulting in bespoke learning plans for all members of staff.

1285

Specifically for care staff, such as our support workers in residential units or our home care carers, we provide vocational, academic and practical learning opportunities. We offer a Qualifications and Credit Framework (QCF) Level 5 Diploma in Leadership for Health and Social Care and Children and Young People Services; QCF Levels 2 and 3 Diplomas in Health and Social Care; and a Degree in Health and Social Care Studies, which is delivered in partnership with the Department of Health.

1290

In November 2013, my Department began a management programme for Social Care managers, which ensures our managers are providing the best possible care to our service users and support for our staff.

1295

In relation to social work, my Department has created development programmes for newly and post qualified social workers. These programmes are underpinned by the College of Social Work's Professional Capabilities Framework and the standards of practice for the Health and Care Professions Council, which regulates the profession.

For newly qualified social workers, we are currently trialling an assessed year in employment. Like the induction year for newly qualified teachers or preceptorships for nurses, this 12-month programme will provide our newly qualified social workers with a set of clear expectations, a protected caseload and a set development plan for making their transition from theory into practice.

1300

For our post-qualified social workers, the Department has developed a professional development framework that provides them with a range of learning opportunities. These opportunities relate to both career and academic development, for instance becoming a

1305

practice educator or enrolling on an MSc in Professional Practice. These are also delivered in partnership with our colleagues in the Department of Health.

1310 Alongside this, to ensure that my Department is well placed to provide excellent standards of social work, we are investigating the current provision of social work qualifications and the possibility of providing a social worker degree on-Island.

1315 In recognition of the need for advanced training and development for social workers working with children, we have negotiated with Queen's University, Belfast that from September 2014, they will provide the Postgraduate Diploma in Applied Social Studies (Child Care Pathway) to social workers on the Island. Undertaking these courses and developing these programmes gives our social workers the means to fulfil the needs for Continuing Professional Development required by social workers' registration authority. This important work also promotes the standardisation of social work by underpinning practice with the Professional Capabilities Framework and setting out exactly what is expected of social workers at each level of the profession.

1320 Through progressing these programmes and initiatives, my Department continues to create a climate of learning and development, where our service users are valued and our staff are given opportunities to develop their own future.

1325 Thank you, Mr Speaker.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, and also to the Minister for his comprehensive and heartening reply.

1330 Two brief questions. The first is: would the Minister agree with me that it is important to very closely link the plan for the Department with training programme and wherever possible to localise the training and professional development, as it sounds like is happening in the social care area?

1335 And the second question is: would the Minister also agree that it was very helpful, given the breakup of Health and Social Services and the recreation of Health and Social Care, that the Learning Unit was preserved and these professionals have worked together during the last three years?

1340 **The Speaker:** Reply, sir.

The Minister: Thank you, Mr Speaker.

1345 I am happy to agree with the questioner's points. I think Members will well recollect the difficulties we had when we were moving, particularly our Children and Families Division into a more stable condition. We had difficulty in recruiting from away and it was that which encouraged us to focus evermore on the ability to recruit and develop quality social work on Island.

And yes indeed, the learning elements to our programme, whether it is adult and elderly care or children is profoundly important to us, and I am hoping that in the years to come, we will – the Island and those in care will – reap the rewards of the investment currently going in.

1350 Thank you, Mr Speaker.

1.15. Child Benefit – Re-claim forms

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

Why his Department has requested all beneficiaries in receipt of Child Benefit to complete a re-claim form?

The Speaker: Question 15, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

1355 I beg leave to ask the Question standing in my name, sir.

The Speaker: Minister for Social Care, Mr Robertshaw.

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

1360 As the Hon. Member will recall from the beginning of April 2014, Child Benefit will be means tested. In order to determine entitlement, the Department needs to know personal and income details of both claimants and their partners.

1365 Until now, because Child Benefit has been paid on a universal basis, the Department has not asked for these details. Furthermore, asking all existing customers to reclaim Child Benefit will allow my Department to validate the data already held on its benefits payments system database regarding customers and their children.

In order to bring in means-testing fairly, the Department needs to assess entitlements using accurate and up-to-date information.

Thank you, Mr Speaker.

1370

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

1375 Can the Minister inform this House, was he personally responsible for instructing his Department to insist on payments on these re-application forms be paid through banks? Did he or did he not do that?

Mr Quirk: He authorised that.

1380

The Speaker: Minister.

1385 **The Minister:** Mr Speaker, can I make something clear to the Hon. Member? We encourage recipients, claimants to receive their Child Benefit through the bank, but if they have a desire to continue to receive payments through the Post Office, then they only have to contact us, as indicated on the form, and we will be pleased to do so.

I got the impression from his comments on the radio that I was demanding and insisting that the payments go through the bank. I have not said that and I do not say that now.

The Speaker: Mr Houghton.

1390

Mr Houghton: Mr Speaker, I will ask the Minister again: did he personally instruct his Department? Did he *personally* instruct his Department? And the Minister needs to know that I already know the answer to this question. Did he personally instruct his Department to insist on payments through the banks in the way it was done on the form?

1395 I will read out the section of the form for the Minister, just in case he has a failing memory, Mr Speaker. It says:

'If you are not already getting paid Child Benefit by direct credit transfer, it will start to be paid by direct transfer from April 2014.'

Mr Quirk: That is not an option.

Mr Houghton: That is not an option, and also that has not been written by a civil servant; that has been written by a Minister.

1400 So can the Minister conclude yes or no, the simple answer: did he at any time instruct his Department?

The Speaker: Minister to reply.

1405 **The Minister:** Mr Speaker, I stand by my previous comments, and I refer him to the element of the form which says:

'If you do not have a bank account or building society please get in touch with us, either by e-mail at childbenefit.DSC@gov.im or by telephoning the Child Benefit Unit, 685107 and we will be very pleased to receive those enquiries.'

Thank you, Mr Speaker.

The Speaker: Mr Houghton.

1410

Mr Houghton: Thank you, Mr Speaker.

I have asked this question twice now of the Minister, so it is quite clear he is guilty of what he is being pursued about this morning – *quite* clear that he is guilty – and it is quite clear –

1415 **The Speaker:** Question, sir.

Mr Houghton: It is also clear, Mr Speaker, that... and Mr Speaker, does he not agree – or is he to be made aware – that he has a cavalier disregard for beneficiaries, for people who do *not* wish their benefits to be paid through bank accounts? Does he not agree with me that he has got a cavalier disregard, he is a dangerous man and he must be taken out of office – ?

1420

The Speaker: Hon. Member, you are making your question with some force, and it is very clear. Minister to reply. (*Interjections*)

1425 **The Minister:** Mr Speaker, the Hon. Member is getting a little bit over-excited. I think we need to get back to first principles here. He is trying to give the impression that in some way I am trying to deliver problems to the Post Office network. *That is not the case.* That is simply not the case.

1430 I am deeply concerned about the future of post offices (*Interjection by Mr Houghton*) and if we carry on the way we are going at the moment – I think the Hon. Member needs to listen to this answer very carefully (**A Member:** Hear, hear.) – we are going to lose those post offices. (**Mr Houghton:** Yes!)

1435 So, the important point – (*Interjection by Mr Houghton*) I hope, having got a little excited, I do hope the Hon. Member will just listen carefully to these points, because it really does not seem to be getting home to him.

We have to reinvent our Post Office Services. We have to have a sustainable service that is fit for the future and if that means that we have got to go through a few difficult processes in the short term, then so be it, because we are in an unsustainable position.

1440 Let me just read a little element from a consultation report by Accenture, which researched and provides insights to post office services across the world. It says this:

'While some postal organisations are unsure of the value of their retail outlets or may even see them as a liability, high performers have made the strategic decision to use their retail networks as an asset. As such, this approach to driving value from their retail networks is proving a differentiator between high performance and the rest.'

Now, the Hon. Member might be interested to know that that information came to me from the Isle of Man Post Office. So the question is: is the Isle of Man Post Office stepping up to the

1445 mark and facing up to the challenges of sustainability and the importance of retaining in the future a post office network?

Well, I have to say that I am very grateful to the Chairman and the Chief Executive of Isle of Man Post Office for providing me with a draft document which will eventually come to all Members, which describes an exciting future for our Post Office outlets. *(Interjection)* I have permission from them to comment upon one or two of the draft observations that they make.

1450 With regard to introducing a prepayment card, the Isle of Man Post Office says such an introduction will:

'remove the costly production, distribution and fraud prevention of cheques and vouchers. It will replace...' –

Mrs Cannell: Point of order, Mr Speaker. *(Interjection)*

The Speaker: What is your point of order, Mrs Cannell?

1455

Mrs Cannell: The Hon. Member is referring to documentation that is not before Hon. Members.

1460 **The Minister:** Mr Speaker, I have just said that this will shortly be before Hon. Members *(Interjections by Mr Quirk and Mrs Cannell)* and I think it is very, very important –

Mr Quirk: If we all had a copy, it would be nice.

The Speaker: Proceed –

1465

The Minister: Thank you very much, Mr Speaker.

The Speaker: If we could keep the answers short, and future supplementaries –

1470 **The Minister:** Well, I will leave the comments alone for the second, then, but I just want to... The Chairman of the Post Office is not available to me today to address, but I therefore would like, Mr Speaker, to thank the Vice-Chairman of the Post Office for all the work that is currently going on in the Post Office to help us and to help the Isle of Man ensure that we have a first-class, *modern* Post Office Service in the future. *(Interjection)* I think the choice between us is the Luddite histrionics of the Hon. Member for North Douglas, who *cannot* see the future and that of our Department and the Post Office, who are determined to find ways forward to make sure we have a sustainable and excellent Post Office network in future.

1475

The Speaker: Now, Hon. Members, I am not going to have this Question turn into a wide debate about the use of the Post Office. **(A Member:** Hear, hear.) I acknowledge the force of the opinion in the House, but this is not the opportunity for a wide debate into which we are in danger of developing.

1480

I will take four more Members who have indicated they wish to speak. I would ask they keep the supplementary questions brief.

1485

Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

Can I ask the Minister, because of his change of heart, would he be ensuring that at the benefit offices and also on the website, the acknowledgement is there is an alternative means of receiving this benefit?

1490

The Speaker: Minister.

The Minister: I am happy to expand on this option if that is the Members' wish.

1495 I do not think there has been any change of heart. I have set out right from the beginning and expressed my concern – and done it quietly, despite a lot of the comment in the public arena that has been conducted to the contrary – that I do care about the future of a post offices in the benefits system, and I will continue to work with others to ensure that that happens in the future. (*Interjection by Mr Quirk*)

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The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that there are a lot of hard decisions that he is having to take, in unprecedented times as far as the issues of Social Care are concerned?

1505

But would he not agree that any idea of forcing a vulnerable section of the community into the hands of banks, (**Mr Quirk and Mr Houghton:** Hear, hear.) when I have just dealt with a case not long ago, where the *horrendous* charges... it was downright *illegal* in my opinion for them to be able to charge that vulnerable person?

1510

Would he not agree that the change in policy towards trying to come up with a card system is a much more responsive way to deal with this, when you are dealing with this section of the community? Otherwise they will end up finding that their benefits will be eaten up by bank charges, when it should be spent on trying to bring about their quality life for the minimum standard that is supposed to be given...

1515

The Speaker: Hon. Member, I am not going to have lengthy statements attached in the guise of supplementary questions.

Minister to reply.

1520

The Minister: I was happy to answer.

I thank the Hon. Member for his comments, but could I just take Hon. Members back to the beginning of this process? The beginning of the process was watching what happened in the UK, where vulnerable people will left high and dry as post offices closed due to their unsustainability, and in the initial stages no alternative process was put into play – which is why, early doors, I said to the Post Office that it was very important that we had a prepayment system to protect the very people which the Hon. Member talks about. I have been consistent from that point onwards, and it was my comment initially about prepayment cards which led to a lot of misunderstanding in the public arena about what we were and were not trying to achieve.

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But we are absolutely determined to protect the vulnerable in this matter and ensure that the appropriate services to them are in place when that time comes.

Thank you, Mr Speaker.

1535

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

My supplementary is brief as you instructed. Really, I would like some clarification from the Minister because I thought I picked up a mixed message, earlier on, where the Minister said that there would be an option for people who actually did not want it paid into their bank; but – and I have not got the form in front of me – when the original questioner read from the form, it states, 'If you haven't got a bank account, contact the Department.' What happens to the people who have got a bank account who actually do not want it paid in? Is there actually an option for people? Or is the form actually forcing them down one direction, I suppose, really is what I am asking, because it did not sound like there was this option for people who did not want it.

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1545

(*Interjection*)

The Speaker: Minister.

1550 **The Minister:** I thank the Hon. Member for her question, and I welcome the opportunity to provide some clarity, because clearly, there is a little bit of confusion here, and I apologise for that.

Are we encouraging people to be paid their Child Benefit through the bank? Yes. Do we insist that they should? No. Certainly, those who have not got bank accounts cannot be paid that way. It may well be, to answer specifically the questioner's point, that some people do not wish their Child Benefit to be paid through the bank. If that is the case, please contact us and we will continue to pay through vouchers.

1555 One of the great advantages of this particular exercise at this particular time is it will give information to both ourselves and the Department and the Post Office a feeling as to where the inclination of the public is, and the likely response to a prepayment card system later on.

1560 Thank you, Mr Speaker.

The Speaker: Mr Singer.

Mr Singer: Thank you, Mr Speaker.

1565 My question just follows on from the last questioner, Mrs Beecroft, in that I could say to the Minister, perhaps there was a mistake or the form was not clear enough. In fact, the form should have said, does he not think, that 'It will be paid through the bank. If you haven't got a bank account, then you can still get it through the Post Office. But if you have a bank account, but you still wish it to be paid through the Post Office, then that can be done' and in fact that was not on the form and maybe it should have been?

1570 **Mr Houghton:** Hear, hear.

The Speaker: Minister.

1575 **The Minister:** I take the Hon. Member's point. I actually have arranged to engage in a certain amount of publicity tomorrow, to ensure that the message goes out clearly along the lines that the Hon. Member suggested.

Thank you.

1580 **The Speaker:** Final supplementary, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

1585 Bearing in mind that the Minister did not answer my first question, and then he goes on to extol his virtues about an exciting future for post offices, would the Minister please, when he gets home tonight, consider his future in the position that he is in, before more damage is done?

The Speaker: That is not a question –

1590 **Mr Houghton:** It is a question, Mr Speaker. I wish him to consider his future, sir.

The Speaker: Minister. *(Laughter)* I give you the opportunity to reply.

The Minister: Well, I have considered it, and the answer is I am content to continue in office as long as the Chief Minister wishes me to do so!

**Procedural –
Circulation of documents**

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The Speaker: Hon. Members, on the question of the point of order, reference to documents raised by Mrs Cannell, in fact it is Tynwald Standing Orders that have a specific provision requiring circulation documents, and not Keys Standing Orders.

1600 But in any event, even if it was contained in Keys Standing Orders, I would permit the responder to a question to make reference to a document in his reply.

I hope that clarifies the matter for Hon. Members.

PUBLIC SECTOR PENSIONS AUTHORITY

**1.16. Redundancy payments –
Private and public sector provisions**

The Hon. Member for Castletown (Mr Ronan) to ask the Vice-Chairman of the Public Sector Pensions Authority:

Why redundancy payments to individuals employed by the private sector in the Isle of Man are governed by the Redundancy Payments Act 1990 and the Employment Act 2006, both enacted by Tynwald, and yet those employed by the public sector are not?

The Speaker: Question 16, Hon. Member for Castletown, Mr Ronan.

1605

Mr Ronan: Thank you, Mr Speaker.

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

The Speaker: I call on the Vice-Chairman of the Public Sector Pensions Authority, Mr Cannan.

1610

The Vice-Chairman of the Public Sector Pensions Authority (Mr Cannan): Mr Speaker, section 14 of the Redundancy Payments Act permits the Department responsible for that Act – which is now the Department of Economic Development – to exclude by order public servants from the provisions of the Act. As a consequence, the Redundancy Payments Order 1996 excludes public servants who have schemes made under certain sections of the then Superannuation Act 1984, subsequently replaced by the Public Service Pensions Act 2011, from the provisions of section 1 of the Redundancy Payments Act 1990.

1615

As the Public Sector Pensions Authority is not responsible for that Act or the Orders made under it, I do not consider that I have sufficient understanding as to why the Department and the Government of the day chose to apply the provisions of the 1990 Act or the 1996 Order. However, I am aware that this approach is similar to the UK approach, which for the purposes of employment protection legislation, public servants are entitled to most of the employment rights accorded private-sector employees by the Employment Rights Act 1996, but with the exception of the right to statutory minimum redundancy pay, under part 11 of the Employment Rights Act 1996.

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1625

In relation to the Isle of Man, redundancy provisions of the majority of the Island's public servants is covered by the Public Sector Pensions Act 2011, section 6 of which requires that the PSPA to make schemes providing for the superannuation of public sector employees, which includes compensation for those who suffer loss of office.

1630

The PSPA has therefore put in place provisions that provide for the redundancy of public servants.

The Speaker: Mr Ronan, supplementary.

Mr Ronan: Thank you, Mr Speaker.

1635 I thank the Vice-Chairman for his Answer and fully understand the difficulties in which he is working in these sensitive issues and mainly historical issues as well.

But would the Vice-Chairman not agree with me that we are in danger of taking a 'do as I say, not as I do' attitude to all businesses and their employees, whose taxes pay for the public sector and are under similar recessionary pressures to the Government at present?

1640 **The Speaker:** Vice-Chairman to reply, Mr Cannan.

The Vice-Chairman: Mr Speaker, it is important to recognise that the public sector is a diverse organisation with many specialist skills, and that we have to have some comparison, particularly with our colleagues in the United Kingdom, because otherwise if we do not have packages that are similar rewards, then we will be in danger of failing to recruit specialist skills, particularly those specialist skills in the Civil Service or specialist skills particularly I would highlight in the medical sector, for instance, and that is why there is and remains a comparative difference, although we do recognise that a lot of these terms have to be addressed, Mr Speaker, and we have taken – and I have taken, as Chairman of the Civil Service and the Whitley Council, very proactive steps in the last two and a half years, along with the Council of Ministers to address many of these issues.

The Speaker: Supplementary, Mr Ronan.

1655 **Mr Ronan:** Again, I thank the Vice-Chairman for his reply, and I am pleased to say that we all know that this is being addressed, but it is just from the private sector point, is it quick enough?

1660 But would the Vice-Chairman agree that we are now at risk of creating a public and private sector apartheid situation of unemployment benefits with the Isle of Man public sector? To the already higher average pay, gold-plated pensions, we are now adding these hugely inflated pay-offs.

The Speaker: Vice-Chairman, Mr Cannan.

1665 **The Vice-Chairman:** Mr Speaker, since I was elected as Chairman of the Civil Service and Whitley Council, I have recognised the disparities between the public sector and private sector terms of employment have needed to be addressed, and over the last two and a half years, as I have said, we have made positive steps to addressing these. It was agreed by the Council of Ministers, Mr Speaker, in June 2012, that redundancy compensation and benefits should be no more generous than that available in the United Kingdom and it has been my pleasure to lead joint negotiations on behalf of the Government.

1670 As a result of those negotiations, we will, subject to Tynwald approval, reduce payment terms for new starters to 12 months for compulsory redundancy and 18 months for voluntary redundancy. Mr Speaker, we will remove pension enhancements for long-serving workers and we will be reducing maximum amounts payable in the event of redundancy from 36 to 24 months' pay.

1675 Mr Speaker, this will result in substantial savings in the event of redundancy. I accept these terms are still generous, in comparison to the statutory minimum, but there are many factors to consider and particularly, I think this is a good achievement when you consider that this was undertaken with joint negotiations.

1680

**1.17. Redundancy payments –
Higher for public sector than private sector**

The Hon. Member for Castletown (Mr Ronan) to ask the Vice-Chairman of the Public Sector Pensions Authority:

What the justification is for a public sector worker receiving four times the redundancy pay of a private sector worker who has worked the same length of time for their employer?

The Speaker: Question 17, Mr Ronan.

Mr Ronan: Thank you, Mr Speaker.
1685 I beg leave to ask the Question standing in my name.

The Speaker: Again, I call Mr Cannan.

The Vice-Chairman of the Public Sector Pensions Authority (Mr Cannan): Mr Speaker, I think
1690 I am in danger of repeating myself. I have already explained that the Government has taken very positive steps to start reducing the difference between statutory minimum and what is payable in the public sector. I have already explained that there are many different specialist skills within the public sector, and it is not always easy just to take a broad-brush view of these matters.

I would also say that in terms of the statutory minimums, these *are* statutory minimums.
1695 There are many examples in the private sector where individuals are being made redundant on enhanced terms and as an employer, it is important that the Government does recognise that it is not purely a black-and-white situation.

The Speaker: Hon. Member, Mr Henderson.
1700

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I thank the Caairliagh for his answer to this. Could he just agree to look into the matter, by way of advancing further changes as we go along, where a Government employee can accept redundancy, can be in receipt of a very large pay-out, but then is rehired on a regular basis and
1705 can pick and choose the hours they are rehired on the regular basis (**Mr Quirk:** Consultants.) or back on a part-time bank-type basis, where they are virtually working when they wish and are able to dictate if they can work weekends? Would he agree that that situation needs to be looked at and the policy needs to be cascaded down to managers?

The Speaker: Vice-Chairman.
1710

The Vice-Chairman: Thank you, and I thank my hon. friend for his questioning.
Yes, indeed, Mr Speaker again, this was an issue that certainly is recognised and has been recognised for a long term. I think you will find in the Written Answers that actually there are
1715 very few now – *very few*, minimal – people being re-employed and indeed, the Civil Service Commission have in fact issued a new policy on this matter. I will endeavour to ensure that all Members of Tynwald see a copy of that policy and only in the most exceptional circumstances is it policy for us to rehire anybody who has been made redundant or has previously left the employment of the Government.

The Speaker: Mr Ronan.
1720

Mr Ronan: Thank you, Mr Speaker, and I thank again the Vice-Chairman.

1725 He says it is not easy: well, we all know it is not going to be easy, but there is a lot of disquiet in the private sector regarding the question I asked.

1730 Can I ask the Vice-Chairman, under the Order made on 13th January this year, Government Redundancy Payments for Isle of Man Public Servants, what is the justification for allowing redundancy entitlement to be converted into additional pension, when the current public sector pension schemes, in your own words in the local media recently, and in Tynwald last week, are unsustainable already? Is this not mortgaging our children's futures?

The Speaker: Mr Cannan.

1735 **The Vice-Chairman:** Mr Speaker, I think the Hon. Member, my *good* friend from Castletown (A Member: Oh!) will recognise that last week in Tynwald, we had strong debate on the matter of public sector pensions, that there was strong recognition from Tynwald that these matters needed to be addressed and there was strong recognition that we needed to understand fully the implications of the current public sector pension schemes, and the implications that it was going to have on costing and revenue funding over the long term, and indeed the short and medium terms.

1740 When you are undertaking joint negotiations on these matters – and that has been the method that has been encouraged by the Council of Ministers and the Chief Minister, that we do try and work together with the workforce – altering and changing terms negatively for the unions and for the workforce is obviously a difficult matter. I want to emphasise that as part of these negotiations, you often have to have trade-offs in terms of reducing the long-term costs and the liabilities for the taxpayer. I think and believe we have gone out and done that. We have made significant progress. It is not perfect. I appreciate that many terms in the future will need to be addressed, but I am confident that with the events of last week, with the progress that we are now making with the valuations, that if required and if needed, the Government will be in a much better position to advance and progress and reduce some of these anomalies.

1750

The Speaker: Mr Karran.

1755 **Mr Karran:** Mr Speaker, would the Vice Caairliagh not agree that obviously we are in the interests of trying to look after workers' rights?

1760 Would he also not agree that it does seem that we really are allowing double standards as far as this is concerned, like I have raised in this House and in another place, as far as the standards as far as accommodation is concerned in the private sector? Does he not feel that whilst he is in a difficult position, the fact is it still is blatantly wrong that if standards are acceptable for public sector, they should be acceptable for the private sector, as far as that is concerned, (Mr Ronan: Hear, hear.) allowing for the fact that we fought for 30 years, for not being the same as the UK?

1765 Finally, would the Caairliagh not agree that on Question 13, it does show that at last Government has started to take on board the obnoxious way of abusing the taxpayer of bringing friends back as consultants, and I think that the Government should be recognised as far as doing a good job, even if it is a bit late?

The Speaker: Mr Cannan.

1770 **The Vice-Chairman:** Mr Speaker, I think I have already made the point that there are disparities between the public sector and the private sector, although it is not always the case that the private sector adheres to the statutory minimum. That is the statutory minimum; it is not always applied, and I can give all the Hon. Members in here numerous examples from numerous businesses who have made staff redundant, where their terms have been far in excess of the statutory minimum requirements.

1775 It is also to be considered that were we to just simply implement the statutory minimum as the minimum, we would not have over here the quality of nurses, doctors, social workers, civil servants, in some cases where they have needed to be hired and recruited in the UK, who would probably refuse to come on the basis that the terms that were available to them over here were so substantially different to those in the UK that we would probably fail to recruit successfully the quality of staff and professionals, medical professionals that we need.

1780 I believe we are making progress. I acknowledge the comments from the Hon. Member for Onchan, that this Government is taking this matter seriously. We have made the steps forward. It is a step along the route. All is not perfect. We have got a long way to go, but we have made positive steps forward.

1785

The Speaker: Final supplementary, Mr Ronan.

Mr Ronan: Thank you, Mr Speaker.

1790 Again, I am sorry to probe, but I did not get the answer to my first question, but I will go on. Again, can I ask: the same Order that was made in January of this year, if a 51-year-old with 10 years' service is made redundant, and chooses to convert this as additional pension, the cost to the taxpayer is approximately six times higher than paying the new inflated public sector redundancy payment up front. Therefore I wish to know how much extra each year will be added to the Isle of Man public sector expenditure to these payoffs – basically, where is the money coming from?

1795

If he cannot say where the money is coming from, how can we sign off Orders when the Government has no money to pay for them, and especially under the Isle of Man Budget 'golden rule', where we cannot budget for a deficit?

1800

The Speaker: Mr Cannan.

The Vice-Chairman: Mr Speaker, I am referring again to the Answer that I gave. Certainly from my position, and I have made it clear since the beginning of January, that there is considerable concern about the liabilities associated with public sector pensions. I repeat to the Hon. Member: I can understand where he is coming from here. That is why we have had to go and request a full and proper valuation, in order to understand the implications.

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A lot of these terms are historical terms which are legally binding and therefore have to be unpicked carefully and in negotiation with the interested parties, i.e. the employees who are direct recipients.

1810

If the Member has alternatives and he has a suitable alternative that he thinks can be negotiated, then I am very willing to listen to that. But as it stands at the moment, we have a course in front of us. We all accept there are payments that are excessive, that have long-term implications. We need to deal with it, but we need to deal with it in a way that is measured, controlled, that we understand the facts, and that we end up with a situation that is fair and sustainable both for the public sector employees and also for the taxpayer, who are funding these payments.

1815

Live webcasting on Tynwald website

The Speaker: Now, Hon. Members, as we conclude Question Time for Oral Answers, we are at something of a historic moment, in that the proceedings of this House now continue to be heard by the public through the medium of audio webcasting on the Tynwald website.

1820

Therefore I remind Members that microphones are still switched on, and everything that is said by yourselves will be heard through the medium of audio webcasting.

Questions for Written Answer

TREASURY

2.1. Hyder Consulting Ltd – Payments as Government consultant

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

How much Hyder has been paid since it was first engaged as a consultant to Isle of Man Government Departments, with detail of each payment?

1825 **Answer:** Hyder Consulting Limited has been engaged by Government Departments over a number of years. Records are not easily accessible for all payments since engagement. Details of payments to Hyder Consulting Limited during the period from 1st April 2008 to 31st December 2013 are set out below. The payments are grouped by financial year and Government Department. Payments by the Isle of Man Water and Sewerage Authority and Manx Electricity Authority are also included:

	2008-09 (year) (£)	2009-10 (year) (£)	2010-11 (year) (£)	2011-12 (year) (£)	2012-13 (year) (£)	2013-14 (9 months) (£)	Total (£)
Department of Environment, Food and Agriculture	49,881	36,410	26,536	53,066	118,081	41,261	325,235
Department of Social Care	-	-	4,809	1,826	5,028	2,450	14,113
Department of Home Affairs	3,307	6,614	-	-	-	-	9,921
Department of Economic Development	-	-	-	4,153	-	-	4,153
Department of Infrastructure	686,393	622,266	80,392	247,925	226,096	3,000	1,866,072
Sub-Total	739,581	665,290	111,737	306,970	349,205	46,711	2,219,494
Isle of Man Water & Sewerage Authority	200,863	168,050	1,005,962	493,438	611,619	618,595	3,098,527
Manx Electricity Authority	3,260	20,499	21,053	2,534	3,461	5,038	55,845
Total	943,704	853,839	1,138,752	802,942	964,285	670,344	5,373,866

Notes:

1. Amounts shown against the Department of Environment, Food and Agriculture for 2008-09 and 2009-10 relate to the Department of Agriculture, Fisheries and Forestry.
2. Amounts shown against the Department of Infrastructure for 2008-09 and 2009-10 relate to the Department of Transport.
3. The Sewerage Division of the former Department of Transport transferred to the Isle of Man Water & Sewerage Authority with effect from 2010-11.
4. The data above relate to many hundreds of invoices and it is not practical to present individual payments in this answer. The payments predominantly relate to the following expenditure within each Department:
 - a. Department of Environment, Food and Agriculture – project management and drainage engineering consultant;
 - b. Department of Social Care – housing design planning;
 - c. Department of Home Affairs – planning consultancy;
 - d. Department of Economic Development – drainage engineering consultant;
 - e. Department of Infrastructure – highway engineering consultant;
 - f. Isle of Man Water and Sewerage Authority – engineering consultancy and project management for the Regional Sewerage strategy; and
 - g. Manx Electricity Authority – civil engineering consultancy.

HOUSE OF KEYS, TUESDAY, 28th JANUARY 2014

Sum of Amount								
Dept	Item	Item name	2008-09	2009-10	2010-11	2011-12	2012-13	Grand Total
DEFA	108,011,001	Building Maintenance - General				42,041		42,041
	129,010,701	Ext Consult - General Consultancy		650	21,036			21,686
	181,010,101	Pre-Contract - Professional Fees - Project Manager				5,055	47,945	53,000
	181,010,501	Pre-Contract - Professional Fees - M&E Engineer					23,999	23,999
	181,010,601	Pre-Contract - Professional Fees - Quantity Surveyor				5,970		5,970
	182,010,101	Post Contract - Professional Fees - Project Management					46,137	46,137
	215,010,201	Environ Protn- Air Quality Monitoring	49,881	35,760	5,500			91,141
DSC (and DHSS)	129,020,701	Prof Fees - General			4,809	601		5,410
	182,010,401	Post Contract - Professional Fees - Structural Engineer				1,225	5,028	6,253
DHA	129,010,701	Ext Consult - General Consultancy	3,307	6,614				9,921
DED	129,010,701	Ext Consult - General Consultancy				1,687		1,687
	217,080,101	Minor Capital Works				2,466		2,466
DOI	107,010,301	Contract Personnel						
	107,010,701	Other Agency Staff				235,461	213,315	448,776
	108,011,001	Building Maintenance - General	1,020					1,020
	108,020,201	Building Repairs and Alterations - Improvements	9,449					9,449
	108,040,201	Structural Maintenance - Reactive	6,690					6,690
	129,010,701	Ext Consult - General Consultancy	244,121	117,046	850		4,250	366,267
	129,020,701	Prof Fees - General	25,030	98,830	8,907	12,464	3,750	148,981
	180,010,101	Feasibility - Professional Fees - Project Manager	91,269	86,559				177,829
	180,010,301	Feasibility - Professional Fees - Civil Engineer	46,386	6,213				52,599
	180,010,901	Feasibility - Professional Fees - Specialist Advisors	13,350					13,350
	180,011,001	Feasibility - Professional Fees - Other Consultants	12,933	5,185				18,118
	180,011,101	Pre Contract Consultation & PR						
	181,010,101	Pre-Contract - Professional Fees - Project Manager	35,822	198,094	68,635			302,551
	181,010,301	Pre-Contract - Professional Fees - Civil Engineer	26,655					26,655
	181,010,901	Pre-Contract - Professional Fees - Specialist Advisor					4,781	4,781
	181,020,101	Pre-Contract - Contractor Costs/Fees						
	181,030,101	Pre-Contract - Site Investigation		15,124				15,124
	182,010,101	Post Contract - Professional Fees - Project Management	3,729	11,517				15,246
	182,010,301	Post Contract - Professional Fees - Civil Engineer	135,538	64,690				200,228
	182,010,501	Post Contract - Professional Fees - M&E Engineer	3,600					3,600
	182,020,101	Post Contract - Site	28,000	16,400	2,000			46,400

		Supervision/Clerk of Works						
	218,040,201	Improvements Castletown Commissioners	-	2,609				2,609
	218,040,205	Improvements - Peel Town Commissioners	2,800					2,800
(blank)	41,660	Page 1						
Grand Total			739,581	665,290	111,737	306,969	349,204	2,172,781

HEALTH

2.2. Mobile surgeries – Evaluation of for community use

The Hon. Member for Michael (Mr Cannan) to ask the Minister for Health:

Whether his Department has evaluated the use of mobile surgeries as a method of delivering front-line services in the community?

1830 **Answer:** It is my belief that the Department of Health already delivers appropriate front-line services in the community.

At the present time there are 12 GP practices, plus two satellites, serving an Island community with a geographical area of only 221 square miles. In essence that is one GP practice, or satellite, for an area of just under four miles by four miles. Although this does not take account of uninhabited hilly/mountainous areas or population centres, it does demonstrate that with the various transport links available or via family, friends or volunteer groups, no one is far from seeing a GP in an appropriate clinical setting.

1835 In terms of other community services there are already a range of such services which are, by their nature, mobile as they are carried out Island-wide in patients' homes, health clinics, schools, the Prison and GP premises.

1840 The following are examples of the health services delivered in these settings:

1845 District Nursing
Health Visiting
School Nursing
Specialist Nursing in a range of areas
Community Dentistry
Podiatry
Speech and Language Therapy
1850 Midwifery
Physiotherapy
Occupational Therapy
A range of Mental Health services

1855 With regard to the Hon. Member's suggestion concerning the use of a mobile surgery; the outlay for the provision of a vehicle with a suitable environment to provide both GP and community services in terms of a clinical area that meets, among others, infection control standards, would be in excess of £120,000. Of course, this does not take into account annual running costs, driver, receptionist and the provision of GP and/or community staff.

1860 It could, therefore, be viewed as an unnecessary expenditure, especially in this time of austerity, when the Department already provides appropriate front line services, in appropriate settings, in the community.

Notwithstanding these comments, I will request my officers to explore this proposal with the GP fraternity by including it in discussions at the next meeting with GP representatives in March.

INFRASTRUCTURE

2.3. Manx Highway Code – Development schedule; scope

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

Pursuant to his Answer in the House of Keys on 3rd December 2013, if he will advise the (i) development schedule; and (ii) scope of the new Manx Highway Code?

1865 **Answer:** In answer to the Hon. Member's Question, since my Answer in the House of Keys in December 2013, I have approved the layout of the Highway Code and once a few minor modifications are completed I hope to approve the final version shortly. I anticipate this will be laid before Tynwald in April and distributed by various means after that time. It will also be available on the Government website.

1870 The scope of the Highway Code is that it provides advice to all road users.

2.4. Controlled residential parking zone – Requirements for road markings

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

Pursuant to his Answer in the House of Keys on 3rd December 2013, if he will make a statement about the requirements for road markings used in a controlled residential parking zone?

1875 **Answer:** In answer to the Hon. Member's Question, Tynwald adopted the GB Traffic Signs Regulations and General Directions 2002 in the Traffic Signs (Application) Regulations 2003. The Regulations came in effect on 1st Jan 2004.

1880 There were some minor modifications to the GB Regulations for use on the Isle of Man. In regard to the specific items, and I refer to technical references within the legislation, Diagram 1028.4 was amended to additionally allow the use of the words 'Permit Holders Only' and 'Reserved' to be used on the Isle of Man, otherwise the Regulations were adopted unchanged in regard to Diagrams 1028 and 1032.

If the Hon. Member or any other has any specific points for my attention, please let me know.

2.5. Licensing scheme for airline routes – Form and schedule for negotiations

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

What the form and schedule are for the negotiations, consideration and drafting of a licensing scheme which could be introduced for airline routes operating between the Island and key British destinations?

Answer: Hon. Members will recall that the report of the Economic Committee on Open Skies was debated in Tynwald Court in December. One of the agreed recommendations was that a contingency plan involving a drafted licensing scheme that works be ready for us when needed. I made it clear then that the preparation of such a draft regime would be dependent on the availability of funding. This remains the position.

Members may also recall that the report recommended that the Open Skies Policy remain in place and be subjected to regular review which I undertook to do once every three years. This also remains the position.

I can therefore advise the House that until the necessary resources are available, my Department is unable to advise as to how a draft licensing regime will be progressed; that will be done once we are in a position to go ahead. I will re-visit the position once I am clear as to the Department's 2014-15 financial position.

**2.6. Local government bodies –
Annual gross expenditure 2012-13**

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

What the 2012-13 annual gross expenditure was of each of the individual local government bodies including local authorities, civic amenity sites, swimming pool boards, housing committees/authorities and burial ground authorities?

Answer: The table below sets out the gross expenditure of each Local Authority, Committee, Board, and Burial Authority for the financial year ending 31st March 2013 (31st December 2012 for the Burial Authorities). No data is provided where audited accounts have not been submitted.

Further details will be found within the annual Report of the Public Auditors on the Accounts of Local Authorities, Burial Authorities, Elderly Persons' Housing Committees and Joint Boards which is to be laid before the March 2014 sitting of Tynwald. At this same time, a full copy of all the sets of accounts listed in the report will be provided to the Tynwald Library.

LOCAL AUTHORITIES	GROSS EXPENDITURE (£'000)
Andreas Parish Commissioners	£133
Arbory Parish Commissioners	£134
Ballaugh Parish Commissioners	£103
Braddan Parish Commissioners	£1,726
Bride Parish Commissioners	£103
Castletown Town Commissioners	£1,914
Douglas Borough Council	£30,376
German Parish Commissioners	(year end 2013 accounts not yet available)
Jurby Parish Commissioners	£78
Laxey Village Commissioners	£300
Lezayre Parish Commissioners	£125
Lonan Parish Commissioners	£153
Malew Parish Commissioners	£616
Marown Parish Commissioners	£213
Maughold Parish Commissioners	£102
Michael District Commissioners	£299

Onchan District Commissioners	£5,148
Patrick Parish Commissioners	£98
Peel Town Commissioners	£6,785
Port Erin Village Commissioners	(year end 2013 accounts not yet available)
Port St Mary Village Commissioners	£958
Ramsey Town Commissioners	(year end 2013 accounts not yet available)
Rushen Parish Commissioners	£128
Santon Parish Commissioners	£66

OTHER BOARDS AND COMMITTEES

GROSS EXPENDITURE (£'000)

Castletown & Malew Elderly Persons' Housing Board	£314
Cooil Roi Housing Authority	£202
Marashen Crescent Housing Committee	(year end 2013 accounts not yet available)
Northern Parishes Refuse Collection Board	£239
Northern Swimming Pool Board	£683
Peel & Western Districts Housing Committee	£514
Ramsey & Northern Districts Housing Committee	£658
Southern Civic Amenity Site Board	£272
Southern Swimming Pool Board	£586
Western Civic Amenity Site Board	(year end 2013 accounts not yet available)
Western Swimming Pool Board	(year end 2013 accounts not yet available)

BURIAL AUTHORITIES

GROSS EXPENDITURE (£'000)

Andreas Burial Authority	(year end 2012 accounts not yet complete)
Arbory Burial Authority	£5
Ballaugh Burial Authority	£12
Braddan Burial Authority	£95
Bride Burial Authority	£9
German Burial Authority	£44
Jurby Burial Authority	£7
Lezayre Burial Authority	£25
Lonan Burial Authority	£22
Malew Burial Authority	£27
Marown Burial Authority	£8
Maughold Burial Authority	(year end 2012 accounts not yet complete)
Michael Burial Authority	£14
Onchan Burial Authority	£59
Patrick Burial Authority	£13
Rushen Burial Authority	£49
Santon Burial Authority	£4

EDUCATION AND CHILDREN

**2.7. Education Act 2001 –
Assessments and reports**

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

(a) How many Education Act 2001 schedule 4 assessments and section 19 reports were completed in (i) Pre-School Assessment Centre; (ii) Primary Schools; and (iii) Secondary Schools during school year 2012-13;

(b) How the special educational provision which the Department intends to provide to meet the child's special educational needs is specified, and which information is included in a typical report; and

(c) How the Department ensures that the special educational provision specified in the report for a particular child is actually provided for that child?

Answer:

1910 (a) Schedule 4 of the Education Act 2001 concerns assessments of Special Educational Needs initiated by the Department and, separately, at the request of parents. During the academic year 2012-13 the Department did not initiate any Schedule 4 assessments, but the parents of two secondary age children did make such a request. The associated section 19 Reports (S19) are integrated into the assessment report.

1915 (b) As provision arrangements vary considerably, it is difficult to give a definitive answer. In essence however, relevant professionals from relevant agencies will meet to identify suitable provision arrangements that can best meet the identified needs, having first considered the Schedule 4 assessment/S19 report. This discussion will involve how best to resource that provision, taking account of existing arrangements. DEC / Services for Children (SfC) will then co-ordinate with relevant agencies to take forward the specified provision and make the necessary arrangements with parents/schools/providers, as appropriate.

1920 (c) Implementation and monitoring of agreed provision arrangements, specified following a Schedule 4 assessment/ S19 report, is an integral aspect of a diverse range of professional roles using existing Quality Assurance routes within DEC. This includes Special Educational Needs Co-ordinators, school senior management, SEN Adviser, Educational Psychologists and the Education Improvement Service.

SOCIAL CARE

**2.8. Pension, supplement, benefit and allowance –
Number of people receiving 2013, 2008, 2003**

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

How many people were receiving each pension, supplement, benefit and allowance at 31st March (i) 2013; (ii) 2008; and (iii) 2003?

1925 **Answer:**

**Social Security Benefits –
Number of benefit claims in payment at 31st March**

Benefit type-	Year		
	2013	2008	2003
Retirement Pension	18,646	16,990	15,461
Pension Supplement - paid with Retirement Pension	13,407	11,830	10,557
Age Addition - - paid with Retirement Pension	3,873	3,748	3,553
Retirement Pension Premium	3,152	3,794	4,598
Old Person's Pension	45	58	68
Nursing Care Contribution (see note 1)	347	-	-
Widowed Mother's Allowance (see note 2)	1	23	58
Widow's Pension see note 3)	54	88	211
Pension Supplement - paid with Widow's Pension	45	90	187

Bereavement Allowance (see note 4)	111	80	63
Pension Supplement - paid with Bereavement Allowance	29	21	14
Guardians Allowance	0	2	1
Long-term Incapacity Benefit (LTIB)	1,648	1,396	1,280
Pension Supplement - paid with LTIB (see note 5)	438	942	1,007
Short-term Incapacity Benefit - (see note 6)	640	430	654
Industrial Disablement Benefit	257	222	224
Maternity Allowance (see note 7)	487	392	143
Adoption Allowance (see note 8)	3	2	-
Paternity Allowance (see note 8)	22	7	-
Child Benefit - no. families	9,592	9,826	9,393
Child Benefit - no. children	16,747	16,852	16,316
Attendance Allowance	1,135	1,226	1,278
Disability Living Allowance	2,201	2,050	1,859
Severe Disablement Allowance (see note 9)	154	194	234
Carer's Allowance (see note 10)	277	236	271
Family Income Supplement (see note 11)	-	854	814
Disability Working Allowance (see note 11)	-	28	20
Employed Person's Allowance (see note 11)	1,007		
Income Support - pensioners	1,727	1,561	1,541
Income Support - working age	2,620	1,820	1,175
Jobseeker's Allowance:			
contribution-based	255	125	114
- enhanced allowance (see note 12)	-	54	52
income-based	856	378	183

Notes:

1. Nursing Care Contribution was introduced in October 2008
2. Widowed Mother's Allowance is only applicable where the late husband died before 9th April 2001
3. Widows Pension is only applicable where the late husband died before 9th April 2001
4. Bereavement Allowance is only applicable where the claimant's late spouse died on or after 9th April 2001
5. New awards from April 2008 can only be made if the person also qualifies for the highest rate care component of DLA.
6. Short-term incapacity benefit caseload is erratic. Therefore average caseload for year is shown.
7. The maximum period for which Maternity Allowance is payable was increased from 18 to 26 weeks from April 2003 and to 39 weeks from April 2007
8. Adoption Allowance and Paternity Allowance were introduced from April 2004
9. Severe Disablement Allowance was abolished (subject to transitional protection for existing cases) from 6th April 2001
10. Prior to 1st April 2003 Carer's Allowance was called Invalid Care Allowance
11. Family Income Supplement and Disability Working Allowance were replaced by Employed Person's Allowance from 31st January 2012
12. Jobseeker's Enhanced Allowance was abolished from April 2008, subject to up to six months transitional protection for existing cases at that time

**2.9. Disability Act and Equality Bill Multi-Agency Forum –
Terms of reference**

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

What the Disability Act/Equality Bill Multi-Agency Forum terms of reference, membership and reporting requirements are, and how its work relates to that of the Tynwald Advisory Council for Disabilities?

Answer: The terms of reference and membership of the Multi-Agency Forum were circulated at the November meeting of Tynwald last year, and that those terms of reference specify the relationship between the Multi-Agency Forum, and the Tynwald Advisory Committee for Disabilities. It needs to be clear that the Forum was established by the Department of Social Care to take forward the development of the Tiered Award Scheme and to produce guidance on the determination of reasonable, and not to consider the Chief Minister's forthcoming Equality Legislation.

The terms of reference of the Multi Agency Forum are:

- To discuss and reach a conclusion on the determination of reasonable in the context of the Act
- To provide a forum for discussion and arbitration when application of the definition is challenged
- To agree the tiered approach to the Tiered Award Scheme
- To oversee the implementation of the scheme and to promote its use within their own sector and/or organisations
- To provide update report to the Tynwald Advisory Committee and other relevant bodies on an annual basis
- To establish task and finish sub-groups as required. These sub-groups will be required to report regularly into the Multi-Agency Forum

The work of the Forum continues, and is focused on the determination of reasonable, and the development of the Tiered Award Scheme. It is anticipated that a progress report will be prepared for a meeting of the TACD before the end of this financial year.

2.10. Complaints to Department of Social Care – Number investigated and cost

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

(a) How many complaints were (i) investigated; or (ii) considered by an independent person in 2010-11, 2011-12, and 2012-13; and

(b) what the cost was broken down by year and method of consideration?

Answer: In the year 2010-11, the Department recorded 36 new complaints that were investigated at a local level with no costs recorded.

In the year 2011-12, the Department recorded 79 new complaints with one being investigated by an independent person. The cost of investigations were not recorded.

In the year 2012-13, the Department recorded 17 new complaints with one being investigated by an independent person at a cost of £5,628.

ECONOMIC DEVELOPMENT

**2.11. Central Douglas Master Plan Committee –
Agenda and minutes**

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

Pursuant to his answer in Tynwald in October 2013 about the Central Douglas Master Plan Committee, if he will (a) publish the agenda and non-confidential minutes of meetings; (b) advise how this committee's activity and plans meshes with that of others; and (c) state whether additional representatives could be co-opted?

Answer: The Agenda and non-confidential Minutes of the Central Douglas Master Plan Committee will be published on the Chief Secretary's website. There have been no meetings of the Committee since the October Tynwald sitting.

The Committee will ensure that its work meshes with that of other bodies in a number of ways.

Firstly, the Committee will review of all the relevant documents. I advised the House of Keys of these documents in a Written Answer for the sitting on 26th November 2013. They include Government plans, Douglas Borough plans and Douglas Development Partnership plans. In this way the Committee will consider together the various policies, strategies and studies that have been undertaken by other bodies.

In addition, two consultation sessions are planned for early February. Invitations have been issued to various individuals and organisations which have an interest in Douglas. Currently we have around 60 persons and representatives of organisations who have accepted the invitations and I hope that more will accept before the deadline.

There will also be one-to-one meetings with relevant land owners, potential investors, operators and developers to understand and identify development opportunities.

Finally, the development of a draft Vision for Central Douglas will be the subject of a public exhibition in May-June 2014.

On the subject of co-option of additional representatives, at this stage the membership of the Committee has been deliberately kept lean in order to retain the focus on moving forward with development prospects in an expedient manner. There will be opportunities for individuals and organisations to make their views known and to put forward ideas. The stakeholder consultation in February is one example of this. I do not rule out the opportunity to co-opt individuals on to the Committee in the future but at this time I consider that the Committee is fit for the purpose for which it was established.

COMMUNITY, CULTURE AND LEISURE

**2.12. Remuneration of bus drivers –
Proportion of Public Transport Division and Bus Vannin costs**

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

*What proportion of
(a) Public Transport Division overall costs;
(b) Public Transport Division employee costs;*

(c) Bus Vannin overall costs; and
 (d) Bus Vannin employee costs
 is represented by the remuneration of bus drivers, and how these proportions have changed since 2009?

1985 **Answer:** The proportion of costs represented by the remuneration of bus drivers is demonstrated in the following table, which also includes the total costs in each of the categories for information purposes.

It should be noted that whilst the figures provided are based on actual spend to the relevant year end, they may not in some areas afford direct comparisons due to internal restructures and other changes over the period.

1990

	2009-10 Actual Net Exp. £	2010-11 Actual Net Exp. £	2011-12 Actual Net Exp. £	2012-13 Actual Net Exp. £
Total Cost Public Transport Division	10,772,105	9,932,392	9,905,471	9,659,445
Bus Driver total payroll costs	4,425,341	4,444,345	4,473,546	4,390,768
Proportion of Driver costs to total costs	41.1%	44.7%	45.2%	45.5%
Public Transport Division total Employee Costs	8,944,911	9,161,855	9,167,519	9,030,348
Bus Driver total payroll costs	4,425,341	4,444,345	4,473,546	4,390,768
Proportion of Driver costs to total employee costs	49.5%	48.5%	48.8%	48.6%
Bus Vannin Overall Costs	6,773,295	6,380,646	6,499,701	6,110,986
Bus Driver total payroll costs	4,425,341	4,444,345	4,473,546	4,390,768
Proportion of Driver costs to total Bus Vannin costs	65.3%	69.7%	68.8%	71.9%
Bus Vannin Employee Costs	6,184,474	6,406,276	6,500,597	6,295,428
Bus Driver total payroll costs	4,425,341	4,444,345	4,473,546	4,390,768
Proportion of Driver costs to total Bus Vannin Employee costs	71.6%	69.4%	68.8%	69.7%

CIVIL SERVICE COMMISSION

2.13. Re-engagement of civil servants – Consultancy or other basis

The Hon. Member for Onchan (Mr Karran) to ask the Chairman of the Civil Service Commission:

*For each Department, Office and Statutory Board –
 (a) how many retired civil servants have been re-engaged on a consultancy or other basis in each of the past three years; and*

(b) how many retired civil servants are now working who were re-engaged more than three years ago?

Answer: (a) The number of retired civil servants that have been re-engaged on a consultancy or other basis in each of the past three years by Department, Statutory Board and Office is set out below:

	Engaged in Year Ending 31/12/2013	Engaged in Year Ending 31/12/2012	Engaged in Year Ending 31/12/2011
Department of Community, Culture & Leisure	0	0	0
Department of Economic Development	0	0	0
Department of Education & Children	0	0	0
Department of Environment, Food & Agriculture	1	0	1
Department of Health	0	0	0
Department of Home Affairs	1	1	0
Department of Infrastructure	0	0	0
Department of Social Care	1	2	1
Treasury	0	0	0
Communications Commission	0	0	0
Financial Supervision Commission	0	0	0
Gambling Supervision Commission	0	0	0
Insurance & Pensions Authority	0	0	0
IOM Water & Sewerage Authority	0	0	0
IOM Post Office	0	0	0
Manx Electricity Authority	0	0	0
Office of Fair Trading	0	0	0
Public Sector Pensions Authority	0	0	0
Manx National Heritage	0	0	0
Attorney General's Chambers	0	0	0
Chief Secretary's Office	0	0	0
General Registry	0	0	0
Office of the Data Protection Supervisor	0	0	0
Office of Human Resources	0	0	0
Industrial Relations Service	0	0	0

Note: It should not be assumed that job holders remain in post as at 31st December, 2013.

1995 (b) The number of retired civil servants that are now working who were re-engaged more than three years ago?

	Engaged Prior to 01/01/2011 & Still in Post at 31/12/2013
Department of Community, Culture & Leisure	0
Department of Economic Development	1
Department of Education & Children	0
Department of Environment, Food & Agriculture	0
Department of Health	0
Department of Home Affairs	1
Department of Infrastructure	0
Department of Social Care	1
Treasury	0
Communications Commission	0
Financial Supervision Commission	1
Gambling Supervision Commission	0
Insurance & Pensions Authority	0
IOM Water & Sewerage Authority	1
IOM Post Office	0

Manx Electricity Authority	0
Office of Fair Trading	0
Public Sector Pensions Authority	0
Manx National Heritage	0
Attorney General's Chambers	0
Chief Secretary's Office	0
General Registry	0
Office of the Data Protection Supervisor	0
Office of Human Resources	0
Industrial Relations Service	0

2000 Hon. Members will be aware that the Council of Ministers recently endorsed a policy on 'Re-Employment of Public Service Staff Following Retirement'. The principle underpinning the policy is that central Government employers should, as far as practicable, seek to avoid staff re-employment following retirement. However, it is recognised that special provision is necessary with regard to the engagement of casual, bank and supply roles and some specific roles within areas of skills shortage, as determined from time to time.

2005 This policy is applicable in respect of all central Government posts including Civil Service posts.

Note:

- (i) for the purpose of this answer a 'retired civil servant' is taken to refer to an individual who has left the Civil Service and is in receipt of a pension under a Scheme applicable to the Civil Service;
- (ii) for the purpose of the foregoing statistics the following have been excluded:
 - (a) individuals employed on a casual or seasonal basis, or those engaged as supply or bank staff;
 - (b) individuals who have been appointed as members of a Statutory Board or Committee, or of a Commission or Trust etc;
- (iii) the foregoing statistics have been compiled from information provided by the Departments, Boards and Offices concerned.

Order of the Day

3. BILLS FOR FIRST READING

3.1. European Union (Amendment) Bill 2014

3.2. Terrorism and Other Crime (Financial Restrictions) Bill 2014

The Speaker: Hon. Members, having had the Answers to the Written Questions circulated, we turn to Item 3, Bills for First Reading. I call on the Secretary of the House.

2010

The Secretary: Bills for First Reading. European Union (Amendment) Bill 2014 – Member in charge, Mr Watterson; Terrorism and Other Crime (Financial Restrictions) Bill 2014 – Member in charge, Mr Watterson.

4. BILLS FOR SECOND READING

4.1. Representation of the People (Amendment) Bill 2013 – Second Reading approved

Mr Anderson to move:

That the Representation of the People (Amendment) Bill 2013 be read a second time.

The Speaker: Item 4, Bills for Second Reading. The first is the Representation of the People (Amendment) Bill 2013, and I call on the mover, the Hon. Member for Glenfaba, Mr Anderson.

2015

Mr Anderson: Thank you, Mr Speaker.

2020

I am pleased to be able to move the Second Reading of the Representation of the People (Amendment) Bill on behalf Council of Ministers. The Council of Ministers is simply the vehicle for this parliamentary issue.

Although this is only a small Bill, it takes a big step forward in developing democracy in the Isle of Man. At its heart are the fundamental principles of equality and fairness in voting and political representation. The Bill equalises House of Keys' constituencies so that each one has the same number of Members representing broadly the same number of people.

2025

Regardless of where they live, all electors will have the same number of votes in elections to the House of Keys and the same level of representation in this House. For the first time in the history of Manx politics, everyone will have equal status at the ballot box and equal weight and influence in the democratic process. That is not the case at the moment. Some individuals enjoy the privilege of having three votes at each election and three MHKs representing them. Others have two votes and two MHKs, and some have one vote and one MHK.

2030

This legislation is the end product of an independent review carried out over a period of three years by the Boundary Review Committee. The exercise involved no fewer than three public consultations resulting in three reports to Tynwald, all approved, which agreed the principles and specific proposals reflected in this Bill.

2035

The rebalancing of our democracy is long overdue, but has been much resisted in the past, more by politicians than by the public itself. (**A Member:** Hear, hear.) Redrawing of boundaries can be a disruptive experience for Members who have become established within particular constituencies, and previous debates have sometimes lost sight of the higher principles at stake.

2040 However, the Bill now before this House offers us a historic opportunity to finally deliver
equal and fair voting for all our constituents, wherever they happen to live, and to do so in time
for the next General Election in 2016. The Bill legislates for two of the recommendations of the
Boundary Review Committee, which, as I have just noted, have already been approved by
Tynwald. The first of these deals with the process of reviewing boundaries. Boundary review
committees are appointed by the Governor in Council following a resolution of Tynwald. There is
2045 currently no requirement in legislation for any regular review of the constituencies' boundaries
to take place.

This Bill provides for the Governor in Council to establish an Electoral Commission within 12
months of the general election of 2021, and thereafter following every second general election.
This timetable to ensure that a regular review of boundaries is undertaken was agreed at the
2050 December 2011 sitting of Tynwald.

There is also a provision in the Bill for the appointment of an Electoral Commission at other
times, if Tynwald so resolves.

The primary purpose of the Electoral Commission will be to review the number of
boundaries/constituencies. However, there is also provision made for the Electoral Commission
2055 to consider other electoral matters, if so directed by a resolution of Tynwald. This will allow to
be appointed as and when Tynwald sees fit a body which can examine boundaries, boundary
matters, or indeed any other matters that Tynwald considers relevant to the House of Keys
elections and to report accordingly.

It became apparent during the three-year consultation process from discussions with the
2060 public and with Hon. Members that many took the view that the remit of the Boundary
Committee should have been wider, that there were other issues central to the democratic
process that would benefit from the scrutiny of this Committee. This was not part of the remit,
however, and may in any case have proved a distraction from the much-needed boundary
review.

2065 Moving forward, the provisions set out in the Bill give parliament an option to appoint this
body to undertake such work in future, if so decided.

The title 'Electoral Commission' has been used to reflect this more regular review process
and the potential for this body to have a wider remit. The Electoral Commission is required to
report to Tynwald within 18 months of its appointment and to submit such other reports as
2070 Tynwald may direct. On submission of its final report to Tynwald, the Electoral Commission is
taken to have been dissolved.

The second element of the Bill is the provision for the Island to be divided into 12
constituencies, each returning two Members to the House of Keys. At its sitting in June 2013,
Tynwald resolved to approve the constituency boundaries which are set out at appendices C1 to
2075 C12 of the Third Report of the Boundary Review Committee.

Tynwald also resolved that the Representation of the People Act 1995, and other legislation
relevant to these changes, should be amended accordingly, in time for the 2016 general
election. Hon. Members will forgive me if I briefly recall background to this provision, but after
more than three years of research and deliberation, extensive political and public consultation,
2080 the three Tynwald reports I have referred to earlier, and some lively political and media debate,
it would be understandable if we need to be reminded about the evolution of this Bill.

The overriding principle governing the recommendations that were approved by Tynwald
arise out of the First Report of the Boundary Review Committee that there must be equality of
representation so that all constituencies each return an equal number of Members to the House
2085 of Keys and that there must be equivalency of size of population across the constituencies.

The Second Report of the Boundary Review Committee sought agreement that the House of
Keys be divided into 12 constituencies of two Members each. This too was approved.

The Third Report to the Committee in June 2013 presented to Tynwald, after considerable
consultation, redrawn boundaries for these 12 two-seat constituencies, which were then also
2090 approved.

The parameters of all the work undertaken by the Boundary Review Committee were set out by Tynwald, and in that place the appended recommendations were approved. The Bill before us today seeks to legislate for those approved recommendations.

2095 Hon. Members, this Bill is timely. The last significant boundary change took place nearly 30 years ago. That is a long time. This Bill chimes with the ongoing modernisation agenda that was supported so strongly in another place only last week. As we look to restructure and make fit for purpose the machinery of our Government, so should we also look to make reforms to legislature and reflect the fundamental principle that every voter in this Island should have equality of representation in this House.

2100 Mr Speaker, I beg to move the Representation of the People (Amendment) Bill be read for a second time.

The Speaker: Hon. Member for Ramsey, Chief Minister.

2105 **The Chief Minister:** I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

2110 I think we have heard a very interesting – dare I say it, charming – introductory speech by the Hon. Member for Glenfaba in relation to this Bill and in principle, this Bill delivers something which is fairer. Hon. Members are fully aware of my views about this Bill. They will be aware that I supported the principle of fairness and equal sizes of constituencies, so I am not opposed in principle to that by any means.

2115 But what concerns me is the whole way in which this has been done. It is clear – *absolutely* clear – from the comments of the Committee who drew this up, and indeed from what we have ended up with, that there was... I will use the word ‘gerrymandering’, but perhaps that is pushing it a bit. Constituencies have been arranged so that it least inconveniences the people in Douglas. (*Interjections*) It is clear, from most people’s rational and reasonable assessments of electoral rolls, that Douglas actually needs to lose a seat. That is not going to happen; Rushen is going to lose a seat, and I reckon the reason Rushen is losing a seat rather than Douglas is there are eight Members in Douglas and there are three in Rushen.

2120 So, the Hon. Member talks about fairness. I do not actually believe that it is as fair as it could have been. That said, I will be supporting the Second Reading.

2125 The concern, though, that I have is that a variety of options... It is a bit like going to buy a car and we were given options of three or four different colours – a blue car, a red car, a green car – and most of those options, when you actually looked at the consultation, were supported. Then the Committee came back and said, ‘But we have decided you are going to have a blue car. We are not going to explain why we have discounted the need or the possibility of a red car or a green car. You are having the blue car, and that’s it.’ That was the concern that I have. The Committee has not given us an explanation why, other than it is going to be the most convenient because it is not going to upset the Douglas Members.

2130 That seems to be the only reason that we have ended up with the system we have got. I think there are lots and lots of opportunities to amend this Bill, and certainly, I and I know others will be coming forward at clauses stage with a variety of amendments, which hopefully will improve on this Bill, and perhaps we will have made... if not a red car, maybe we will have a purple car, which will be a mix of the blue and the red. (*Interjection and laughter*)

2140 But in principle, this is the right way to go. We do need to have a fairer system and I certainly agree with that. It is just, the fair system that we have ended up with has been devised primarily to keep Douglas happy.

The Speaker: Hon. Member for Malew and Santon, Mr Cregeen.

Mr Cregeen: Thank you, , Mr Speaker.

I agree with the comments of the Member for Rushen, Mr Gawne.

2145 When you look at the boundary review, and when the Committee came forward, it was the path of least resistance. When you look at the layout, how could you get something like this through? By making sure that you would have the majority of people who would be least affected supporting it – ‘Never mind whether it is the right places, but let’s try and keep as many people happy as possible.’

2150 I concur with the Member for Rushen: there would have been a better way of doing it.

The Speaker: Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

2155 You cannot disagree with the sentiment behind it, that it is fair, everybody has equal representation. But as a Douglas Member, it might surprise the previous speakers that I actually think there are better ways of doing it. I have always been in favour more of three-seat constituencies or even four-seat constituencies, because we are often accused of parish pump politics, and just looking after potholes and things within our own constituencies. I do think that
2160 the larger constituencies would have focused minds more on the national issues which are supposed to be the highest priority (**Mr Gawne:** Hear, hear.) for this House and Tynwald Court. I think it would have taken away hopefully from the personality, because of having such a wider area to cover, and would have focused minds more on national policy when voting came round.

That would be contribution to it, Mr Speaker. Thank you.

2165

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

Mr Thomas: Thank you, Mr Speaker.

2170 I think, factually, three out of the eight Douglas MHKs voted against this in Tynwald, (**Mr Henderson:** Hear, hear.) so it is hard to make the point that has been made by the Hon. Member for Rushen.

Secondly, I also would have preferred six four-seat constituencies, with the old constituency names of the Douglas North and Douglas South divide. But so be it, we have resolved in Tynwald and the rest is history. (**Mrs Beecroft:** Yes, good.)

2175 I just wanted to congratulate the Minister moving this, and to say it is excellent that we are just focusing on this issue of revising the constituency boundaries. But at this point, I just wanted to ask a question about other electoral reform issues, to see where we are with some of the other issues. It is clearly best to focus just on this very important one, but there are other issues in the background.

2180 For a start, back in 2011, there was a Representation of the People (Amendment) Bill, which was going to look at donations received by candidates in the House of Keys election. There was another notion about expenses of the candidate, and I just wondered whether the intention was to have another Bill coming back in the next parliament or later on in this one.

2185 Secondly, Mr Bercow, the Speaker in the Parliament across, has initiated a debate on e-democracy and e-voting, online voting and all those issues. I wondered whether there was any intention to bring those back, perhaps in conjunction with the Bill.

2190 Of course, as well, we have some issues to do with registration under the Registration of Electors Act. So if I may be so bold, perhaps we need a second Representation of the People Reform Bill, which can also look at the registration of Electors Act sometime in coming years, to address these other issues.

A Member: That is very bold.

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

2195 **Mr Quirk:** Thank you, Mr Speaker.

Okay, I welcome the particular issue, and I will not take any offence to the Minister, Mr Anderson, because he is doing his job.

2200 But the concern I do have, as regarding the consistency of Onchan, and the three Members that are in it, is the way in which it was developed from the Committee. We did have the scenario at the beginning which he actually missed out, where they were splitting the backbone Onchan, right down through Birch Hill, and actually peeling it literally apart and just throwing an element of that into Garff. It is not anything against the people who live in Garff, Laxey and Lonan – because you never know where Members are going to stand in the future!

2205 So, it was a difficult at the time. There were a lot of people who said, 'Oh, it will never happen.' There was a load who did write in to the Committee. I felt – and I was ashamed of them, really, and I will put that on record – they did not even have the wherewithal to hold a meeting in the constituency of Onchan, which obviously was going to be one of the ones that was going to change. They decided to hold it in Douglas – and I have nothing against the majority of Douglas Members, at all – *(Interjections and laughter)*

2210 But I had concern, when I listened to the Members here today, where they had the... And I wonder if there is going to be the 'Super-Douglas', the super-ship or the super-local authority. So I do hope that whatever happens in the future, when we are not there, that that does not happen, and we will still consider the whole of the Island. **(Mr Gawne:** Hear, hear.)

2215 But when the Committee did see sense, when they were splitting the real heart of Onchan right out of it and just casting the other half to one side, they came up with another solution. I agree with the Members who have recently spoken: it was not for political purposes; it was just for numbers. I would not say it was gerrymandering – I know we are covered – but there was a manipulation of... because, I believe that Onchan has bitten the bullet, put people in there, had houses on land which has been developed, and here we go, because we have *done* something for the future for the constituency, there we are as a rebalancing exercise, you are going to take a part of our community and take it away.

2220 But hey-ho, it comes back again when we have a local authority election – whatever the number of local authorities are going to be in the future. So we have a division now, right down through the centre of Onchan there. There are a couple of churches which are not in Onchan; a couple of churches which are in Onchan; one side of the road is in Onchan and the other side of the road is not in Onchan any more. *(Interjections)*

Mr Houghton: Across the road from the Commissioners' offices.

2230 **Mr Quirk:** Yes, but the Commissioners' office is still in Onchan. I was just really disappointed that they never gave us an opportunity for the local authority and the community to get together to discuss those issues, for the people who live in their part that is getting hived off or cut away. Just like we are a piece of meat – Mr Crookall, looking at me like that! – a piece of meat just carved off the side of a carcass and then thrown to somebody else to feed off.

2235 Well, I am holding to my promise that I gave ages ago. I will not be supporting it.

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

2240 **Mr Karran:** Vainstyr Loayreyder, I think it is wrong to say that there has not been any public interest. I know in Onchan there has been great, great controversy over this proposal. The fact that the proposal that has come about today, where we change from Birch Hill going out to Howstrake going out, I know there are people claiming they will never vote again.

2245 I hope that we will safeguard the Howstrake being able to vote in the location of Onchan and not having to go out to Baldrine or Laxey in order to do so and that these issues will be taken on board.

My problem is today that obviously this is yet another electoral calamity, as far as I am concerned, in my constituency, because Howstrake is one of my... well, is more likely one the strongest parts of my constituency, the Onchan constituency. So, yes, it does surprise Hon. Members, but the fact is that, believe it or not, an awful lot of the support that I have got over the last 15 or 20 years actually does not just come from council houses, but actually comes from the likes of Howstrake, and more than likely, with the exception of the late Member for Onchan, Mr Leventhorpe, I do not think any other Member could actually beat me, as far as getting votes in the Howstrake area.

But I understand that one fundamental principle is the equality of representation. We have come a long way from when I first started out in politics and we ended up with a situation where we had a Labour safe seat in North Douglas, where it had 1,000 votes more than Ayre with a 1,000 less, but North Douglas only had one representative and the people and the farmers of Ayre had two representatives for having a 1,000 seats. So we understand about having to try and force the changes that need to come about in order to get people to represent and reflect on the numbers of people in a constituency and not the number of sheep.

But the situation is that I have gone through this process before when we had the 1986 election, when my constituency was absolutely decimated and in fact there were lots, as far as... not who was the first one to go out, because that was a foregone conclusion as far as that issue was concerned with a majority of 6 and 11 in my own Middle constituency, losing my seat being split.

I think the principle that we should have equal representation is important. I think it is important and I think it would have been a step too far if it had gone down to single seat constituencies because then you end up with the Member for Birch Hill trying to deal with whether to deal with the economy or to deal with one of the arterial roads, either Highfield Crescent or the Birch Hill Crescent entrances, as far as repairing the roads instead of repairing the economy.

I feel that the problem that has been with this Bill is the fact that it has not looked at the needs. There has never been a more important need to try and get this assembly actually holding Government to account. It is going to have to nowadays because we are not going to be in the boom years any longer, but I feel that we have missed an opportunity by not putting it up to four-seat constituencies. In my opinion, I wondered not on the basis of the fact that, 'Oh, well, it saves my seat', but on the basis that four-seat constituencies, as my hon. colleague, who has not been here very long has pointed out, is getting national politics, and not dog dirt and pot holes. I felt that that has been far too often the position and I do feel that the opportunity should have been erased to create the seats being of a more realistic representation of being more four-seat constituencies than three, but some would argue that we have a vested interest because one in Onchan is going out at the next election, if not all three of us! (*Laughter and interjections*) (**Two Members:** Hear, hear.)

The situation is I want some assurances, also for my constituents, that we need to clarify that the House of Keys is not a glorified local authority. (**Two Members:** Hear, hear.) and I believe that the thing is that because of these boundary changes, my constituents, who I will lose at the boundaries, will not find themselves in a situation in Howstrake being dragged off to Lonan, which I am sure will not be the case. (**A Member:** No.) But the point is I am more concerned about my constituents in my constituency in Carrs Lane, down on Larch Hill Grove, not many voters where they are going into Doolish Twoaie, Douglas North, that that will not reflect on them being taken over by Douglas as an excuse on the backdoor of this representation, because I do feel national politicians should be elected on a national constituency and not on a local authority constituency basis and that is why I have some sympathy: at least it will get away from two or three tiny parish constituency representation with this.

I feel that we have not gone far enough. I will support the principle. It is Liberal Vannin policy for equality of representation as far as constituencies are concerned, even allowing for the fact that it will have a severe effect on my position as far as the next House of Keys Election in 2016,

2300 but I do feel that the Member needs to make it clear that these boundaries are boundaries for national constituencies and are not an excuse for Douglas to take over the few constituents that are in my parish and –

Mr Henderson: We don't want it, Peter. (*Laughter*) I can assure you.

2305 **Mr Karran:** Well, you might not want it, but your Corporation definitely want to try and keep their incompetent ways going, as far as Douglas Corporation is concerned. (**Several Members:** Ooh!) (*Interjections*)

2310 So I think, Hon. Members, the other thing that needs to be addressed, and it is about the maturity of how we have got to come on, that people today from 30 years ago have aspirations. It will not be like it used to be 30 or 40 years ago of the old ways and that is why this Chamber has got to change and that is why I am saddened that we have not managed to get the boundaries at four, like I originally proposed. I think that the issue of a single transferable vote should have been addressed, as far as this issue is concerned, because I think that would have guaranteed that different sections of the community (**A Member:** Hear, hear.) would have representation in this House and it would make it – (*Interjection*) Well, I think many people 2315 outside this Hon. House think that is not the case and they think the situation that some of them get in and then just bed into the environment.

Mr Henderson: That is rich coming from you! (*Laughter and interjection*)

2320 **Mr Karran:** But the situation is that I do feel that the STV-type of voting would have been far better with a four-seat constituency because we do need to change it, and all I would say, Vainstyr Loayreyder, is I think some Members need to read their *Hansard* and see who said what, where it is said and how it has been proven right to be the case.

2325 **The Speaker:** Hon. Member for Rushen, Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

2330 First of all, thinking of my hon. colleague from Rushen's comments with regard to cars and the colour of the car, I would just like to say, I think it is definitely time for a car *wash*, (**Mr Gawne:** Hear, hear.) – so time for a change.

I guess, picking up from the Hon. Member for Onchan, Mr Karran's comments with regard to bigger constituencies, I would 100% concur with that. I have said it before, I will say it again: the bigger the constituency, the bigger the politics. (**Mr Henderson:** Hear, hear.) When you have bigger constituencies – and we only have the biggest constituencies of three in Onchan, three in 2335 Rushen – you have a wide diversification of the population that you represent, and I have to say, it does work.

I would fully agree that four seats... I would take *six* seats over reducing the number, quite frankly! (*Laughter*) I really would, as a preference.

2340 I would also say, we have had a missed opportunity – that was my point here: we also have local government reform. The Hon. Member for Castletown is passionate about this issue and this is around the corner, local government reform. We missed an opportunity with this Committee to give them that remit to fit the boundaries with local government reform.

2345 The other big issue, which a lot of people have not picked up on, is voter apathy. I actually applaud the mover, because I know Glenfaba always has one of the highest turnouts, and I think that is fantastic, but we do have a problem across the Isle of Man with regard to voter apathy. It is an issue that we do need to think about, and we do need to understand what that concern is.

So, I think there are two missed opportunities with regard to the bigger constituencies, the bigger politics; and local government reform should have been part of the remit, as well as voter apathy.

2350 I just would like to finish on the statement that I fully agree with voter equalisation (**Mr Cretney:** Hear, hear.) and on that basis, I will be supporting this.

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

2355 **Mr Quayle:** Thank you, Mr Speaker.

I felt need to rise my feet to congratulate the mover of this motion. Having listened to some of the other comments from Members, I think the analogy from Mr Gawne about the cars and the different colours, after listening to him on *Sunday Opinion*, he might have chosen a bus as an example, instead of a car!

2360 Mr Karran: it is disappointing that people feel they will not vote because their area has been moved slightly. At the end of the day, you are voting for someone on national politics, not on what side of the street. So maybe they were saying they will not vote for you again, rather than they will not vote again – I do not know!

2365 But on a more serious note, I think it is fair that everybody gets two votes. As Minister Anderson quite rightly pointed out, some people have had three votes and three MHKs and some one vote, one MHK to represent them. (*Interjections*) But also circa 4,000 voters in Middle had one vote, whilst in Douglas East and Douglas West, circa 4,000 voters had two votes and two MHKs. This proposal makes it fair and that is what politics should always be about.

2370 **Mr Anderson:** Hear, hear.

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

Mr Ronan: Thank you, Mr Speaker.

2375 Being new to this House, I suppose I am naive in the politics of how things work and how I suppose the obstacles are put in ways to trip things up and to slow things down, but I think, too, we have got to be careful here that we do not nit-pick to get where we need to be. I see this as a journey (**Mr Anderson:** Yes.) – a long journey to where we need to be.

2380 It is pretty clear, my policies and one of my main issues in here is that on 14th February, Valentine's Day 2011, I resigned from local politics in Castletown Commissioners – a very difficult decision for me. I did so on the basis that I could not do my job because of the crossover between national and local politics.

2385 Mr Quirk, I have listened to you in here now for two and half years: you are a good man, hardworking MHK, but I would say largely represent your constituents. We have to have the separation to become national politicians in here, (**Mr Gawne:** Hear, hear.) and if we do not make this bold move, whether it should be six, three or two... I will tell Hon. Members, I wanted six. (**Mr Gawne:** Hear, hear.) I did, because I thought... But at the day, we have got to start this journey to get to where we need to be. Is it perfect? I do not know. Is six perfect? But it is *equal*. Mr Skelly has said it: it is equal. And I would urge Members to support this Bill and, may I say, this journey to where we need to be to become solid national politicians.

2390 I was at the Museum last night to listen to my Minister for Economic Development, the Chief Minister and the Treasury Minister, about making the fundamental changes to where we need to be. Well, we need to look at ourselves first and foremost. If we are going to make these bold steps, we need to be thinking nationally and internationally.

2395 It is the one thing and the biggest frustration I have had since I have been in here, Mr Speaker: still the amount of detail and the amount of local stuff which, may I say, if we had proper, structured local authority beneath us would take away this *nonsense* which happens on a day-to-day basis, when we should be letting the Chief Minister and others deal with Health, ourselves dealing with China or whatever it may be.

2400 We have to create the separation and I would urge Members and I would urge the public more than anybody to be aware of the smoke and mirrors which may come with any amendments and of the personal interests that would stop this going through.
Thank you, Mr Speaker.

2405 **The Speaker:** Hon. Member, Mr Anderson to reply.

Mr Anderson: Thank you, Mr Speaker.

I thank Hon. Members for their contributions. It has been quite an interesting and at times (**A Member:** Predictable.) predictable debate, but I think the general consensus that is coming through is that people recognise this is, as Hon. Member, Mr Ronan says, a journey and we are taking a step on that journey. (**Mr Ronan:** Hear, hear.) It is not everything everybody wants, but we have to take one step at a time.

I will just go through, Hon. Members' comments, just to make a slight comment on those.

I was pleased that Minister Gawne found my contribution interesting and *charming*. (**Mr Gawne:** Yes!) (*Laughter*) He did acknowledge that it is fairer, and I think that is a consensus view in this House, that it is fairer. He did have issues with the Committee and the way they have come up with their proposals, but I think we have to recognise the Committee were taking a vast range of views on board and they had to come with up with a compromise that actually encompassed the resolutions that we passed in Tynwald about fairness and about equality. They were in a no-win situation and I believe they did a very good job in difficult circumstances.

Obviously, he did say... I think he said at the end that he would actually support the Bill, but he would be coming forward with some interesting amendments later on, so we look forward to seeing what those might be.

Minister Cregeen also could not understand the logic of the Committee's views, but as I have said, the Committee had come to a consensus view to move something forward. It has been nearly 30 years since we have had any changes to boundaries. We have had significant growth of population in different areas and things are really completely out of sync in some constituencies. Other people like Mrs Beecroft mentioned larger constituencies and some of us can acknowledge that might be the way in the future, but let's get the fairness into the system to start with and then maybe move forward.

I thank Mr Thomas for his contribution and his support. He did have one or two questions, and wondering if we are going to have a further Bill. We will have a further Bill, my understanding is, within the House of this parliament, that will actually address some of the areas of concern that he has raised, but I think it is important that we actually get this through to start with. Let's get equality across the board to start with and then not muddy the waters by two or three other issues being lumped in with the Bill, and risk the failure of the Bill itself. So that will be within the next Bill, as I understand it.

I would like also to thank Mr Quirk for his contribution. I know Mr Quirk has had serious concerns about the way that Onchan has been split up, but inevitably with a big constituency like Onchan, whatever the Boundary Commission would have recommended, it would have upset somebody. I believe they have recognised concerns raised and have made a compromise in their proposals.

I would also just say that, in relation to the issue that Mr Karran raised about voters of Onchan having to travel out into the countryside to vote, I am sure that will be taken into consideration and the polling stations will be in the appropriate places. That is something that will be looked at later on.

However, he did accept the principle of equality within his contribution and that is what is at the heart of this Bill. Put everything else to one side, put all our preferences to one side: this is what it is about. It is about equality and I think he can accept that principle.

It is nothing to do with local authority boundaries. That is completely a red herring. Do not let that get in the way of this debate. We have to move on, put that to one side.

2455 So I would like to thank all Hon. Members for their contributions. I would like to thank particularly Mr Ronan in the way he summed it up there at the end, that we are on a journey and this is a step on that journey, if you like. We are talking about national politics and by actually having equality, we are actually moving in the right direction.

I acknowledge what Hon. Members are saying that we should have bigger constituencies so we are more national and we do not come down to the pot-hole sort of scenario, but that I think is something for the future.

2460 I would like to recognise Mr Skelly's contribution. He recognised that it was a time for change and believes in equality and he too thought there should be bigger constituencies, but we have to recognise, it is a compromise at the end of the day.

Finally, I would just like to mention Mr Quayle. He is obviously in a constituency that is well out of sync. This puts a lot more emphasis into the equality situation, as far as Middle is concerned.

2465 Therefore, I thank Hon. Members for their support and I beg to move.

The Speaker: Hon. Members, the motion before the House is that the Representation of the People (Amendment) Bill be read for the second time. Those in favour say aye; against no. The ayes have it.

A division was called for and electronic voting resulted as follows:

2470

FOR	AGAINST
Mr Karran	Mr Quirk
Mr Ronan	Mr Hall
Mr Crookall	Mr Cregeen
Mr Anderson	Mr Houghton
Mr Bell	Mr Henderson
Mr Singer	
Mr Quayle	
Mr Cannan	
Mrs Beecroft	
Mrs Cannel	
Mr Robertshaw	
Mr Shimmin	
Mr Thomas	
Mr Cretney	
Mr Skelly	
Mr Gawne	
The Speaker	

The Speaker: Hon. Members, 17 votes for, 5 votes against. The motion therefore carries.

**4.2. Control of Employment Bill 2013 –
For Second Reading –
Debate commenced**

Mr Shimmin to move:

That the Control of Employment Bill 2013 be read a second time.

The Speaker: We turn now to the second of our Bills for Second Reading, Control of Employment Bill, and I call on the mover, Mr Shimmin, Hon. Member for Douglas West.

2475

Mr Shimmin: Thank you, Mr Speaker

I am pleased to be able to move the Second Reading of the Control of Employment Bill 2013 which is promoted by my Department. The purpose of the Bill is to re-enact the Control of Employment Act 1975 with amendments, in order to modernise the Island's domestic work permit legislation. I would like to thank all Hon. Members who were able to attend last week's
2480 briefing session, but it was regretful that there was not an opportunity for more questions.

Due to the complexity of this and the importance to our Island, I would give notice here that I do not intend to move the clauses stage until Tuesday, 25th February, in order to allow further opportunities for any individual Members wishing to seek amendments, or indeed to seek
2485 further clarification from my Department. I would urge all Hon. Members to discuss matters with my Department, because at times there can be unintended consequences of amendments and in something as important as this, I would like you to work with my Department to ensure that we understand the full implications.

If I move, Mr Speaker, to the reasons for the Bill: the 1975 Act was last substantially amended
2490 in 1990, which is nearly a quarter of a century ago, and since which time we can all agree the economy has changed greatly. Therefore, a review of the legislation is overdue.

The Bill retains the existing work permit framework. However, each of the main components of that framework, such as the definition of 'Isle of Man worker' and the question of exemptions has been carefully examined, re-engineered, and then re-assembled, with the aim of providing a
2495 modern system of work permit controls which should better serve the Island in the coming years.

The new Bill will also specifically modernise the existing powers to make orders and regulations which are currently inadequate, as well as removing a considerable number of
loopholes in the 1975 Act.

Turning to the history of this particular Bill, in 2011 the Department published a consultation paper, containing a draft Bill and Regulations. The Bill and Regulations, which followed much internal discussion and analysis of how the existing legislation could be improved, were intended to iron out most of the known problems with the existing Act and Regulations, whilst retaining the work permit framework.
2500

The Department received approximately 40 submissions from consultees, including detailed responses from the Chamber of Commerce, the Isle of Man Law Society and other umbrella organisations. Following this, our original proposals were amended in a number of respects, in view of the consultees' comments and suggestions.
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Mr Speaker, we should recognise and it is fair to say that many employers would like to have seen more radical legislation or even the removal of work permit controls altogether. However, having considered all options are taken into account the interests of all stakeholders, the Department decided to proceed with its proposals to retain or modernise the current system.
2510

Although this may not be the preferred option of all parties, we have listened carefully to the concerns have been expressed and taken into account as far as possible while continuing to balance the interests of Isle of Man workers and the other interested parties.
2515

Towards the end of last year 2013, the Council of Ministers approved the Bill and draft Regulations and we published a comprehensive review of the consultees' comments, together with our final proposals as to the contents of the Bill

Turning to that now, Mr Speaker, it is important that the Bill and the draft Regulations are considered together, if Members are to understand the Department's full intent as regards the legislation – although, of course, primary legislation is one thing and Regulations will be dealt with separately by Tynwald at a later date. However, I would urge Hon. Members to consider the two together.
2520

There are numerous differences between the existing and proposed legislation, so I will concentrate on the most important points. As I have said, the Department has looked carefully at the main components of the work permit framework, and we have proposed reforms in each area.
2525

2530 Firstly, Mr Speaker, most persons who are not Isle of Man workers or not in an exempt category of employment require permits under both the old and the new legislation. The Bill re-enacts and updates the categories of persons who are Isle of Man workers for the purposes of the legislation.

2535 Most notably, it is proposed that a person should be an Isle of Man worker, if he or she is resident in the Isle of Man for an unbroken period of at least five years. This new definition removes a complicated proviso that is attached to this category in the 1975 Act, the effect of which can be to deprive a person who has been resident for five years of his or her Isle of Man worker status, if they cease, and then recommence residence following that five-year period.

Most consultees favour a simple five-year qualifying period on the Island, and that is what we provide. This would not, however, be retrospective, but would apply as we move forward.

2540 Turning to policy regarding which employment should be exempt under the legislation, the Bill contains more flexible powers to make and remove exemptions that are contained in the existing Act. For example, whereas the Department has powers to exempt employment by order, we cannot remove any of the exemptions in the original schedule of the 1975 Act, even if that is no longer required, unless we bring forward new primary legislation. The Bill deals with this and other problems with its enabling powers.

2545 In addition, there are powers to exempt not only employments but also persons of a description, which broadens the possibilities for making exemptions.

2550 The Bill consolidates the exemptions contained in the schedule to the 1975 Act, as well as exemptions which have been made subsequent by four orders. This is into a new schedule to which Department will be able to add or remove exemptions by order, subject to Tynwald approval. Notably too, the existing exemption of the Police is intended to be removed, other than for the post of Chief Constable.

2555 Whereas most exemptions require the approval of Tynwald, the Bill contains a new power to exempt, subject to any conditions, a person working in a specified capacity, if the Department considers the employment of that person to be in the national interest. This is intended to enable a Minister to deal speedily with an important case and the intention is to ensure the legislation is not so rigid as to result in the loss of employment or the loss of employment opportunities.

2560 When the Bill was with the Council of Ministers, some disquiet was expressed about the potential for this proposed administrative power of the Department to be abused. In consequence, my Department is going to support an amendment which would require us to report annually to Tynwald, if any such national interest authorisations are made.

2565 If I may divert for a second, and give an example, one situation arose where a bank on the Isle of Man had the need for a member of staff to be either positioned in one of the Channel Islands or the Isle of Man. Wherever that member of staff was positioned would result in significant deposits and growth of job opportunities in that jurisdiction. They had identified the individual, and they were looking to identify which jurisdiction. By making a speedy decision under the current position., that person came, has created two further jobs and significant deposits on the Isle of Man, along with further opportunities.

2570 If I had not used those powers which we believe are intrinsic within the current system, we would have lost that business, because the person was already domiciled in the Channel Islands. So what turned out to be beneficial to employment was done in a way which others may question the appropriateness. I can guarantee that there would have been no Isle of Man worker given that post. Therefore it seemed expedient and appropriate. The new Bill proposes that, under exceptional circumstances like that, it will be more clearly available for a Minister to make such a decision, but that will then be reported to Tynwald, and were there to be concerns, there would be a vehicle for Tynwald Members to resolve or refuse that power to be permitted into the future.

2575 I draw that to Members' attention because this complexity of it, at times, we look to try and make things overly careful for Isle of Man domiciled persons, but sometimes business requires a

2580 bit more flexibility, and I believe as Minister of Economic Development, we need to give that power to the Minister in exceptional circumstances.

Returning to the Bill, the spouses and civil partners have always been an issue and I would look at that position now. Our current legislation provides the Department must grant a one-year permit in respect of the spouse or civil partner of a permit holder or a person whose
2585 employment is exempt under the schedule of the Act. Other than in cases of self-employment, the employer is to apply for the permit.

The problem with the existing provision is that many employers tend to overlook applications by spouses and civil partners of permit holders and exempt persons, either because they may be unaware that person has an entitlement to work, or because they are deterred by the cost and
2590 trouble of making an application. In order to fix this problem under the new Bill and Regulations, the spouse or civil partner will be able to apply to the Department for a one-year permit which is not limited to any particular employment, which can then be presented to a prospective employer.

The Bill also closes loopholes in the 1975 Act which enabled persons with unspent criminal
2595 convictions under the Rehabilitation of Offenders Act 2001, to either take advantage of an exemption or to apply for an automatic spouse or civil partner permit. Once the Bill is enacted, persons coming to work in the Island with unspent convictions will not be able to use an exemption, nor have any entitlement to an automatic permit. In future, persons with unspent convictions would have to apply for a permit in the normal way in order to work in the Island.

Mr Speaker, where a prospective worker is not an Isle of Man worker or not an exempt
2600 person, an application can be made to Department for a work permit. The criteria on which the Department will base its decision on whether or not to grant a permit are made by Regulations.

The proposed Bill contains more comprehensive enabling powers for the criteria that the
2605 Department is to take into account, and whereas the 1993 Regulations contain five matters to which regard *must* be had and 11 matters to which regard *may* be had, our current proposals now contain nine matters to which regard *shall* be had and 17 which *may* be had.

So the new Regulations are much more comprehensive. They take greater account of
2610 employers' business needs and the needs of the economy and, in particular, try to better balance the consideration must be given to suitable Isle of Man workers who are available with the employer's particular requirements, explicitly requiring consideration of any skills, qualifications, knowledge or experience that may be required and the importance of the particular position to the employer.

It also contains stronger enabling powers for the Department to take account in the
2615 Regulations of potential economic and social costs of prospective workers, a spouse or civil partner and dependants, which will include medical, social security or educational costs that may be incurred by their coming here. Account must also be taken of any unspent convictions, while, in addition, the Department may take into account the ability of the prospective worker and family to speak English.

Moving on, the Bill makes certain reforms relating to the Work Permit Appeal Tribunal. The
2620 1975 Act is very sketchy as to the purpose and functions of the tribunal. This Bill takes account of two High Court judgements to clarify the grey areas. The grounds on which the Work Permit Appeal Tribunal can allow an appeal against a decision of the Department are defined, as are the powers of the tribunal.

A further change the Bill makes is that at present, any aggrieved person... Sorry, any person...
2625 My apologies, can I start again, Mr Speaker?

A further change the Bill makes is that whereas at present any person aggrieved by any
decision of the Department can appeal, in future an appellant must have a direct interest in the matter being appealed, as is the case in planning.

Turning now to enforcement, the Bill enhances the powers contained in the 1975 Act.
2630 Maximum financial penalties for offences are increased from £2,500 to £5,000 and for aggravated offences, from £5,000 to £7,500, while in addition, as an alternative to prosecution,

the Department will have new powers to impose fixed penalties of up to £1,000 for an offence of working or employing a person without a work permit, or up to £200 for a breach of the Regulations.

2635 The Bill contains express information-sharing powers with the Police, Treasury and other relevant agencies and Departments, to enable my officers to receive and pass on relevant information to help them enforce legislation. Members should be aware that these powers override any data protection considerations, which at present can impede information sharing.

2640 The Bill contains enabling powers for regulations to provide for revocation of permits. The grounds for revocation in the draft 2014 Regulations are wider than in the 1993 Regulations. Under these Regulations, the Department may revoke a permit where that permit holder has provided false information, been convicted of a criminal offence or not paid National Insurance contributions.

2645 New grounds in the Bill and the draft Regulations include: not complying with conditions attached to the issue of a permit; not paying Income Tax; and a significant number of complaints being passed to the Department by the OFT. The latter provision should assist the Department to prevent any so-called cowboy builders who are not Isle of Man workers from continuing to work on the Island. (**A Member:** Hear, hear.)

2650 Mr Speaker, the Bill and Regulations constitute what we believe is a balanced package of reforms, which liberalise the system of work permit controls where that is in the overall interests of the economy, but also tighten up controls in a number of important ways. It continues to protect the interests of Isle of Man workers. The Department has chosen to retain the framework across the economy, in spite of considerable opposition from many consultees.

2655 We have strengthened the enforcement provisions of the 1975 Act, closed loopholes in existing legislation and made it easier to remove exemptions that are no longer necessary.

2660 It is, however, at the same time, Mr Speaker, vitally important that we take into account the legitimate interests of parties besides Isle of Man workers. While work permit legislation has the capacity to prevent an employer from taking on a non-Isle of Man worker, it cannot require an employer to recruit one. Further, if the overall employment environment in the Island is too rigid and restrictive, and viewed as hostile to new blood, then we risk losing some of our existing employers altogether and deterring prospective employers from coming, and therefore ultimately reducing the opportunities for Isle of Man workers.

So the Bill does consider the needs of employers, and we have attempted to take greater account of their needs by updating criteria on which we decide whether or not to grant a permit.

2665 The other party the legislation needs to consider are prospective workers from outside the Isle of Man, because even if every jobless person on the Island could find employment, our diverse, high-skills economy would continue to require thousands of workers, be they doctors, secondary school teachers or the many specialist works in the private sector at one end of the spectrum, as well as those workers who do work that Isle of Man workers often shun, at the
2670 other end.

Again, this is tied in with employers' needs. If the Island fails to attract workers, we ultimately risk losing some of our employer base, or in the case of the public sector, not being able to provide services to the standard we would like.

2675 We believe this Bill seeks to make it more attractive for the prospective workers the Island needs to come here, both by a simple five-year qualifying period with no strings attached, and by alleviating the practical difficulties of spouses and civil partners of permit holders and exempt persons who can obtain permits, and to provide this we have changed the administrative process.

2680 Before finishing, I would remind you of the reason we have brought this Bill forward – that is, the need to modernise our domestic work permit controls so that they adequately serve the employers and the workforce of the Isle of Man. I hope the Hon. Members will now confer their support on the Bill, and I beg to move the Control of Employment Bill be read a second time.

2685 **The Speaker:** Hon. Member for Rushen, Mr Skelly.

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

2690 **The Speaker:** Now, Hon. Members, as we are a minute to one o'clock, I do not think it would be sensible to commence debate at this point, so the House will now stand adjourned until 2.30.

*The House adjourned at 12.59 p.m.
and resumed its sitting at 2.30 p.m.*

**Control of Employment Bill –
Debate continued –
Second Reading approved**

The Speaker: Hon. Members, just before the adjournment the Control of Employment Bill was moved and seconded, and the floor is now open for debate.

Mr Quirk.

2695 **Mr Quirk:** Thank you, Mr Speaker.

To Mr Shimmin – yes, after the seminar, I am broadly in support of the particular Bill that is before us here today.

2700 The only couple of questions I would love to ask, really, and get a response from him, is as to where we have a scenario sometimes when individuals do come across, and it used to be what we called a three or five-day rule. My concern is on that when they think they can come here for the minimum length of time, and then come again later on in another month, and come again later on in another month. I just wonder whether – maybe not today, but maybe in the future – if you just clarify that, so we do have something on record to say to the public that this does happen.

2705 We do have a lot of people that come on to us and say that this particular contract has turned up, and with reference to that, I do, from my own point of view as Chairman of the OFT, support that particular issue regarding cowboy builders, developers or whatever. I do hope we can seek an assurance from you where our officers can work together in that particular organisation to prevent this from happening on that.

2710 The final thing I had, which I have just mislaid a little bit, but it was to do with the disclosure of discharging criminal offences. I believe that is a big issue because we have known for a fact sometimes when we have had people that have lived here or worked here or traded from here, when they have been picked up or taken into custody or charged with something, it is then that you find you out there is a record behind it, but they have done the damage on the Island. So I do welcome that that is coming forward.

2715 But if he could clear them up sometime, I would be appreciative.

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

2720 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

2725 Vainstyr Loayreyder, we understand what the Hon. Member is trying to do here and in broad terms I am supportive of it, obviously. We are having a modernisation of the legislation, we are having it more flexible, and the quote he gave us with regard to the banking position, where situations like that occur and it is own to a ministerial decision and flexibility – yes, absolutely, hats off to the Minister for applying some common sense there, that is excellent. And what transpired from that, and if that is what we are trying to achieve, yes I am quite supportive.

We are also, it would appear, softening the definition, if somebody local can reasonably do the job, the rest of the definition and I will just paraphrase that, because I am sure all Hon. Members know that that is the key to the whole situation, and it is the crux of the matter. This legislation has added a bit more and deleted a bit and softened it up so that more cognisance can be taken from 'away' applications, if I can put it like that, for the job.

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Now, ostensibly that is fine, given the need to grow the economy, we need to be flexible, we are in a highly competitive, mercenary world when it comes to growing the economy and so on, and what sort of business we are trying to get here. That I can understand, and that bit is fine. As everyone here knows, I have been a long-time supporter of the work permit system (**A Member:** Yes.) for other reasons, least of all which is protecting the local employment force, to a degree. Now, I have always put that caveat on it and I do not want the Minister to come back to say, 'Oh well, you are just trying to stifle the economy.' I certainly am not. I just want to put that marker down because it has held us in good stead, and I think there is flexibility here: if we need to review things, we can go back again, which is what I like to see.

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However, I will put down on *Hansard* my disappointment with one particular piece of the briefing that we had the other day with regard to this, whereby it was indicated at the briefing that language was used or terminologies, whereby if there was a suitable local applicant that would be fine for medium jobs. There would be a problem for more senior, important jobs. There would probably not be any local applicants, and it would be more applicable to come from across. Now, that was clearly stated, and I took offence to that in one way. And that is this, Vainstyr Loayreyder: that any time we have these debates, there is always this chorus in the background, and the media often drive it up too, that we are promoting mediocrity with the work permit – 'we need new blood', 'the organisation is stagnant', 'we need an injection of new enthusiasm'. And the simple answer for most people is, 'Oh, this has to come from across.' The local workforce, whatever shape or form they are in, cannot aspire to the top jobs.

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Now, that is a clear message that goes out every time we have this, and I am putting a stop to it, Vainstyr Loayreyder. It might be unintentional of the Minister, but in the background we have these commentaries made, and there was such a commentary made at the briefing. There were hints this morning slightly that perhaps we need to get more... there is better blood away, if you like, and I do not believe that for one minute.

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Some jobs, if they are open for application, there may be a range of people apply, and it may be that somebody from off-Island has got better qualifications, has got better experience – fair enough. But what I do not see in this debate is where we have had it before about this promoting, as I say, mediocrity. What we are saying to our workforce, and the young people coming up through the education system is: 'Do not bother about the higher standards of jobs, the more important positions.' I am afraid you may well scare some of the talent off by doing it, so what we want to do is keep a sensible proportion on it, and move this forward in a balanced fashion, is what I am asking for, Vainstyr Loayreyder. I am quite conscious of what some of the businesses say, and that is fair enough. If they want more flexibility and they want to trial out different ways of doing this, fair enough. I am prepared to be flexible myself, because of the situation.

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But I have also seen the other side of the coin, Vainstyr Loayreyder, where job descriptions, and other paperwork associated with a position, have been pitched in such a way that the local talent has been dialled out. Now, I have furnished the Minister with some such documentation before now. I am not saying it happens all the time, but it does happen at odd times. So, we are quite conscious of the different elements that go along with this, and I just want to put that balance in here, Vainstyr Loayreyder, that there is a plenty of good talent on the Isle of Man too. If an organisation feels, or a section or a Division in Government; if there is a sense that it feels it is being stagnant or that it needs new blood, that may be a correct observation, but the point is how is it being allowed to go to that point? That is the question I often asked myself with various Sections over the years.

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2780 And I have noticed the Chief Minister likes to shake his head about, but it is very true where I have personally witnessed this nonsense where 'Oh, we need new blood.' So we have got the new blood in, we have got the new dynamos in – Mr and Mrs Dynamics – and within two or three years we have seen that they were not as dynamic as they were purported to be, and they have left. I have watched that happen too. And I have watched staff become demotivated because if they had had the chance to scale up, do additional training, be energised by more senior management, you would have had a different playing field in that particular area. That is something that could be done with being looked at as well while we are on this discussion, because it always annoys me, or is upsetting to see that that side of things is often forgotten. It is, 'Oh well, let's get someone in from across, that will do the trick.' Fair enough, an odd time they might well be more experienced and it is the best thing to do, but also, Vainstyr Loayreyder, as I say we need some balance in there because if an area is stagnant, then with the next layer of management up that is their responsibility to 'unstagnate' it, energise the staff that are there, and if anybody requires any additional training or courses, or whatever do that. Do not just write people off. Energise the situation, let us see some effort put into it.

2790 That is my message, Vainstyr Loayreyder. Gura mie eu.

2795 **The Speaker:** The Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker.

First of all, I would just like to say that I will fully support this Bill. I think it is necessary.

2800 We need the flexibility, as has been mentioned, absolutely essential. And we seem to be moving, I think, maybe towards more the Australian model, where we are attracting workers into employment areas where there is a shortage, because there is difficulty in recruiting so we need to have that flexibility to bring these people in.

2805 But picking up on what the last speaker, Mr Henderson said, if we are going to advance as we want to do, we do need to have the best person in the job and whether that person comes from across or on the Island. But the problem probably in Government, maybe more than in the private sector, is that we have not really got the hang of succession planning. It is not, as Mr Henderson says, ask if there is anybody who would like to train up. We should be saying to them, 'We want you to train up, that you are there when you are needed', and then we would not need to bring as many people in and to issue as many work permits as perhaps we are.

2810 I would also like to touch on this matter of enforcement, and it is interesting that the idea of the fixed penalty is coming in now, and I would like to ask the Minister the reason for this fixed penalty. Do we have many work permit prosecutions? Have we had many over the last few years? Because my experience, when I was in the Department, was not so much on work permits but on contracts of employment where the inspectors went round and found out that people had not issued contracts of employment and all it did was to leave them a note 'well, apply for a contract of employment' and why? Because generally the Attorney General's Chambers were not interested, they said it was not in the public interest to prosecute those particular employers. That to me is the wrong decision and I am just wondering whether it is the same when there are people abusing the work permit system – whether the Attorney General's department say it is not in the public interest.

2820 One other item I would like to raise with the Minister, which is not clear in this Bill: if I can give him an example of a person who comes across here, gets a work permit and their spouse or partner is automatically entitled to a work permit, for any job, not a specific job, what is the position if that person who got the original work permit loses the job or leaves the job, what happens to the work permit of the spouse or the partner? Do they retain that work permit, is that work permit immediately revoked or do they retain it for a certain length of time before it is revoked? That does not seem to be clear to me in the Bill, and perhaps the Minister would like to clarify that position for me.

2825 Thank you, Mr Speaker.

2830 **The Speaker:** Hon. Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

2835 Firstly, I would like to congratulate and also thank the Minister for giving us draft Regulations alongside the Bill, because that is surely good practice. I would also like to thank him for extending the two-week period before we have the clauses stage and I would like to take advantage of that to work with the staff who have drafted these excellent explanatory memorandum and Regulations, to consider perhaps some amendments I would like probably to move at the clauses stage.

There are five points I just wanted the Minister to think about and comment on.

2840 The first one is that because this is a 1975 Act that we are repealing and replacing, we have this situation where we have got a Committee that is not set up in the statute but set up under the Government Departments Act 1987, and we have potentially got the circularity where the Minister delegates to the Committee who delegates back to officers, and perhaps we can consider putting the Committee into statute. That is one of the issues I would like to consider in coming weeks.

2845 The second one is the Article 13, human rights point, which is that the person should have an adequate redress from a statutory body's decision, and perhaps in this new legislation that has not been dealt with sufficiently, because there is a circularity of the work permit Committee acting on the authority of the Minister, having its decision reviewed by the work permit Tribunal, who can only send back their findings to the Minister, who may or may not agree or disagree, so I would like to have that reviewed in coming weeks.

2850 Thirdly, in the presentation – which unfortunately I could not attend, but your excellent staff have actually given me a full briefing since – there was a statement that any decision could be appealed. But there was actually a case, *Christopher Thomas versus the Department*, back a few years ago, where that issue was determined in the courts, and I think it might be helpful to bring the law up to date with the decision of that case, because it is not actually, I don't think, any decision that can be appealed; it is only *final* decisions. It is not interim decisions. So that is something I would like to review in coming weeks.

2860 The fourth point is that, still, we only have one statement in the Regulations that the process whereby the applicant has selected the person concerned is taken into account, and there is not really a lot you can do, especially given that lots of these work permits are to do with Government recruitment places, to actually monitor the process to make sure it is good process, where you have anonymous criteria, referenced procedures are in place. Perhaps there is something better that can be done to make sure that we have got good selection, and that will address in part the issues raised by Mr Henderson, whereby a good Manx worker can get an ear and can get the decision going in the place, or *vice versa* from the other side.

2870 And finally, the point raised by Mr Singer, which is that there is this Articulate 8 issue, with the right to family, to do with the spouse losing a work permit when the other spouse loses a work permit; and also the political issue about what happens to the family in those first few years, when in good faith they have come to the Island and four years, 360 days, a work permit goes and that sort of issue. So there is actually that issue that we need to reflect on.

Thank you, Mr Speaker.

The Speaker: Mr Shimmin to reply. (*Interjection by Mr Karran*)

2875 Hon. Member, would you please indicate...? Mr Karran.

2880 **Mr Karran:** There are two things that I was particularly interested in in this Bill. One is that I feel that one of the things that does disturb me is when I see in the adjacent island that people can live in the United Kingdom and not be able to speak English 40 years after they became a resident in the United Kingdom.

I think the issue of whether there should be some sort of English test as part of the scheme, as far as if English is not their first language, after the first year's worth of permit... even to allow for the fact of letting them be in here for a year, but they have to take a compulsory test, as far as the application for the second year's thing. I think it is important that we must not allow a situation where we have parts of Douglas where English is not the first language now.

I know, from my brief time as Minister of Education, that one of the things that I was deeply concerned about was the total lack of resources, particularly in two or three schools in the Douglas area where they had a large amount of children who could not speak English. That was one of the reasons we were very keen on trying to get a way around the fiscal problems as far as pre-school education was concerned.

We must not allow a situation where we create an underclass. We have come a long way in 30 years from the postcode justice and the postcode way things were done years ago; and I do feel that if we are going to have a fair society then we need to address this issue; and I think it is something that needs to be addressed seriously, as far as whether there needs to be some sort of undertaking that an application will be put through, but on the renewal of that application there shall be an English test for the individuals.

I was the first one to support the Manx language when it was totally anti-social in this House, but I do feel it is important that we are not to create a situation where we have people who do not belong. If we do not want that then we *must* address this issue.

The second issue I think that we need to address is the issue of the health services. I think that we should be seriously looking at the issue of bringing in, in primary legislation, the issue of making work permit employers pay for private health cover insurance, as far as the issue is concerned. This would discourage the employers who have got low-waged work and the likes from trying to get people from outside the Island when there are enough people on the Island who should be able to obtain that type of employment.

It is interesting about the secondary legislation. It is very good to see that a lot has been put into the secondary education. I do really think it is important that we do address those two fundamental issues. If the Health Service has got no money I think that should be part of the equation for the Work Permit legislation.

I would just finally say: can the Shirveishagh, in his reply, just tell us... I take it we will be working to the criteria that was set down when there was a Social Services Bill in the last House, as far as the criteria... as far as where the work permit would be issued where there was criteria put down as far as residency is concerned; and whether it will be the same sort of residency qualification of services that was being proposed under the Social Services legislation that Mr Teare brought in some time ago?

I do appreciate that the regulations can do lots of things but the regulations... In my opinion, I feel that we should be making a positive stance to make sure that if people are coming here... What is the use of the Members in this Chamber, who are mostly gone now... of all the fighting for social legislation for employment rights... If they cannot communicate then they are an 'out' person in our society?

So I would be interested in the mover's response to the two particular issues. There are a couple of minor amendments that I might be considered to do and will give the opportunity for them to see them beforehand.

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Thank you, Mr Speaker, and thank you to the small number but the in-depth questions that actually highlight the difficulties that we have been grappling with for some time in the Department.

If I can start and go through some of these points, but we will go through *Hansard* and make sure that we have got a full understanding of them.

If I can start off with Mr Quirk and the 10-day rule. The difficulty here is that people have an entitlement to be able to come and work on the Isle of Man for 10 days in a year. There are slight exceptions or variations in the construction industry, but normally a 10-day rule applies. 2935 However, how do we know about it? How do we enforce it? How do we pick these people up and prosecute? I will come to that other issue about prosecution shortly.

So, yes, it is something where we will try and clarify but it is effectively a similar principle. But we will require people's assistance to actually identify that if there are regular people repeat visiting the Isle of Man without a work permit offences are being done.

It is quite possible that that aspect may be benefited by the fixed penalties because – picking up another point that was raised before about the Attorney General's and whether they wish to take part in prosecuting people – that has been a difficulty. There has normally been a warning but there has not been a prosecution.

We need, as our Department, to set an example and I cannot think of any better way than – those who are abusing it – to give them a fixed penalty which can have an enforcement opportunity and we would then know that employer or employee to keep an eye on and maybe be able to pick up further in the future. So we have lacked from enforcement. This gives the Department the powers to do the fixed penalties rather than relying upon an external agency.

So we do envisage getting stronger powers to exchange information with the police and again the idea of attempting to try and reduce those with criminal offences or, indeed, cowboy builders from causing damage of whatever sort on our Island.

If we look at Mr Henderson's point, I think he had a point. I think he over-egged it a little bit but I think that is part of what we have got to do with the balance in this Bill. So I can understand exactly where he is coming from – when he sees things softening in one area, he wants to make sure he makes the point – and I think that he understands that there is a balance in the middle there that we are aiming for.

What we are attempting to do is find out... not in any way promoting mediocrity but being in the real world of saying, 'We need to survive in the future to be excellent'. Everything we said about 2020 Vision document yesterday is: we need excellence; we need to be a quality destination and a quality employer across a whole range of areas of our economy.

One of those issues that we have a problem with, and have done for generations, is every September some of our brightest students disappear off to university and only a percentage of them come back; and, as I said in this morning's presentation, we still need thousands of people in our economy who are on work permits, even if everybody who is currently unemployed got a job. So we know that we require people to build our economy.

Certainly employers, from all of my experience, would prefer local people to get the jobs because they have a family support system around them, they already have the connections and the accommodation and many things that new people coming to our Island... have got to settle in, adapt; it is more expensive and there is a risk that those persons may not settle and, therefore, you have invested money and it is not worthwhile.

So, Mr Henderson's concern about a poor message about this mediocrity... One of the things that we are seeing more and more is the work permits are at the top and the bottom end. At the bottom end – some of the lowest paid jobs in the Isle of Man – I am afraid we do have a difficulty that people who are unemployed are not wishing to take those posts.

I had a meeting on Friday of last week where somebody had taken on 20 jobs – 10 of them local. Two of them – local – did not turn up the next day. They got the hi-vis jackets, they got a bit of induction, they never came back. They know that some of those people turning up for interviews do not want the work and they want to actually go and get their jobseekers'.

Pointing that out is equally as wrong as what Mr Henderson was doing because they are odd exceptions. I think the comment that Mr Henderson said is an odd time, about Isle of Man workers. What we have got to try and do in this legislation is say, 'Right, let's deal with the vast majority of the issues'.

At times, we will be highly qualified people, possibly with language skills or skills that we have not been able to create. We are allowing more and more Manx students to come back to our shores with the skills and the jobs to match up together. We know that at the lower end we have a difficulty of getting some people into some of the construction jobs. They can do a job but as an employer – particularly in hard times in the construction industry – you need somebody who is reliable, skilled and going to be there when you need them.

So we think that we are getting a balance but I think the main message I take from Mr Henderson is training and education. It is skills; it is re-skilling; it is training; it is education; it is attitude, ambition, aspiration – all of those things – (**A Member:** Hear, hear.) and I think that really we are on the same page but just trying to get the balance right.

Going on to Mr Singer, when he was talking about the exemptions... Under the new regime it is effectively going to be a six-month lead-in period from when one would lose the job. So if I can take the example that a new resident and her partner came to the Isle of Man – her partner or husband might be on a 3A – if she lost the job for which she was employed – the person would have had a year work permit – if they had less than six months remaining of that work permit, that six months would run through to give the family an opportunity of trying to find alternative employment and resolve their circumstances. I will clarify that more when I come through with information in the clauses stage, but effectively there will be a six-month run off for those persons.

I have covered the bit about the fixed penalties.

I am grateful to my colleague, Mr Thomas, and I would recommend anybody coming into the Department to talk – most of you know our Legislation Officer and his knowledge in this is second to none – (**Several Members:** Hear, hear.) again, if you can come in and work and talk with us so that we can actually deal with some of these. There are choices. Certainly when it comes to the Work Permit Committee, I do not favour it becoming a statutory power, but that is a choice the House will have to make.

The issues about final decisions can be appealed. The problem in the case that the Hon. Member refers to – a certain Mr Thomas – the High Court ruled that it was not the final case; there was another... So the appeal is only at the end of the due process. But it is an expensive process – as the Hon. Member can testify – and therefore we need to make sure that, if there are going to be appeals, that they are worthy and legitimate. Certainly, if we are looking at appeals mechanisms we have got to make sure that there are not any of those that are burdening the taxpayer on areas where there is not really the opportunity of success. So I will look further at Article 13 on human rights.

He has raised the issue about the right to family and I think that is one that came up with Mr Karran's comments at the end. Because, on the one hand, Mr Thomas is talking about right to family; on the other hand, Mr Karran is raising the spectrum of the issue about what might happen if persons failed to learn English when they were going for a renewal but, in the meantime, that person had actually met somebody and maybe developed a family on the Isle of Man.

So we are trying to get a balance right which says that, yes, we will be humane and reasonable but the persons coming to live with us do have an obligation on attempting to integrate into our community.

One of those bits, however... In e-gaming, it might be that English is not the most important language but Mandarin might be. Another subject.

So we have to try and get the regulations and the legislation to allow us a degree of flexibility to deal with the modern economy. The opportunity for us to do that is going to be a challenge. When the Hon. Member for Onchan again talked about national health cover – or private health cover, I should say – we have National Insurance; they would be paying that as part of their salaries. But actually what they would do, Mr Karran, would be to say to the likes of Mr Henderson that the only persons to be coming in would be the top earners, because it is

3035 certainly only the top earners who would be able to subsidise the employees having a private health insurance.

3040 So that is the conflict that we have got to deal with. I think there will be challenges for all of us when the legislation comes through at the clauses stage but I would urge all of you to seek the guidance to understand why we decided as we did and to make sure that we do not put in legislation issues that are the worst possible example of what may happen – very unexpected and very unrealistic. If we imbed that within legislation that affects everybody then we will really disincentivise our employers in our community. So what I want to do is build in a flexibility and give us the opportunity to deal with the peripherals in regulations or secondary legislation, so that we can allow most employers to do what we have talked about, which is have the freedom to flourish.

3045 I beg to move.

The Speaker: Hon. Members, I put the motion that the Control of Employment Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

5. BILLS FOR CONSIDERATION OF CLAUSES

5.1. Post Office (Amendment) Bill 2013 – Clauses considered

Mr Ronan to move.

3050 **The Speaker:** Item 5 on our Order Paper: Bills for Consideration of Clauses.

The first of those is the Post Office (Amendment) Bill and I call on the mover, Mr Ronan, to move clause 1, please.

Mr Ronan: Thank you, Mr Speaker.

3055 This Bill is the Post Office (Amendment) Bill 2013. I provided an overview of the Post Office (Amendment) Bill to Hon. Members at the Second Reading and further information was set out at the presentation on 15th January which a number of you attended. However, I will begin by briefly outlining once again the Bill's purpose and clauses.

3060 The Bill amends the Post Office Act 1993. It was commissioned by the Board of the Post Office after discussion in conjunction with the Department of Economic Development. The Department undertook the public consultation over the proposed legislative changes and published the results. Following this process, the Bill was amended to take account of the responses received, which has resulted in the Bill in front of you today.

3065 The Post Office Act 1993 constitutes a statutory body called the Isle of Man Post Office and makes provision for the operation by it of the postal system in the Island. The object of the Bill is to update the 1993 Act in order to bring the powers of the Post Office into line with developments in communications in the last 20 years and to enable advantage to be taken of future developments.

3070 Under the 1993 Act, the Post Office has a general duty to convey letters in the Island, with a corresponding exclusive privilege in that field, but has power to carry on certain other activities, mainly relating to postal and banking services. The general duty is not affected by this Bill. However, with technological advances – particularly in the growth of electronic mail and electronic messaging – services in the past 20 years – mainly postal services around the world – have largely ceased to be profitable.

3075 The Bill extends the scope of the Post Office's powers to cover wide areas of logistics, communications and financial services, so that it can operate with a degree of freedom similar to that enjoyed by other postal undertakings in the British Isles and across Europe. Previous legal opinion also raised concerns over whether the Post Office can undertake services that it may not be linked to in its general duty. The opportunity has been taken to address this issue.

3080 Moving to the specific clauses in the Bill, clause 1 gives the Bill its short title. No express provision is made for the commencement of the Bill as it will come into force on the day when Royal Assent is announced to Tynwald in accordance with the Interpretation Act 1976, section 10.

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

3085

The Speaker: Mr Shimmin.

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

3090 **The Speaker:** I put the question that clause 1 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 2.

Mr Ronan: Thank you, Mr Speaker.

3095 Clause 2 makes the principal amendments to the 1993 Act, in order to update the powers of the Isle of Man Post Office. Its purpose is to take into account the changes over the last 20 years in the commercial environment in which the Post Office operates – particularly in the way information is conveyed – and also potential changes in the future.

Subclause (1) is introductory.

3100 Subclause (2) amends section 2 of the 1993 Act to clarify the relationship between the Post Office's main duty under section 2(1) and its powers under section 4. The amendment inserts a new subsection (3A) and, as I have already commented, this is in order to explicitly set out that the Post Office's powers are not linked to its duty to provide a universal service.

3105 Continuing with the clauses, clause 2(3) replaces section 4(1) of the 1993 Act, which lists various powers of the Post Office – in other words, things that it may do but is not required to do.

3110 The new list is deliberately wide compared with the present list and it is worth mentioning that several of the following items overlap. Section (a) covers the conveyance, transmission, storage, custody, handling, delivery or management, by physical or electronic means, of a variety of items, which I will run through briefly: part (i) is for postal packets; part (ii) – any kind of goods, which can mean anything from packets and parcels to shipping containers; part (iii) is money, which includes money electronically transferred as well as cash; part (iv) covers intangible property, including electronic documents; and, finally in this part, part (v) – information, which covers electronic data.

3115 Moving on to parts (b) to (j), these cover a range of powers for postal services and money services, which includes banking services; wholesale and retail sales of stamps, which are provided by the existing philatelic service; document and data handling, including storage, mail, preparations such as packaging and addressing of mail in bulk; electronic communication of information, such as sounds and images, which is a new and deliberately wide class of service; 3120 identity verification; commercial transactions; business support and transaction processing, with all for other enterprises, which introduces a new wide class of activities; and finally in this section, services of any kind for Government entities within or outside the Island.

3125 Having dealt with clause 2(3), we then move on to 2(4) which inserts a new section 4A in the 1993 Act, enabling the Post Office's legal duties or powers to be updated in future, if required, without the need for further primary legislation as part of this section.

Section 4A(1) enables the Department of Economic Development to make an order amending section 4(1), so as to reduce or increase the Post Office's powers. The ability for the Department to change powers is limited by sections 4A(2) which requires the Department to consult the Post Office before making such an order.

3130 Further limitations apply in sections 4A(3)(a), which enables the order to include consequential and other provisions and to amend if needed, but is controlled by part (b), that requires Tynwald approval for such an order. Final approval by Tynwald was included following the conclusion and consideration of the consultation process.

3135 Clause 2(5) makes a minor amendment to section 13, which provides that any scheme of charges and other items relating to any of its services must not limit any legal liability of the Post Office or amend the law of evidence, for example, raising a conclusive presumption that it had acted properly. It is made clear that this does not apply to registered post or any similar service provided under section 19, which enables a scheme providing for such a service to limit the Post Office's liability for compensation for loss of a packet.

3140 Mr Speaker, I beg to move that clause 2 do stand part of the Bill.

The Speaker: Mr Shimmin.

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

3145

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

Clause 3, Mr Ronan.

3150 **Mr Ronan:** Thank you, Mr Speaker.

Moving onto the last clause of the Bill, clause 3 provides for the automatic repeal of the Bill the day following the day when it comes into force. This is simply to keep the statute book tidy, by clearing off legislation which is spent. The amended Post Office Act 1993 will remain in force.

3155 It is important to remember that Members are clear over the need and the intended purpose of the Bill. The fact that the Post Office has been successful in the past does not indicate that it can stand still. This is an enabling Act providing clarity to the Post Office on what activities it can undertake, similar to the Act which it updates and which has stood the test of time.

3160 Diversification, as pursued by the Post Office in recent years, is vital to protect the future of the Post Office, the service it provides and provide opportunities to generate economic benefits for the Island.

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

The Speaker: Mr Shimmin.

3165 **Mr Shimmin:** I beg to second and reserve my remarks.

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

Thank you, Hon. Members.

3170

**5.2. Copyright etc (Amendment) Bill 2013 –
Clauses considered**

Mr Skelly to move.

The Speaker: We now turn to the Copyright etc (Amendment) Bill and I call on the mover, Hon. Member for Rushen, Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

3175 As outlined in the Second Reading, the purpose of this Bill is to make various amendments to the Copyright Act 1991, the Design Right Act 1991 and the Performers' Protection Act 1996, in order to bring legislation up to date to ensure that the Isle of Man offers intellectual property protection in line with that of the UK and the EU.

3180 Clauses 1 and 2: clause 1 gives the Act its short title; clause 2 gives the Act to be brought into force by order.

Therefore, Loayreyder, I beg to move clauses 1 and 2 stand part of the Bill.

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

3185 **Mr Quayle:** I beg to second and reserve my remarks.

The Speaker: I put the motion that clauses 1 and 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Skelly.

3190

Mr Skelly: Gura mie eu.

3195 Clause 3 amends the Copyright Act 1991 to bring the maximum penalties for some offences into line with those in the UK. As I made clear in the Second Reading of the Bill, 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 can be dealt with appropriately.

Loayreyder, I beg to move that clause 3 stands part of the Bill.

The Speaker: Mr Quayle.

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

The Speaker: The motion is that clause 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, please.

3205

Mr Skelly: Gura mie eu.

Clause 4 gives additional powers under which a court can order the forfeiture of pirated goods or a master from which infringing copies can be made over and above those available after seizure of, or on a conviction for dealings with, infringing copies.

3210 At the moment, the Copyright Act 1991 enables a court to order the forfeiture or destruction of infringing copies or masters which have been ordered to be handed over either on an application by the copyright owner or on a conviction for an offence or which have been seized by a copyright owner.

3215 The new powers will not be available whenever such articles have come into anyone's possession in the course of investigating for prosecuting certain offences, including offences related to trade descriptions, fraud and theft.

Loayreyder, I beg to move clause 4 stands part of the Bill.

The Speaker: Mr Quayle.

3220 **Mr Quayle:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

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

Clause 5.

3225

Mr Skelly: Gura mie eu.

Clause 5 repeals the provisions of the Copyright Act 1991 which limit to 25 years the term of copyright in certain mass-produced artistic works. As a result of the change, these works will enjoy copyright protection for 70 years from the designer's death, which is the term of protection applied to all other copyrighted works.

3230

The clause repeals section 52 of the Copyright Act 1991, which creates the exception. Section 52 applies where an artistic work, following the authorisation of the copyright holder, has been copied by an individual process and marketed anywhere in the world. Twenty-five years after copies of the artistic work were first marketed, the work may be copied by third parties without infringing copyright. With repeal of the clause, such works will receive protection for 70 years.

3235

Clause 5 also repeals section 79(4)(g), which provides a similar exception to the moral right of a designer to be identified as such in schedule 1, paragraph 19, which makes a transitional modification in relation to works existing before the 1991 Act came into force.

Loayreyder, I beg to move that clause 5 stands part of the Bill.

3240

The Speaker: Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. I beg to second and reserve my remarks.

3245 **The Speaker:** I put the motion that clause 5 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6, please.

Mr Skelly: Gura mie eu.

3250

Clause 6 extends an exemption which deals with the sometimes overlapping rights of copyright and designs. Designs of objects can attract two separate intellectual property rights: firstly, they are copyright protected; secondly, design can also be registered.

3255

The extension of this existing exemption will mean that a person who uses a design registered in the Isle of Man and the United Kingdom, with the permission of the registered owner, is not treated as infringing any associated copyright in the design. The exemption is extended so as to also cover designs registered at the EU design registry – otherwise known as Community Designs.

Loayreyder, I beg to move that clause 6 stands part of this Bill.

3260

The Speaker: Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. I beg to second and reserve my remarks.

3265 **The Speaker:** I put the motion that clause 6 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 7, please.

Mr Skelly: Gura mie eu, Loayreyder.

3270 Clause 7 removes a duplication in legislation under which procedural rules for the Isle of Man Copyright Tribunal may be made by the Council of Ministers under either the Copyright Act 1991 or the Tribunals Act 2006. In future, the rules will be made under the 2006 Act with a saving for the existing rules made under the 1991 Act.

3275 The Isle of Man Copyright Tribunal is an independent specialist tribunal whose main responsibility is to decide disputes over the terms of licences granted by licensing bodies on behalf of copyright owners. It was created in 1991 in place of the UK Copyright Tribunal, which had previously had jurisdiction on the Isle of Man, and was brought into the common system of tribunal appointments in 2006. Its procedure is laid down by the Copyright Tribunal Rules 1996, made under section 145 of the Copyright Act 1991.

3280 The rules apply, with modifications of the UK Copyright Tribunal Rules 1989, as amended. It should also be noted that the Department intends to bring forward updated Isle of Man Copyright Tribunal Rules, based on the UK Copyright Tribunal Rules 2010, later this year.

Loayreyder, I beg to move that clause 7 stands part of this Bill.

3285 **The Speaker:** Mr Quayle.

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

The Speaker: I put the motion – clause 7. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

3290 Clause 8.

Mr Skelly: Gura mie eu, Loayreyder.

3295 Clause 8 concerns unpublished works created prior to 1992. The Copyright Act 1991, which replaced the UK Copyright Act 1956, contains transitional provisions to protect such works. The provisions mean that the works remain in copyright until the end of 2042 – 50 years from the end of 1992.

3300 The provision, however, has absurd effects on older documents. For example, as set out in the explanatory note, a library in possession of an unpublished 13th century manuscript may not publish it until 2043, nor may it copy the manuscript without seeking legal action, except for the use of non-commercial research or private study.

In the United Kingdom, the Enterprise and Regulatory Reform Act 2013 enables the Secretary of State to make regulations reducing the term of copyright in the corresponding provision of the UK Copyright Designs and Patents Act 1988. This clause gives a similar power to the Department of Economic Development so that any changes in the UK can be adopted here.

3305 Loayreyder, I beg to move that clause 8 stands part of this Bill.

The Speaker: Mr Quayle.

3310 **Mr Quayle:** I beg to second and reserve my remarks.

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

Clause 9.

3315 **Mr Skelly:** Gura mie eu.

Clause 9 gives the Department power to make regulations to introduce a licensing system for so-called orphan works and for what is referred to as extended collective licensing.

Orphan works are copyright works for which the owner cannot be traced. Such works may be held in libraries, archives, museums and galleries but, without the permission of the copyright

3320 owner, they are limited in what they can do to make such works available for the public view without threat of legal action.

The UK is introducing a system under which a licensing body can be authorised to license the use of orphan works subject to safeguards for the missing copyright owners; and this clause enables provision to be made for the use of orphan works on the Isle of Man too.

3325 Extended collective licensing allows a streamlined, simplified system to be put in place subject to safeguards for works which have more than one copyright owner. For example, in the case of a film, copyright may be owned by the screenwriter, the producer, the director and the composer of the soundtrack. The agreement of all is required before public performance can take place. As all need to opt into the agreement, this can take time.

3330 The change will enable regulations to be made allowing licences to be granted on behalf of the owners of the copyright in a work except any who opt out.

Loayreyder, I beg to move that clause 9 stands part of the Bill.

The Speaker: Mr Quayle.

3335

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

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

3340

Clause 10

Mr Skelly: Gura mie eu, Loayreyder.

3345 Clause 10 removes the need to make orders applying for the provisions of the Copyright Act 1991 to countries that qualify for reciprocal copyright protection. Currently, under the Copyright Act 1991, orders need to be made which specify the countries that qualify for reciprocal copyright protection. Instead, this clause incorporates the countries into the Act, removing the need for such orders.

Loayreyder, I beg to move that clause 10 stands part of this Bill.

3350

The Speaker: Mr Quayle.

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

3355 **The Speaker:** Clause 10. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Now we have clause 11 and schedule 1.

Mr Skelly: Gura mie eu.

3360 Clause 11 introduces schedule 1. This creates a publication right which gives protection for 25 years to the first publisher for an out of copyright work.

3365 Publication right gives rights broadly equivalent to copyright to a person who publishes for the first time a literary, dramatic, musical or artistic work or a film in which copyright has expired. However, there is one major difference which is that the publication rights only last 25 years from the year of publication of the material, rather than 70 years from the death of the creator in the case of copyright.

It is important to note that the owner of the publication right is the person who first published the unpublished material in which copyright has expired. They will not necessarily be the original owner of the copyright work.

Loayreyder, I beg to move that clause 11 stands part of the Bill.

3370

The Speaker: Mr Quayle.

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

3375 **The Speaker:** I put the motion that clause 11 and schedule 1 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 12.

Mr Skelly: Gura mie eu, Loayreyder.

3380 Clause 12 simplifies and clarifies the scope of design right, which is the right of a creator of an industrial design – for example, the shape of a car body – to control the exploration of the design.

3385 The protection for designs is clarified in two respects. Firstly, trivial features of designs are excluded by making sure that protection does not extend to *any aspect* of part of an article. It is expected that this will reduce the tendency to overstate claims as to the extent of the rights in a design.

3390 Secondly, protection applies only to original designs and, to be considered original, a design should not be commonplace in the relevant field. It is not certain whether this means commonplace in the Isle of Man or elsewhere and, to remove that confusion, it is provided that it means commonplace in the Isle of Man, other than qualifying countries' designs which are protected in Manx law.

Loayreyder, I beg to move that clause 12 stands part of the Bill.

The Speaker: Mr Quayle.

3395 **Mr Quayle:** I beg to second and reserve my remarks.

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

3400

Mr Skelly: Gura mie eu.

3405 Clause 13 changes the initial ownership of designs created on commission from another person. Under the Design Right Act 1991, the person by whom the design is commissioned is the first owner of the design right in it. However, in EU regulations the designer is the first owner of the rights in a design created in the EU, otherwise known as Community Design.

To avoid the anomaly of UK design right belonging to one person and Community rights to another, the clause brings the Isle of Man in line with the UK and the EU by making the designer the first owner of design right even where the design is commissioned by another person.

3410 The change also brings the law regarding the initial ownership of designs created on commission from another person into line with that copyright where the copyright for a work created on a commission lies with the original creator, rather than the commissioner.

Loayreyder, I beg to move that clause 13 stands part of the Bill.

The Speaker: Mr Quayle.

3415

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

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

3420

Clause 14, please

Mr Skelly: Gura mie eu.

3425 Clause 14 simplifies and expands the concept of qualification. For a design to be protected the designer or the article made to the design must have connection either with the Isle of Man or with a qualifying country specified in an order.

The revision means that the criterion will be the country where the designer *or* the employer is economically active, or where articles made to the design are first marketed, not the country of which the designer, the employer or the first marketeer is a national or where he is resident.

3430 Loayreyder, I beg to move that clause 14 stands part of the Bill.

The Speaker: Mr Quayle.

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

3435 **The Speaker:** I put the motion that clause 14 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

Mr Skelly: Gura mie eu, Loayreyder.

3440 Clause 15. This clause introduces two new exceptions to infringement or unregistered design right.

One for the use of protected designs for experimental or teaching purposes and one which exempts from the infringement action the use of a protected design in a ship or aircraft registered outside the Isle of Man which is temporarily in the Isle of Man.

3445 These mirror exemptions applying to registered designs under the Registered Designs Act 1949 of Parliament and will harmonise with EU regulations.

Loayreyder, I beg to move that clause 15 stands part of the Bill.

The Speaker: Mr Quayle.

3450

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

The Speaker: I put the motion that clause 15 stands part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3455 Clause 16.

Mr Skelly: Gura mie eu, Loayreyder.

3460 Clause 16 amends the Performers' Protection Act 1996 so as to increase the maximum penalties for unauthorised dealings with recordings of performances on similar lines to the increases in respect of breaches of copyright made in clause 3.

Loayreyder, I beg to move that clause 16 stands part of the Bill.

The Speaker: Mr Quayle.

3465 **Mr Quayle:** I beg to second and reserve my remarks.

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

Clause 17.

3470

Mr Skelly: Gura mie eu.

Clause 17 gives additional powers under which a court can order the forfeiture of an illicit recording of a performance over and above those available after seizure of or on conviction for dealings with infringing copies – in other words, pirated copies.

3475 The powers are similar to those conferred in clause 4 in relation to infringing copies and are available whenever such recordings have come into anyone's possession in the course of investigating or prosecuting certain offences, including offences related to trade descriptions, fraud or theft.

3480 An illicit recording is one made without the consent of a performer or, if a record company has an exclusive recording contract, without the company's consent. Recordings made for private purposes do not qualify as illicit recordings.

The Performers' Protection Act 1996 currently enables a court to order the forfeiture or destruction of illicit recordings which have been ordered to be handed over either or on application by the rights owner under section 16 *or* on a conviction for an offence under section 21, or which have been seized by the rights owner under section 17.

3485 Loayreyder, I beg to move that clause 17 stands part of the Bill.

The Speaker: Mr Quayle.

3490 **Mr Quayle:** I beg to second and reserve my remarks.

The Speaker: I put the motion 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 and schedule 2.

3495

Mr Skelly: Gura mie eu.

Clause 18 with schedule 2 provides for performers to have artistic, non-commercial rights in relation to their performances, similar to those which authors and directors have in relation to certain copyright works.

3500 These are referred to as 'moral rights' and are concerned with the protection of personality and reputation of the performers. Specifically the rights are: firstly, the right to be identified as a performer; and, secondly, the right to object to derogatory treatment of the performance.

The protection of authors' moral rights was introduced by the Rome revision of the Berne Convention in 1928 and is given effect in Manx law by the Copyright Act 1991. Protection for performers was introduced by the WIPO Performances and Phonograms Treaty (WPPT) in 1996. Authors' moral rights were introduced by a revision of the International Berne Convention in 1928 and are given effect in Manx law by the Copyright Act 1991.

3505 This clause makes provision for performers' moral rights in the Isle of Man for the first time. Loayreyder, I beg to move that clause 18 stands part of the Bill.

3510

The Speaker: Mr Quayle.

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

3515 **The Speaker:** I put the motion that clause 18 and schedule 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 19.

Mr Skelly: Gura mie eu.

3520 Clause 19 makes provision for the licensing of 'orphan rights' and extended collective licensing in relation to performances. This corresponds to the provision made in clause 9 for orphan works and extended collective licensing for copyright works.

Clause 19 amends schedule 1A of the Performers' Protection Act 1996, which deals with the licensing of performers' commercial rights and is based on amendments made to the UK Copyright Designs and Patents Act 1988 by the Enterprise and Regulatory Reform Act 2013.

3525 Loayreyder, I beg to move that clause 19 stands part of the Bill.

The Speaker: Mr Quayle.

Mr Quayle: Thank you, sir. I beg to second and reserve my remarks.

3530

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

Clause 20.

3535

Mr Skelly: Gura mie eu. Nearly there!

Clause 20, as in the case of copyright and design right, the Performers' Protection Act 1996 includes the concept of qualification. For a performance to be protected it or the performer must have a connection with the Isle of Man, an EU member state, including the United Kingdom, or other qualifying countries specified in an order.

3540

At present, the other qualifying countries are specified in the Performers' Rights (Reciprocal Protection) Order 2003. That Order applies to the Isle of Man a UK order which lists numerous other countries.

3545

New UK orders have been made almost annually since 2003, to reflect the accession of countries to various international conventions, and should in turn have been applied to the Isle of Man. In consequence, Manx law does not afford protection in all these cases required under those conventions. Under this provision, it will no longer be necessary to replace or amend every order, as a list of most of the relevant countries will be incorporated in the Performers' Act 1996.

3550

Just before I move this, Mr Speaker, I would just like to put my thanks on record to Steven Tallach, our Legislation Officer, with this highly technical Bill which is part of a package of intellectual property rights that we are trying to strengthen for the Isle of Man economy. It is especially important for not just the creative industries, but many more emerging industries on the Isle of Man – clean tech, ICT and bio-med, all coming forward in the future. I think this is an important component of that and I just want to put my thanks on record there and also thank my seconder, Mr Quayle.

3555

So with that, I would like to beg to move that clause 20 stands part of the Bill.

The Speaker: Mr Quayle.

3560

Mr Quayle: Thank you, Mr Speaker. I beg to second and reserve my remarks.

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

Clause 21.

3565

Mr Skelly: Mr Speaker, I believe I have informed Hon. Members I do not intend to move clause 21.

The Speaker: You did indeed. My apologies.

3570

In which case, I thank Hon. Members as we close our business for the day. The House will now stand adjourned until the next sitting which will take place in this Chamber at 10 o'clock on 4th February.

The House adjourned at 3.40 p.m.