



HOUSE OF KEYS OFFICIAL REPORT

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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 4th March 2014

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Present:

The Speaker (Hon. S C Rodan) (Garff);
The Chief Minister (Hon. A R Bell) (Ramsey);
Mr D M Anderson (Glenfaba); Mr L I Singer (Ramsey);
Hon. W E Teare (Ayre); Mr A L Cannan (Michael); Hon. T M Crookall (Peel);
Mr P Karran, Mr Z Hall and Mr D J Quirk (Onchan);
Hon. R H Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North);
Mr 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); Mr G D Cregeen (Malew and Santon);
Hon. J P Watterson, Hon. 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, 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

1. Questions for Oral Answer

COMMUNITY, CULTURE AND LEISURE

1.1. New bus ticketing system – Business requirements and technical specifications

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

What the business requirements and technical specifications are of the new bus ticketing system?

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

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

The Speaker: I ask the Minister for Community Culture and Leisure to reply, Mr Robertshaw.

15 **The Minister for Community, Culture and Leisure (Mr Robertshaw):** Thank you, Mr Speaker.
I thank the Hon. Member for West Douglas for his Questions. It is an important one, as I hope I will make clear my two-part Answer, the first part being about the function of the bus ticketing system within the context of its primary purpose; the second part in relation to its role in a much wider context.

20 With regard to the first, the Department was determined that the specification would clearly define the business and technical requirements necessary to ensure that the well-documented failures of the previous ticketing system were not repeated. To this end, best practice in procurement procedures and financial policies defined by the Treasury, and with input from ISD, were followed.

25 The requirements here included the hardware product itself, service and quality, legal compliance, financial analysis, auditing, project management, training and development, after-sale service and future product and service developments.

30 With regard to the second, above and beyond the obvious requirements to issue tickets in exchange for cash and to record non-cash transactions, the specification captured a further list of technical requirements, which included interface capability and smartcard technology. Crucially, this included compliance with ITSO standards, wave-and-pay proximity technology, and EMV readiness; and again, future product and service developments.

35 Both aspects of the specification are equally important, but I cannot emphasise enough the importance I attach to the latter element – specifically, interface compatibility or interoperability.

Mr Speaker, Hon. Members may recall my contribution to the recent debate in another place on the subject of the future of our post office counters, which was led by the Hon. Member for North Douglas, Mr Houghton. In that debate, I highlighted the work being conducted between DSC and the Isle of Man Post Office to build a new future for our post office counters around a card system. There must be future compatibility between the two systems, and this is well understood by DSC, the Isle of Man Post Office and DCCL. Not only that, but the compatibility must be capable of stretching out further to other future functions. The days of delivering solutions in isolation in silos is over.

45 Indeed, yesterday the Chief Minister announced the new role of Policy and Reform Minister whose duties must include the co-ordination of exactly this type of facility across Departments, if we are to move towards our ambition of delivering services, not by crude category, but in response to individual need.

Thank you, Mr Speaker.

50 **The Speaker:** Mr Thomas, supplementary.

Mr Thomas: Thank you very much, Mr Speaker, and to the Minister for that comprehensive reply, even on his first day in the job.

55 I am pleased to learn about the smartcard and the interface capacity, and I understand that means displays at bus stops, apps on electronic devices and that sort of thing, and perhaps the Minister would confirm that.

60 My question, in the light of the smartcard and interface, is about whether the software and hardware that are being acquired can be modified locally or whether we would have to go back to the vendor and in the latter case, what due diligence or capacity check has been carried out on the capability and capacity of the potential vendors to provide timely, effective and reasonably priced updates?

The Speaker: Minister to reply.

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

I am pleased to respond to the Hon. Member's further questions.

70 I think it is very important to confirm to him that the platform chosen has very significant capabilities for further development, as I outlined in my Answer. That is absolutely essential. It is not a question of buying something with in-built redundancy; it is a question of buying something that has a great future and that can play its part in delivering services to the people of the Isle of Man.

As regards due diligence, obviously there is great sensitivity attached to this, because of previous failures and great care was taken in making sure that in some respects, the equipment bought is very much mainstream and generic in nature. For example, in one area in the ITSO facility, 75% of all cash dispensed machines in the world now have that facility.

So it is mainstream, and it will provide great opportunity going forward, to build upon its principles.

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

Mr Karran: Vainstyr Loayreyder, could the Shirveishagh explain – obviously we all think it is wonderful if you can broaden the concept to use it as a card facility for the Post Office, for social care and the lot – but what assurances can we have that this silo mentality that he talks about has actually been broken? Will people be held to account, instead of what is happening in the past with computers, where people have got away with hundreds of millions of pounds of poorly designed infrastructure, as far as computers are concerned, and people have not been held to account?

The Speaker: Minister.

The Minister: I am not sure I am quite with the Hon. Member on his mathematics, but I think with regard to the silo mentality, I rather suspect the Chief Minister will hold me to account, if that continues.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Building on that point very specifically, can the Minister comment on whether he feels it is normal for us to be six, seven, eight months on from approving the money and now only getting to the stage of finalising business requirements, technical specifications and the like for the Treasury's approval and can he comment on lessons to be learned, at least?

The Speaker: Reply, sir.

The Minister: I think, Mr Speaker, I would probably like to refer the Hon. Member to his previous question, because great care has been taken. There is an awful lot of work going on to make sure we do have compatibilities, and it would have been unforgivable if we had rushed our fences and got it wrong. So it is worth taking the extra time to make sure we get it right.

Thank you.

The Speaker: Hon. Member for Michael.

Mr Cannan: Thank you.

Can I ask the Minister where all this sits in with the potential corporatisation or privatisation of the bus service, in terms of we seem to be pursuing a quite complex, in my view, ticketing system here, that not only seems to be now applicable to the buses but also in terms of social care and post office counters, but where does all that fit in terms of pushing ahead with corporatising or privatising this service? Why isn't that being addressed first, rather than this complex ticketing system?

The Speaker: Minister to reply.

125 **The Minister:** Mr Speaker, I do not think that it is necessary to put one before the other. I think that the system being purchased is compatible with future opportunities, regardless of whether the bus service sits in or outside of Government, whether it is corporatised, privatised or whatever else. So I would not get the two confused, Mr Speaker.

The Speaker: Mr Cannan.

130 **Mr Cannan:** Thank you, Mr Speaker.

Just one final question, on some of things the Minister has said this morning. Can he just confirm that the vision here is for a single card that allows residents, members of the population to be able to, for example, use the buses, collect their cash at the post office or maybe use that card for purchasing at local stores?

135

The Speaker: Minister.

The Minister: Not necessarily, Mr Speaker, one card in the first instance, but a determination to migrate towards such an opportunity, yes.

140

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, a supplementary to the new Minister.

145 Would the Minister not agree that anything that would change the situation that had been throwing people into the hands of banks, where more likely any benefits would have been going onto bank charges, should be welcomed as far as flexibility is concerned, with his new vision on this proposal?

150 But would he also not agree that the fact is that we must have spent about a billion pounds on computers over the last 20 years (**The Chief Minister:** Rubbish!) and isn't it important that we make sure that people know we are going to go down this road, this time we are going to hold these professionals to account?

The Speaker: A comment – Mr Robertshaw.

155 **The Minister:** Can I refer the Hon. Member back to a similar exchange we had another place very recently, where I tried to respond to his quite understandable interest in the area, and it is one I share.

I must differ on his mathematics again, Mr Speaker, on his assessment of cost.

160 **The Speaker:** Another time perhaps.

TREASURY

1.2. Automatic exchange of tax information – Proposed new global tax standard

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

If he will make a statement on the proposed new global tax standard for the worldwide automatic exchange of tax information, endorsed at the Sydney G20 Finance Ministers and Central Bank Governors meeting, which was held over the weekend of 22nd-23rd February

2014; and what recent assessment he has made of the likely impact to the Isle of Man of this new international standard?

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

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

165

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

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

I welcome endorsement by the G20 Finance Ministers and Central Bank Governors of the proposed new global tax standard for the worldwide automatic exchange of tax information.

170

In my Budget speech in 2013, I said it was my belief that the FATCA model of automatic exchange of information would become the next international standard, and this is yet another step in that direction.

The Isle of Man has been a strong supporter of the new standard, and in November last year was one of more than 30 countries to sign a joint statement backing a move to a single global standard for the automatic exchange of information between tax authorities and calling on others to make the same commitment.

175

Local financial sector businesses, as well as the Assessor and her officers, will need to continue to invest significant amounts of time and effort, to ensure that the Island can comply with these new rules. However, it is the Island's approach to new standards and the way in which it implements them in practice that is having a positive impact on the international community and how it views us.

180

Angel Gurría, the Secretary-General of the Organisation, speaking recently in Brussels said he was very happy with the progress being made by the Crown dependencies, with particular reference to the Isle of Man.

185

The impact of adoption of the new standards will be positive in further enhancing the Island's reputation. It will provide further evidence of the Island's international standing and our reputation, and also reaffirm that the Island can no longer be referred to as a tax haven.

Thank you, Mr Speaker.

190

The Speaker: Supplementary, Mr Hall.

Mr Hall: Thank you, Mr Speaker, and also to the Treasury Minister for his reply on this important issue.

195

I note with interest in the document, the report coming out of the meeting in the G20 Sydney, one of the issues being the establishing international coherence of corporate income taxation. Does the Treasury Minister therefore believe that there is any at risk or does this pose a threat to our Zero-10 corporate tax regime, which of course has been very important to the Isle of Man, and in the years and the months ahead?

200

The Speaker: Mr Teare.

The Minister: No, I do not regard the moves being taken to review corporate taxation across the world, and arguably transfer pricing, will have any impact whatsoever on our Zero-10. The Zero-10 regime has been approved by the OECD and the international authorities, and it has been found to be compliant, so I am comfortable with the present situation, Mr Speaker.

205

**Procedural –
Question 3 to be answered in writing**

The Speaker: Question 3 will be answered in writing.

ENVIRONMENT, FOOD AND AGRICULTURE

**1.4. *Phytophthora Ramorum* –
Controlling with tree-felling**

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

What progress has been made with tree-felling to control Phytophthora Ramorum?

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

210

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

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

215

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

The Department continues to follow its plan in tackling *Phytophthora Ramorum* infection utilising various control methods.

To date, we have felled in the region of 250 acres, equating to approximately 25,000m³ of which 12,000m³ has been harvested using local contractors and has been removed for processing by the Sawmill already. This is a very positive and strong step in controlling the disease and reducing the risk of its spreading.

The Department has produced some guidance on the disease for the public and interested parties in the form of leaflets which can be obtained from our St John's office or downloaded from the website.

225

More information and guidance on what to do if you think you have infected plant material can be obtained from the Department and a guidance leaflet is currently being put together for the public and relevant professions.

It is hoped that a further aerial survey will be undertaken in late May/early June, when an assessment can be made on any further spread of the disease. The Department continues to work closely with its UK Forestry Commission and Food and Environment Research Agency colleagues.

230

As well as this, we are always striving to deliver continually enhanced recreational and visual amenity with minimal restrictions, whilst safeguarding plant health across all of our habitats, including the uplands and private gardens.

235

The Speaker: Supplementary, Mr Cannan.

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

240

Can I just ask him, then, in terms of the overall strategy, just for purposes of clarification, can I confirm that we are seeking to control this disease rather than eliminate it? And if that is the case, can I ask him what the longer term strategy is, in terms of restocking areas of woodland and how long that process is envisaged to take?

The Speaker: Reply, sir.

245

The Minister: Gura mie eu, Loayreyder.

I think we are trying to eliminate it. That would be the ideal thing, but it is a fungal disease which can survive in other plants, not just larch. So it is going to be difficult to do.

I should point out that we have been trying to control the disease for two years now and quite significant efforts have not managed to control that, which is why we are having to massively increase the amount of effort that we are putting in to trying to deal with this very destructive disease.

As far as replanting and making the place look nice, quite frankly at the moment all our efforts are going in to trying to control the disease or eradicate it. We will do what we can to make the place look reasonable afterwards, but it is going to take a lot of effort and an awful lot more money to be able to do that. As I say, we have only got a small amount of money. We have got to focus our efforts at the moment in stopping the disease in its tracks.

The Speaker: Mr Cannan.

260

Mr Cannan: Thank you, Mr Speaker.

We have cleared 250 acres so far. Is that the bulk of the clearance done now, and if not, how much more is subject to be cleared in the coming months?

The Speaker: Minister.

265

The Minister: Gura mie eu, Loayreyder.

Unfortunately, that represents only 17% of the work that needs to be done, so we have still got quite a lot more to do.

But 17% in six weeks is actually quite a reasonable amount of progress, in my view. We believe that it is going to take most of this year to finish the work, if not having to run into the following year. We will be using more local contractors as of 1st April, but as I have said previously, either here or in Tynwald, the timescales involved in getting local contractors geared up to do the work that we needed was such that it was not possible, and we have had to use off-Island contractors in the short term.

275

The Speaker: Hon. Member for Glenfaba, Mr Anderson.

Mr Anderson: Thank you, Mr Speaker.

280

Can the Minister confirm there is no obligation on private land owners in relation to this disease please?

The Speaker: Reply, sir.

285

The Minister: Gura mie eu, Loayreyder.

I cannot confirm that. There are clearly obligations if people have diseased trees and those trees do need to be controlled.

As I say, there is guidance now available on the website and via leaflets for private landowners and I would hope that my Department will have more opportunity, now that we have got the initial eradication programme underway, for us to actually go out and talk to private land owners, to explain what their obligations are.

290

The Speaker: Further supplementary, Mr Anderson.

295

Mr Anderson: Yes, thank you, Mr Speaker.

So can the Minister confirm that there is a legal obligation then on private land owners in relation to this disease?

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

The Minister: Gura mie eu, Loayreyder.

I can confirm that there are legal obligations on land owners in relation to diseased trees – absolutely.

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

Mr Ronan: Thank you, Mr Speaker.

310 Can the Minister confirm, has he got any plans for the excess of timber, regarding the use of that? Does it have to be destroyed or can it be used? Can it be recycled into the mill for building products or log burning? Can he just confirm that, please?

The Speaker: Minister to reply.

The Minister: Gura mie eu, Loayreyder.

315 Yes, the vast majority of usable timber we will be using, quite frankly. There is a fair amount of the diseased larch, which is not big enough to really have any specific use, which is why we are using the mulching machines with those, but if there are reasonable sized trees, then we will be doing our very best to make use of those trees – *[Inaudible]*

320 **The Speaker:** Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

325 Would the Minister agree with me that following the question raised by the Hon. Member for Glenfaba, Mr Anderson, that whether or not there is a legal obligation, which you have stated there is, there is surely a *moral* obligation on all landowners, (**Mr Henderson and Mrs Beecroft:** Hear, hear.) if they have diseased trees, to actually take the trees down and dispose of them? And will you confirm, Minister, that the Department will use all of its resources that are available to advise such landowners on what to do and how to eradicate it as far as is possible; but that there is a moral obligation here?

330

Mr Anderson: Legal.

Mr Watterson: If it has got to go, it has got to go.

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

The Minister: Gura mie eu, Loayreyder.

How could I possibly argue with my hon. colleague, the Member for Forestry?

340 **Mr Cretney:** Hear, hear.

The Speaker: Mr Cannan.

Mr Cannan: Thank you, Mr Speaker.

345 Just in terms of some of the facts and figures that have been presented this morning, the Minister is basically talking about 4,500 acres of land that has got to be addressed here. Is this full-scale felling or is that more controlled felling of trees in that total land? What is the size and

proportion of that 4,500 acres in terms of our total size of land that we have devoted to plantations?

350 Also in budgetary terms, is the £2 million I think that has been quoted so far going to be enough to actually deal with this issue?

The Speaker: Reply, sir.

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

Yes, sadly, it is full-scale felling. There is no alternative to this. It is very unfortunate, and certainly we will limit the amount of felling that we have to do, but even in some areas, we are going to have to fell healthy trees so that we can get to the unhealthy diseased trees.

360 So it is, sadly, quite a significant amount of work that we are going to have to do, and I think I have made that clear in previous answers on previous occasions.

Again, I think I have made clear in the past that this represents up to 20% of the trees that are in our plantations, which is a vast amount of trees, which is why the Department is taking this so seriously.

365 In relation to budget, I can confirm that my officers believe that the budget that we have available will be sufficient to fell all the diseased trees or the trees which potentially will become diseased.

The Speaker: Mr Karran.

370 **Mr Karran:** Vainstyr Loayreyder, in the costs, will that allow for the replanting of new trees to replace them?

375 Would the Minister maybe consider some sort of campaign to see whether the general public would like to get involved in planting trees, as a way of cost saving as far as your Department is concerned, (*Interjection by Mr Houghton*) so that we end up with a situation where people might decide to plant trees as a memorial or something, to try and ease the cost situation?

The Speaker: Reply, Minister.

The Minister: Gura mie eu, Loayreyder.

380 No, it does not include the cost of replanting. There will be replanting work that is part of our budget that we will be able to undertake but the moneys that we have available to us are to fell all the larch trees in our plantations, the vast majority of which are expected to either be diseased or already are disease. So all we have is a budget to fell those trees.

385 As far as getting the public involved in terms of replanting, yes, of course we would be delighted to involve any volunteers – anyone who is offering free labour or free trees, we would be more than happy to accept that sort of offer.

The Speaker: Final supplementary, Mr Cannan.

390 **Mr Cannan:** Thank you.

Is the Minister able to gauge, in terms of the likely success of this project, that we are going to be successful here in eliminating or controlling this disease successfully by doing all this? And what are the risks that actually this does not work, and we have to extend this project again into the following year and maybe the year after?

395

The Speaker: Mr Gawne.

The Minister: Gura mie eu.

400 The success of eliminating the disease in larch trees is absolutely guaranteed, because we will be eliminating all the larch trees. It is very sad that we have to do that, but that is the only way that we can stop the disease spreading much further into other species, potentially destroying people's gardens but far more significantly, destroying the herbage on the uplands, which would be quite devastating.

**1.5. Glen Wyllin –
Land slippage**

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

Whether his Department is aware of land slippage in Glen Wyllin; and what action is being pursued to deal with this?

405 **The Speaker:** Question 5, Hon. Member for Michael.

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

410 **The Speaker:** Again, the Minister for Environment, Food and Agriculture.

The Minister for Environment, Food and Agriculture (Mr Gawne): Gura mie eu, Loayreyder.
The Department was made aware of a problem with a potential land slippage in Glen Wyllin on the morning of Wednesday, 12th February. Department officers were on site to assess the situation within the hour and also met with a number of residents from the adjacent properties.
415 From a visual inspection, the slippage does not appear to pose a significant risk and is quite likely a result of excessive water run-off. This is no doubt, at least in part, a result of the recent rainfall events, although changes in land drainage can never be ruled out.

420 That same day, contractors were instructed to clear the slumped debris, to clear the drains at the bottom of the slope and an engineer was also instructed to technically assess the slippage and clarify whether or not there are any future risks or risks to property in the area, and whether any form of stabilisation work is required. It is envisaged that the contractor will finish clearing the material this week, having been delayed whilst awaiting delivery of ground protection equipment required as a result of the wet ground conditions and to avoid damaging the camp site.

425 This is one of a number of minor slippages that have occurred in a number of areas across the Isle of Man, not least in the neighbouring Glen Mooar, following the torrential downpours of recent months and it is sadly not a new phenomenon.

430 **The Speaker:** Mr Cannan.

Mr Cannan: Thank you.
Can I ask the Minister... He said an engineer was sent to technically assess that land slippage. Can I ask him what the report of that engineer was specifically?

435 And also, is the Minister and his Department aware there have been a potential number of land slippages in the Glen Wyllin area over the last two or so years, and whether these have been investigated properly.

The Speaker: Reply, sir.

The Minister: Gura mie eu, Loayreyder.

440 Yes, as I mentioned in my previous Answer, I am aware that there have been a number of land slippages in the area and obviously this is a concern to the Department.

I am also aware that these have been investigated in the past.

445 As for the specific report from the engineer, I am not sure that the Department has that as yet, but as soon as I have got that, I would be more than happy to share the information in that with the Hon. Member.

**1.6. Wright's Pit East –
Environmental effects of severe weather and coastal erosion**

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

How the severe weather and the consequential erosion of coastal land in the area of the Point of Ayre has affected the potential exposure of Wright's Pit East and environmental pollution?

The Speaker: Question 6, Hon. Member for Douglas North, Mr Houghton.

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

The Speaker: Minister for Environment, Food and Agriculture, Mr Gawne to reply.

455 **The Minister for Environment, Food and Agriculture (Mr Gawne):** Gura mie ayd, Loayreyder.
The impact of coastal recession rates on Wright's Pit East are considered in section 4.3 to Planning Application No. 95/1572, where it is predicted that site will not become breached within a 100-year timescale. The early January 2014 storm event caused eight metres of erosion, but the subsequent storm events in January and February have had no further negative impact on the stretch of coast immediately adjacent to the former landfill.

460 This stretch has been routinely monitored by staff in the Department of Infrastructure's Waste Management Division since 1997, where the only significant erosion that has been recorded between 1997 and now was the eight metres eroded in January.

465 It is noteworthy that over 60 metres remain from the sea to the landfill site, and whilst the loss of eight metres due to one event is significant, if the overall rate remains similar to that recorded over the past 17 years, there will be no impact in the next 100 years. However, the rate of erosion will continue to be monitored using marker posts that are currently in place and a management strategy devised if monitoring shows the need for greater concern.

470 The impact of the landfill deposit on the local environment is also the subject of environmental monitoring and no significant adverse impacts on the environment have thus far been recorded.

The Speaker: Supplementary, Mr Houghton.

475 **Mr Houghton:** I thank the Hon. Member for his Answer, sir.

**Procedural –
Questions 7 and 8 deferred to 25th March**

The Speaker: Hon. Members, Questions 7 and 8 have been deferred to the sitting on 25th March.

WATER AND SEWERAGE AUTHORITY

**1.9. Sewerage charge –
Collection costs 2014-15**

The Hon. Member for Douglas West (Mr Thomas) to ask the Chairman of the Water and Sewerage Authority:

What the estimated cost is of collecting the 2014-15 sewerage charge, including the cost of collating and considering the contrary evidence mentioned in Sewerage Charge Order 2014 section 3(4); and what risks are being managed in respect of this collection?

480 **The Speaker:** We turn to Question 9, and I call the Hon. Member for Douglas West, Mr Thomas.

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

485

The Speaker: I call on the Chairman of the Water and Sewerage Authority, Mr Houghton.

The Chairman of the Water and Sewerage Authority (Mr Houghton): Mr Speaker, I would like to thank the Hon. Member for his Question today.

490

There will be some upfront work associated with the implementation of the sewerage charge to identify eligible properties and then to make the required changes to the Treasury's computer billing programme for water rates and charges. There will be no additional costs in the billing process, as the charge is being incorporated in the Treasury water rates demand and is fully undertaken by staff within the Authority and the Treasury.

495

Mr Speaker, on the point of any contrary evidence relating to eligibility for this charge, the Authority staff has undertaken extensive work to identify these properties which are eligible to be charged, those being which are connected to a public sewer system, and just as importantly, to determine the properties which are not charged by virtue of the fact that they are not connected to the public sewage infrastructure system. Again, this work has been undertaken by officers of the Authority and no additional external costs have been incurred.

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The sewage infrastructure system removes waste water arising from a variety of household sources, as well as the water closet, these including washing machines, dishwashers, sinks, showers and baths, together with surface water from roof drainage. The water from toilets is therefore only a small percentage of the total volume of sewage disposed to sewer.

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Mr Speaker, I would wish to assure the Hon. Member that the exercise in attempting to correctly identified those properties which are subject to the sewerage charge has been thoroughly undertaken by the Authority staff. However, when reviewing over 50,000 properties, there will inevitably be some errors and I would ask anyone receiving a sewerage charge on their rate demand who believes that their property is not connected to the public sewer system to contact the Authority's customer services section who will investigate the matter.

510

Thank you.

The Speaker: Mr Thomas, supplementary.

515 **Mr Thomas:** Thank you very much, Mr Speaker, and to the Minister for that comprehensive reply –

The Chairman: Oh, thank you! (*Laughter and interjections*)

520 **Mr Thomas:** – to the Chairman for that comprehensive reply, including an admission that there had already been extensive work and that there will be extensive ongoing administration going forward in respect of errors, perhaps, as people get charged wrongly.

525 My specific question for the Chairman is about resources for other people outside WASA and the Treasury: to what extent are local authorities going to have to incur expenditure in processing this; to what extent are private people who are landlords or even the tenants of those landlords; and to what extent has an assessment been made by WASA or the Treasury of the extra costs incurred by others? And is there really time before 1st April for those other people to carry out the work needed?

530 **The Speaker:** Chairman to reply.

The Chairman: Thank you, Mr Speaker.

535 In answer to the Hon. Member's question, there will be little or no cost to any of those landlords or indeed the local authorities, because this charge is levied against the water rates, and as the general extension of the rates goes up – the general rates go up in cost each year – that will therefore be applied retrospectively.

The Speaker: Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

540 Can I ask the Chairman two questions? First of all, when he says extensive work has been done by officers in Treasury and also in WASA to iron out any potential crinkles in the system, when did this extensive work begin? Are we talking about months ago here – bearing in mind that Tynwald have only recently approved it – or are we talking about work that has just been done since the sitting of Tynwald?

545 And my second supplementary, Mr Speaker: when he says there is no cost to the local authorities, surely he is aware that local authorities have already set their rate for the forthcoming year? Where does he expect that they are going to find the additional cost that he is going to impose upon them?

550 **The Speaker:** Chairman to reply.

The Chairman: Thank you, Mr Speaker.

555 In answer to the works that have been carried out, from my understanding, the work has obviously only been carried out since the vote in Tynwald, because obviously if the vote did not go through, the work would not have been required to be done, from what I see. And of course, it is from identifying the properties which are not connected to the sewers who will not get the charge, as I have already explained.

560 In relation to local authorities who have set their rates, the sewerage charge goes on the general water rate, not the rates charged belonging to local authorities. So I do not think the meaning of the question applies in this case, Mr Speaker.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

565 Can I ask the Chairman about a couple of risks? The first risk is that this is quite a complicated legal situation, and there is a new section 11A which just came in on 30th January about the recovery of unpaid sewerage charges. Can the Chairman advise the interest rate that will be charged on people who owe money and what risks there are that the amount raised will be taken away by all the costs of chasing up and fixing these errors?

570 Second question is about data protection and evidence to the contrary: have all the data protection issues of transferring data been fully considered and are there any risks of extra expense and extra delay in this process of gathering accurate information about 50,000 cases?

The Speaker: Mr Houghton.

575

The Chairman: Thank you, Mr Speaker.

I know not of any unpaid sewerage charges that the Member is going on about, because this is the first year that the sewerage charge will in fact be implemented. So I know not about that, or any complicated situation.

580 If people do not pay their rate bill, and their rate bill is connected obviously with their water rates and the sewerage charge, they will be treated in exactly the same in which they have been in the past.

In respect of data protection, all I can do with the Hon. Member is refer him to the usual Government process on dealing with data protection matters, which of course falls in line very much with the way that rates and rating charges are administered and have been since Adam was a lad, Mr Speaker.

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

590 **Mr Karran:** Vainstyr Loayreyder, would the Caairliagh just clarify the fact that he says that there has been no planning done as far as this policy, as far as the toilet tax is concerned, before the approval of Tynwald? Does he honestly think that that *can* be the case, because surely would he not agree that it would show then that it had been very poorly thought out?

595 Secondly, would the Caairliagh inform this House, how do the people who put out rates demands and the likes of that, and have budgets, actually come along and find the money that is going to have to be charged for the toilet tax, because there will be a number of public buildings, like local authorities –they will have to find it from somewhere?

The Speaker: Mr Houghton to reply.

600

The Chairman: Thank you, Mr Speaker.

In order to try and answer the Hon. Member's question about no planning done, I can only reiterate the best of my knowledge and give the answers as best I can on the floor of this Hon. House. My understanding is exactly as I have expressed it this morning.

605 The Hon. Member mentioned where he has concerns about local authorities or other people paying for the sewerage charge. He must remember that we have said this time and time again, that this is a flat rate charge. This would be the lowest charge that would be applied to anyone. It is indeed added to the general water rate, on the general rates, not the local authority rates, which are separate rates of course. I know, Mr Speaker, that obviously in some parts of the Island, the Treasury collects local authority rates as well. They all just appear on the one bill, or whatever the arrangement exists for that.

610

So how that matters is that the charge is simply applied to the rate and of course is subject to discount if paid by the end of June.

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

Mrs Beecroft: Thank you, Mr Speaker.

Just some clarification from the Chairman I would be very grateful for, particularly in relation to local authorities that have housing, because my understanding is that they collect the rates along with the rent. It is all in one sum, but the rents have already been set. My understanding
620 also is that the local authorities actually pay the rates over at the right time to get the discount, and then continue to collect it throughout the year.

So my first question is: is it actually legal for the local authorities to impose this sewerage charge on the tenants? Are they legally allowed to do that?

And secondly, are the tenants legally allowed to say, 'We're not paying it', the same as other
625 people have intimated that they are not going to be prepared to pay it? In a case where the tenants would not pay, is that not disadvantaging the local authorities?

The legal aspects of all of this are a little bit blurred, and there is quite a bit of ramification in it. I wonder if the Chairman could just clarify the whole legal aspect from a local authority point of view that has housing?

630 Thank you.

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

635 Dealing with the Hon. Member's last point first, if I may, in respect of whether it is lawful or otherwise, I can only ask the Hon. Member to consider whether an Order brought before the Hon. Court of Tynwald and approved in Tynwald is lawful or otherwise. I will leave that for the Hon. Member to make her own mind up on that point.

In respect of local authorities and whether they have set their rent – which no doubt, of
640 course, they have – as everybody knows, local authority rents and the amount that a tenant pays within their local authority rent includes their rent and their rates, and of course, that has now been set. They have to await the amount of rates – that is, the local authority rates, as we know; the rent that is set by the Department of Social Care; and the water rate, which of course increased this year by a tad over 3%; and then the sewerage charge. It is all added up,
645 apportioned and then divided by 50, because there are 50 weeks in a local authority year, as far as rent is being paid.

So it is simply done on that particular basis, which means that the sewerage charge will amount to being £1 more on their weekly rental payment, which of course includes rent and rates inclusive, as the Hon. Member knows.

650 I can only say, it is good business for the local authorities, if they have sufficient cashflow. A matter that I understand – and I only understand, because this is not a matter within the scope of this Question – is the way that local authorities claim the discount on the payment of all their rates, if paid to the Treasury by the end of June, and have the cashflow and the financial means in order to offset that money against the rents chargeable week on week.

655 **The Speaker:** Mr Thomas.

Mr Thomas: Thank you, Mr Speaker

660 First question to the Chairman is about his previous answer in terms of local authorities: can the Chairman confirm that all local authorities treat rent and rates in the same way and if not, will they have to go forward, given the answer he has just given?

Secondly, at the heart of the Sewerage Order is the phrase that it is payable by 'either the owner or the occupier' and that phrase is surrounded by another one which says it 'is presumed to be a person for whose benefits are provided' and 'in the absence of any evidence to the
665 contrary', which makes the 'or' even more vague.

So can the Chairman advise whether it is the owner or the occupier that has to pay this charge?

The Speaker: Mr Houghton.

670 **The Chairman:** Mr Speaker, I can only answer these questions out of good experience, because it is way beyond the scope of the Question, and I think the Hon. Member does know the answer to this. (*Interjection by Mrs Cannell*)

In the case of local authorities, as we have said, the amount of money that a tenant pays each week is inclusive of the apportionment of rent and rates, as I have made quite clear. Where
675 of course he correctly states, the owner or occupier must pay the rates, that is the local authority rate and the water and sewerage charge, as applied.

In the case of landlords, some landlords charge a rent to their tenant inclusive and others exclusive of the rates. That is the reason why this is set out in the way that it actually is.

I cannot really be any clearer than that, Mr Speaker.

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The Speaker: I just want to point out that that supplementary question was entirely within the scope of the original Question. (**Mrs Cannell:** Hear, hear.)

Mr Karran.

685 **Mr Karran:** Vainstyr Loayreyder, would the Caairliagh not agree that the fact is that because of the timing of this, it will mean that because the agreements as far as local authority housing rents have gone up and been recognised, they will have to find a pound from every rent of a local authority area, so that will have to be subsidised by Government deficiency? Is that not the case?

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The Chairman: Mr Speaker, that is absolutely not the case, the way I understand it.

And if you feel that I am not scoping these... or you are stating that the scope of the previous question was incorrect, I do apologise, but we are dealing with issues to do with the charging of rates, etc, and what I am actually espousing this morning is I am answering the issue to do with
695 the sewerage charge and how that will be administered, Mr Speaker.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

700 It is disappointing really, Mr Speaker, that the Chairman has not sufficiently briefed this morning to answer the questions being posed.

Can I ask him what will happen if an individual – not a local authority tenant but an individual – a private person who lives in a property receives their rates bill, and on the rates bill is the standing charge, itemised separately as indicated by the Chairman in the last sitting of this hon.
705 place, as it will be, and they decide to pay their rates bill, but not the £50 standing charge? What will happen in the event of that, because one cannot prosecute the person for non-payment of rate, surely, when they have paid their rates?

And secondly, does he not feel that because of his inadequacy to answer perfectly good questions this morning, that the very least he should do is to arrange a presentation for Hon.
710 Members, where all the officers and technicians involved with this charge going forward can give advice and answer questions to Hon. Members?

The Speaker: Chairman to reply.

715

The Chairman: Thank you, Mr Speaker.

The last point first: if the Hon. Member does not understand how –

Mrs Cannell: It is *you* – you don't understand.

720 **The Chairman:** – someone should have a sewerage charge applied to the rates and how they must pay it, and how they cannot... how in some cases if they do not wish to pay it, if they do not wish to pay it, that is a civil matter between the Treasury, who collect these moneys on behalf of the Water and Sewerage Authority – and the Hon. Member knows the answer to that.

725 And also, she has been in these relative Departments to know and understand those points, and if she does not, well, I am quite surprised.

And she says that I am not sufficiently briefed to answer these questions today: if I have not given as full answer, Mr Speaker, to the questions in the best ability that I have, well, I would have to apologise to this Hon. House.

730 **Mr Anderson:** It was very good, John. (*Interjection by Mrs Cannell*)

The Speaker: We now have two more supplementary questions, and then we will move on. Firstly, Mr Ronan.

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

Can the Chairman confirm that properties without a sewerage connection will not be charged the new sewerage charge?

The Speaker: Chairman.

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The Chairman: Yes, I have made that abundantly clear, Mr Speaker, and I will make it clear once again. (*Laughter*)

745 Properties which are not connected to sewerage will not pay. Those who have septic tanks will only pay after 1st April – if they book an empty after 1st April, they will only pay per empty, currently at £50 per the emptying of the septic tank.

A lot of people who have their tanks emptied once every 10 years will only pay one single empty, with nothing charged on the rate bill, for the time that they get that tank emptied, Mr Speaker.

750 This is simply a sewerage charge that is added on to the water rates bill for payment by those properties connected to a public sewer.

The Speaker: Final supplementary, Mr Thomas.

755 **Mr Thomas:** Thank you, Mr Speaker and to the Chairman for giving the information he can today.

On that line, as the Chairman has not been able to provide the estimated cost of collecting or collating and considering the contrary evidence in this Oral Question and Answer, can he undertake to provide it afterwards?

760 More specifically, can the Chairman advise, with hindsight, whether it was completely correct to say that there were no additional resources required in respect of the sewerage charge, because today we have actually identified quite a lot of additional charges to be borne by his Department, by the Treasury, by local authorities and by private people who need to manage their contracts and manage their own household expenditure?

765 **The Speaker:** Mr Houghton to reply.

The Chairman: Thank you, Mr Speaker.

770 The cost of the collection, of course there are set-up costs. There are set-up costs in collecting anything, (*Interjection*) amending or doing anything. The setting-up and making absolutely sure, as best possible, that people are not charged the sewerage charge who are not entitled to be charged for it. That is quite obvious.

But after that, the amount will just appear on the appropriate people's rates bills. There is no additional cost, other than the set-up cost – and if he really wants me to find out, I will do. If he wants me to find out, perhaps he will come with me to the Rates Office of the Treasury, perhaps tomorrow –

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Mrs Cannell: That is the question for you.

The Chairman: – and we will both go and ask, (**A Member:** Tut-tut!) just so that the Hon. Member can be assured of how much it costs.

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It is *highly* irrelevant, Mr Speaker – highly irrelevant to the Question. (*Laughter and interjections*)

Mrs Cannell: Shameful!

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Mrs Beecroft: Dear me!

1.10. Sewerage Act 1999 – Consultation on policy decisions

The Hon. Member for Douglas West (Mr Thomas) to ask the Chairman of the Water and Sewerage Authority:

What the statutory obligation to consult (a) is currently; and (b) was originally in the Sewerage Act 1999; and why the Council of Ministers endorsed best practice guidance to consult when considering major policy decisions was ignored in respect of the levying of a sewerage charge in 2014-15?

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

790

Mr Thomas: Thank you, Mr Speaker.

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

Mrs Cannell: You'll be lucky to get an answer!

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The Speaker: Chairman of the Water and Sewerage Authority, Mr Houghton.

The Chairman of the Water and Sewerage Authority (Mr Houghton): Thank you, Mr Speaker.

Mr Speaker, in answer to parts (1) and (2) of the Hon. Member's Question, there are two sections of the Sewerage Act 1999 that refer to consultation in relation to orders.

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Under section 43(2)(a), the Authority shall not make an order prescribing different communication fees in respect of sewers in different areas without the consent of the Department of Infrastructure.

Similarly, under subsection (2)(b) the DOI consent is needed for the Authority to make an order apportioning costs in respect of persons requiring the Authority to provide a public sewer.

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In both cases, Mr Speaker, under subsection (3)(b), the Department of Infrastructure must in turn consult every local authority whose district appears to it to be affected by the proposed order before it gives or refuses its consent under subsection (2).

Section 45(2) provides a mechanism for the Authority to appoint by order a day or days on which the Sewerage Act comes into operation. An order may be made under subsection (2) after

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consultation with the Department of Infrastructure and such local authorities, if any , as appear to the Sewerage Authority to be concerned.

In addition, there is a requirement for the Authority to consult with the parties named in the Sewerage Act before exercising its powers, granting consent, giving a notice or entering into an agreement under four sections of the Act, namely: section 2(6); section 18(5); section 20(5); and section 24(4).

The Act also requires the Department of Infrastructure to consult with DEFA before making a decision under the circumstances described in section 33(1), and the Department of Infrastructure and DEFA are required to consult before exercising powers under section 37(1) of the Act.

Mr Speaker, there has been no change to these requirements to consult.

A new section 11 referring to sewerage charges was substituted in the Sewerage Act 1999 by section 92 of the Flood Risk Management Act 2013. Section 92 was commenced by an order made under section 2(1) of the Flood Risk Management Act 2013. Therefore, section 11 of the Sewerage Act 1999, as substituted by the 2013 Act, came into operation without the need for an order under section 45(2) of the 1999 Act.

A Member: Right.

Mr Anderson: That's pretty clear. (*Interjections*)

The Speaker: Mr Thomas, supplementary.

Mr Thomas: Thank you, Mr Speaker and to the Chairman for that exposition of the law. Did WASA, its board and its Chairman seek advice about how whether it should consult local authorities and even if it did not seek advice, what was its opinion about that?

The second question for the Chairman, please, Mr Speaker, was this one: about why the trade effluent charge is subject to consultation with businesses but the sewerage charge was not subject to consultation with businesses and individuals affected?

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

Mr Speaker, this Hon. House was told at the time when the Flood Risk Management Bill was going in here., it was warned then that there was a sewerage charge working its way in the wings.

As far as trade effluents are concerned – and it is a much more obviously detailed question, and I am quite willing to answer the Hon. Member's question, because this is a *major* issue, Mr Speaker – as against a sewerage charge, where there is just one single charge being levied in respect of all properties, which is the flat-rate charge which has been explained to this Hon. House, in cases of the trade effluent charge, there has to be much more consultation, in-depth consultation and a greater survey being undertaken in order to achieve that, Mr Speaker, because in the cases of trade effluent, a proper detailed survey needs to be undertaken for that, because if and when those charges are going to be applied in respect of trade effluent – and it will be quite some time in the future – that will have to be on the amount of trade effluent each business provides or produces in its working day.

I hope that answers the Hon. Member in that case, because obviously, the difference between one – the sewerage charge – and the trade effluent charge are quite... It is a magnanimous issue, Mr Speaker. It has to be correctly done, rather than just levying a charge, as we have done in the case of the sewerage charge.

I hope the Hon. Member accepts that answer.

The Speaker: Mrs Beecroft.

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

Given that the Chairman has previously stated that the sewerage charge is actually unfair, would he not agree that had he gone out to consultation on this issue, a more equitable way may have been found?

870 **The Speaker:** Chairman to reply.

The Chairman: Thank you, Mr Speaker.

875 What I am stating, and I think others as well as I stated, about the sewerage charge, it was the mechanism that was unfair. I stand by what I say on that. We have to bring the sewerage charge in because of our reducing budgets coming from the Treasury.

The mechanism, because we were bringing in a flat rate, that was the purpose for bringing just a single £50 charge at the flat rate. The appropriateness of that charge, if and when it is increased in the future, needs to have much more integrity attached to it as to the fairness of the charge. But this particular charge here, Mr Speaker is a flat-rate charge.

880 So what I am trying to say is that nobody would be paying any less than £50 –

Mrs Cannell: We know this. *(Interjections by Mrs Beecroft and Mrs Cannell)*

885 **The Chairman:** – and of course, when it does go up, that is when a fair system needs to be adopted.

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

890 Would the Chairman agree that if the WASA had fought their corner harder and brought in, or intended to bring in, this charge in 2015, as opposed to *this* year, that would have enabled his Authority to actually go out and consult with the people, or at least advise them that it was coming?

895 And my second supplementary, Mr Speaker, is: the question talks about major policy decisions being made by this Government and what best practice is, in terms of consulting with the public. He has failed to address the part of the question. Will he please, and does he agree with me that when a major policy decision is being considered, one ought to consult with the public, or at least advise them it is coming *well* in advance?

900 **The Speaker:** Chairman to reply.

The Chairman: Thank you, Mr Speaker.

905 In the case of the Hon. Member stating that if in 2015, WASA fighting its corner and bringing it in in 2015, I can only advise the Hon. Member that had the Council of Ministers not instructed for this charge to be brought in in 2014, and it was left to 2015, then the charge is very likely to have been much greater.

910 Yes, if there was more time given to this, then a fairer charge would have been brought in, but it would have been a greater charge, as far as the actual general charge is concerned, than what is being applied now. And that is where the fairness has overtaken the time it has taken to bring this in, is actually being implemented.

In respect of consulting with the public on this, the whole issue as far as the receipt of the instructions from the Council of Ministers in order to do this, and the timing of my speech in Tynwald in January, to get word through to the public just as soon as possible in order to be fair – because you have to remember the charge will only be brought in in April; it is not in yet, it is

915 only going to be brought in in April this year – is the best that I could have possibly done in the time I have had to do it, Mr Speaker.

The Speaker: Mr Thomas.

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

Can the Chairman of WASA advise whether WASA received information, or even advice from the Council of Ministers that this was not a major policy decision? To me, it is a major policy decision and I want the Chairman to comment, because what we are doing here is removing paying for something from taxation to a system of charging on a user pays basis or another pays basis, 925 and I am surprised the Council of Ministers would not think that was a major policy decision.

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

930 The policy was a major policy decision and it is a major effect that has my sympathy with everybody who has to pay it.

But it was such a major policy decision that of course, the Minister for the Treasury announced it in his Budget of the Treasury's intention to reduce the Authority's budget for doing it.

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Mrs Cannell: That was only in February – it was only this year.

The Chairman: So therefore, other than that, I would have to ask the Hon. Member for West Douglas to redirect his question to higher places.

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

Mr Hall: Thank you, Mr Speaker.

945 Given that this sewerage charge is a user charge, does the Chairman of the Water and Sewerage Authority not believe, and does he not regret that this charge should have been... sorry, I correct myself – that the charge should be considered in a public consultation by following the OECD guidelines on user charges, which clearly set state and recommend the need for user consultations – a matter which I did include in my speech in the Tynwald debate?

950 **The Speaker:** Chairman to reply.

The Chairman: Thank you, Mr Speaker.

955 And that – the Hon. Member's point, which is very valid, I have to say – is what will have to be applied when a fairer and more equitable charging structure is brought in in the future by the Utilities Authority. That is the only thing that I can say. The Hon. Member's point is valid.

Yes, everything has to be done in this way. Word has gone out as best as we could, as I have stated, by applying this on a flat-rate basis, as has been explained, but yes, the public consultation is inevitable and is important in order for the public to fully understand the charging process and mechanisms going forward.

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The Speaker: Mr Karran.

965 **Mr Karran:** Vainstyr Loayreyder, how does the Chairman reconcile the fact that he talks about playing fair, when he is dealing differently with different parts of the community? So you get consultation if you are in the business community but if you are the general public, you get no consultation.

How does the Caairliagh, the Chairman explain the situation that if he says, 'If we didn't bring it in this year, it would be brought in much dearer next year', allowing for the fact that we have already been told it is going to go up to £100 next year?

970 How does the Chairman reconcile the fact that whilst business needs all the help it can get, and they find it difficult, there is an awful lot of people out there in the general public who are finding it very difficult at the moment to the meet ends, as far as this is concerned?

975 Does he not feel that the fact is that what his prepared speech is, as far as the Question is concerned, does not reflect the reality that this is not fair, it has not been well thought out, and it is yet a knee-jerk reaction to create a panic tax for bad governance in the past?

The Speaker: We are having a lot of comment attached to questions, which is not helpful. Mr Houghton to reply.

980 **The Chairman:** Thank you, Mr Speaker.

I agree with the Hon. Member, and the fact that of course I hate – I have said this many times and I do not think there is any Hon. Member in this House likes – seeing additional charges made against our people and I support him on that 100%. It has been fully explained the reasons why it is being brought in and how, and I have done it time and time again this morning, to the best
985 of my ability.

In respect of the consultation with the business community, it is not a case of 'Oh well, we treat business communities different than we treat the public.' This is a trade effluent consenting and charging survey that is required of those businesses that produce trade effluent. (A Member: Waste.) That is the difference and that is the only way I can emphasise the
990 importance that we cannot charge businesses willy-nilly without providing the appropriate surveys on the amount of trade effluent that is discharged from those relevant businesses to the sewers.

The Speaker: Mrs Cannell.

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Mrs Cannell: Thank you, Mr Speaker.

I wonder if the Chairman could clarify something for the House. Before, he said that the Authority was instructed by the Council of Ministers to bring in the charge this year as opposed to next year, which was when the Authority was anticipating bringing in the charge. What does
1000 he mean by 'instructed'? Does he mean that the Council of Ministers issued a directive to his Authority? Because that is the only power the Council of Ministers has, to impose something like this on an Authority. And if it was a directive, why does he not just be open and honest about it and tell the public in fact that he was directed, rather than instructed?

1005 'Instructed' and 'directed' are two different things. There is only a power for direction. Was he directed?

The Speaker: Mr Houghton.

The Chairman: Thank you, Mr Speaker.

1010 As the Hon. Member understands – or I hope she understands – the operation of the Council of Ministers, they decide on what happens in Departments, how much is charged, what the finance is through the Treasury and everything. The Hon. Member must understand that.

And of course, Statutory Boards of Tynwald, such as the Water and Sewerage Authority, to which she was the Chair of the Water Authority herself sometime in the past –
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Mrs Cannell: Yes, absolutely, and I know –

1020 **The Chairman:** She had, as Chairman of her Board – because she is only Chairman of the Board, just like I am only the Chairman of the Water and Sewerage Authority – we are not dictators in those Statutory Boards; we work with the Boards. The Boards put their recommendations, by the form of information papers to the Council of Ministers for approval. The Council of Ministers make their recommendations back to those Statutory Boards of Tynwald.

1025 The Hon. Member understands that process, Mr Speaker, and that process has been followed very much in the same way as it always has done in the past.

The Speaker: Mrs Beecroft.

1030 **Mrs Beecroft:** Thank you, Mr Speaker.

Given that the Chairman has acknowledged that this is a major change in policy and it has obviously also gone against the best practice and guidance with regard to consultation, and it is at the direction or recommendation or whatever other word you want to use with the Council of Ministers, I wonder if the Chairman could clarify what avenues are open to Chairmen, and in his particular case, him as Chairman, to disagree with the Council of Ministers and say, ‘Well, I can’t do this because it goes against best practice. You’ll have to come back with another recommendation’? What avenues are available to Chairmen, Mr Speaker?

The Speaker: Chairman to reply.

1040 **The Chairman:** Thank you, you Mr Speaker.

As the Hon. Member will understand, the avenues are open first, but the Chairman must do what the Board has agreed to do. In this case, obviously – and it would never have, and never would in the future with the Utilities Authority – would not do anything, would not be able in fact by law to do anything, without the consent of the Council of Ministers.

1045 So this is not a wild idea that has come from the Water and Sewerage Authority. This has been in full consultation with the lead from the Council of Ministers, which happens in any policy anywhere.

Of course, as the Hon. Member asks, what avenues are open to the Chairman, the Chairman first, only with the consent of his Board – not on his own, but along with the consent and support of his Board – can appear in front of the Council of Ministers. And the Chairman of the Water and Sewerage Authority with members of his Board have appeared in front of the Council of Ministers on other matters on many occasions, in order to put our viewpoint from the coalface, as it were, forward for their consideration.

1055 **The Speaker:** Now, Hon. Members, we have run past our allotted time. (**A Member:** Hear, hear.) but I will allow a short supplementary from Mrs Cannell, and a final short supplementary from Mr Thomas.

Mrs Cannell.

1060 **Mrs Cannell:** Thank you, Mr Speaker.

I just want to ask the Chairman, is he not aware that when a Board decision is made to do something in a particular year, and the Council of Ministers say ‘No, we want you to do it this year’ that the Board can refuse, and they have the power to do that? It has been done before. There is precedence set for it and what follows are face-to-face meetings, would he agree, and the Council of Ministers then, in that situation, have to issue a directive to the Board? Then the Board has to carry out with the directive, but if he is not aware of that, then it suggests that he did not fight his corner hard enough.

Mr Quirk: Shame!

1070 **The Speaker:** Chairman to reply.

The Chairman: Thank you, Mr Speaker

Without the Hon. Member pre-empting in front of the audience this morning with her points on this particular Board, I am fully aware of all of those, as indeed she is, as indeed everyone else in this Hon. House is.

Mrs Cannell: So why didn't you do it?

The Chairman: What she has asked is absolutely correct. That is what happens and the Board can be directed by the Council of Ministers in law, if required.

Mrs Cannell: So why didn't you get a direction?

The Speaker: Last supplementary, Mr Thomas.

1085 **Mr Thomas:** Thank you, Mr Speaker.

Does the Chairman of the Water and Sewerage Authority share my surprise to learn, just now in the Written Answers that we have received, that the amount of this sewerage charge which will go in and out of Government through the benefit system is not actually known at this stage, so therefore the Government might not actually be making this £2 million that we desperately need?

The Speaker: Reply, sir.

1095 **The Chairman:** Thank you, Mr Speaker.

The Hon. Member is aware, of course, that it was always said – it was said by me, it was said by the Treasury Minister, it was said by the Chief Minister – that those people who are in the poorest sector of the Isle of Man, who I have *very much* the deepest sympathy for, have the ability to claim increased benefit once the Department of Social Care has got its ducks in a row, as far as the costings are concerned to do that.

1100 That is how this system has always operated in order for people to be able to continue to live. Surely to goodness, the Hon. Member for West Douglas would join me in supporting that particular issue – *surely* he would. (**Mr Thomas:** Hear, hear.) Surely to goodness, Mr Speaker, the Member for West Douglas does not want the Department for Social Care to withdraw that function.

1105 **The Speaker:** Hon. Members, we have concluded Questions for Oral Answer. The Questions for Written Answer have been distributed.

2. Questions for Written Answer

ENVIRONMENT, FOOD AND AGRICULTURE

1.3. Local agricultural industry role in protecting the environment – Policy to recognise importance

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

When he will establish a policy to recognise the importance of the local agricultural industry in protecting the environment, and bring forward a proposal to ensure that recognition of this is reflected within Government's purchasing policy?

1110 **Answer:** The importance of agriculture in maintaining the landscape and wildlife of the Manx countryside has already been recognised through the implementation of the Countryside Care Scheme. In this Scheme, farmers are paid for adhering to a set of rules that recognise the cost of actively managing the countryside in a positive way, whilst maintaining its productive potential.

1115 With regard to the Government's food purchasing policy, in addition to acknowledging the key role that agriculture plays in protecting the environment, the Department recognises the importance of local food production in delivering 'Food Security' for the Isle of Man and is in the process of developing a Food Security Strategy. Key to this Strategy is recognition of the importance of developing robust supply chains through thriving food businesses to ensure that producers and processors continue to supply quality local food.

1120 The Food Security Strategy also recognises that Government must set an example by supporting local businesses and my Department continues to work with other Departments to agree a new Government Food Procurement Policy. Acknowledging that under EU rules we are constrained in our ability to give preference to Manx produce, the procurement policy concentrates on sustainability and quality rather than provenance. However, we are confident
1125 that where a local alternative exists, it can deliver on these aspects. Despite these additional considerations in the procurement process, it must be noted that price will remain the most significant factor.

1130 Details of both the Food Security Strategy and the Food Procurement Policy are currently being finalised in the Department and will be considered by Council of Ministers as soon as is practical.

CHIEF MINISTER

2.1. United Nations Conventions on Rights of the Child and Rights of Persons with Disabilities – Government commitment

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

Whether his Government is committed to the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities?

Answer: The United Kingdom's ratification of the United Nations Convention on the Rights of the Child was extended to the Isle of Man at the request of the Isle of Man Government in 1994.

Since that time the Council of Ministers has not considered any possibility of seeking to have the application to the Island of this Convention withdrawn and there is no intention to do so.

1135 The United Kingdom ratified the United Nations Convention on the Rights of Persons with Disabilities in 2009, but its ratification has not been extended to the Isle of Man (or to Jersey or Guernsey or any of the British Overseas Territories). The Council of Ministers has not considered the extension of this Convention to the Isle of Man as it is clear that at present the Island's legislation does not comply with significant requirements of the Convention. When the UK's
1140 ratification of an international treaty has been extended to the Island, the Isle of Man Government is responsible for compliance domestically, but the UK, as the State Party, remains responsible to the treaty body for compliance. Therefore, the UK will not agree to extend its ratification until an adequate level of compliance can be demonstrated.

1145 The Equality Bill, which is currently being drafted and which will be issued for public consultation in the coming months should, if passed by the Branches in due course, bring the Island's legislation into a position where proper consideration can be given to the possible extension of the UN Convention on the Rights of Persons with Disabilities to the Isle of Man.

2.2. Charging for sewerage treatment and infrastructure – Responsibility for means testing

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

Who is responsible for working on means testing the charging for sewerage treatment and infrastructure; and what schedule and budget have been established for this work?

Answer: Responsibility for determining means testing of people to pay the sewerage charge will be vested with the Treasury which will assume responsibility for the Social Security Division
1150 from 1st April 2014.

This, though, is not a straightforward matter and it would be premature to speculate or comment on how the burden of the charge may be mitigated to afford relief to the more vulnerable in our society.

TREASURY

2.3. UK Financial Conduct Authority – Statement, findings on buying annuities

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

What impact the recent findings by the UK Financial Conduct Authority on buying annuities will have; and if he will make a statement?

Answer: The UK Financial Conduct Authority (FCA) has announced that it is undertaking a
1155 review of the UK annuity market. It follows findings from a supervisory review which determined that the UK annuity market is not serving consumers well. This is particularly relevant as consumers are generally required to purchase an annuity upon retirement, and they have been shown not to be comparing different providers' returns to obtain the best yield. By frequently staying with the company through which they built up their savings with no ability later to
1160 change, they may be depriving themselves of valuable higher premium income.

1165 The FCA has announced that it is launching a Competition Market Study later to make recommendations. The study will also look at how pension provider sales teams conduct themselves when selling annuities to existing customers, as well as how retention teams who try and keep existing customers operate. Further information is expected to be released during the summer, but the full review could take up to a year. Some consumer groups in the UK are pressing for earlier action before completion of the review.

The principal areas to be addressed are:

- 1170 • The number of people who stay with the companies with which they saved, and do not shop around to look for better yields
- Poor annuity rates offered by a number of providers, which are not subject to effective competition
- Distribution of annuities, and the quality of comparative and other advice provided by brokers, and
- Fees charged.

1175 At this early stage it is difficult to know what will be the FCA's recommendations and what effect these may have on the annuity market. However what seems clear is that a shake-up of the sector is under way to make sure that consumers get a fairer, and hopefully improved, deal. It is difficult to know how this will impact on the Island, but if the trend is towards a more transparent, competitive and efficient market place then this will benefit consumers here.

1180 I understand that the Financial Supervision Commission and the Insurance and Pensions Authority will wait for further details from the FCA review before deciding on further action locally in relation to the sale and provision of such products. On this basis and given the early stage of review work it would seem premature for me to say anything else at present.

2.4. FSC licences– Number granted since 1st September 2011

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

How many licences have been granted by the FSC since 1st September 2011 in respect of:

- (a) Banking;*
- (b) CSP/TSP Companies;*
- (c) Investment Companies; and*
- (d) other activities?*

1185

Answer: In answer to the above Question, the following figures are relevant:

- | | |
|---------------------------|----|
| (a) Banking | 0 |
| (b) CSP / TSP companies | 11 |
| (c) Investment business | 4 |
| 1190 (d) Other activities | 8 |

For clarification, it is important to note that a single entity can have a licence to undertake multiple activities, so this can affect overall numbers.

2.5. FSC licences – Number revoked or not renewed since 1st September 2011

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

How many FSC Licences have been revoked or not renewed since 1st September 2011 in respect of:

- (a) Banking;*
- (b) CSP/TSP Companies;*
- (c) Investment Companies; and*
- (d) other activities?*

1195 **Answer:** In answer to the above questions the following figures are relevant:

	(a) Banking	6
	(b) CSP / TSP companies	17
	(c) Investment business	7
1200	(d) Other activities	14

1205 It should be noted that part of the reason for the reduction in licence numbers is due to a consolidation or re-arrangement of businesses. In a number of cases client relationships have, as a result been transferred to other Isle of Man entities. However there have also been withdrawals (e.g. Irish banks) and cessation of activities (e.g. funds).

It is important to note that a single entity can have a licence to undertake multiple activities, so this can affect overall numbers.

2.6. Treasury grant to FSC – Purpose

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

For what purpose the Treasury is making a grant of £1,851,362 to the Financial Supervision Commission in 2014-15; and whether this grant will be reduced in coming years?

1210

Answer: Prior to the Government re-organisation which took effect from April 2010, the location of the Companies Registry in the Financial Supervision Commission (FSC) meant that the FSC showed a surplus of receipts over payments and as such did not require any Government subvention. The movement of Companies Registry to the Department of Economic Development resulted in the loss of associated income and left the FSC with a budgetary deficit.

1215

The Government grant administered through the Treasury is the public service subvention that the FSC receives to properly conduct its affairs and achieve its statutory obligations as an independent regulator.

1220 Set out in the table below are relative figures relating to the amount of subvention provided to the FSC since 2010-11 and which show a reduction in the annual grant payment:

Year	Subvention (£) (as per Budget figures)
2010-11	2,265,726
2011-12	2,207,240
2012-13	1,897,539
2013-14	1,867,000
2014-15	1,851,362

In conjunction with the review of all Government services the costs of the FSC will be subject to Budget scrutiny and the appropriate resource allocation determined accordingly.

ECONOMIC DEVELOPMENT

**2.7. Loans, grants or general support –
Amount paid to businesses**

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

1225

How much money was paid to business by way of loans, grants or general support in 2012-13, 2013-14; and when he expects to report fully on this matter?

1230

Answer: The Department operates a number of schemes by which assistance is paid to businesses, organisations and individuals. The table below sets out the amounts paid under the Department's main schemes for 2012-13 and, as it has not yet ended, the current financial year to 31st January 2014.

Scheme	2012-13	April 2013- January 2014
Financial Assistance	£2,852,492	£3,491,453
Small Business Start-up	£155,899	£123,467
Business Support	£74,500	£75,208
Tourism Event Support	£314,787	£196,537
Vocational Training Support	£233,076	£262,544

1235

It should be noted that the amounts for the Financial Assistance Scheme set out in the table will differ from those in the Enterprise Act 2008 Annual Report, as the Report excludes amounts paid under the former Industry Board Act 1981.

In relation to the figures set out in the table for Tourism Event Support it should also be noted that the majority of support is paid not to businesses but to event organisers who may be individuals or non-commercial organisations. The figures for Tourism Event Support also include funding for events organised directly by the Department.

1240

The Department also provides on an *ad hoc* basis support for business events and promotion of the Island. This support is paid from general marketing budgets, rather than any Schemes.

In terms of full report on money provided to businesses, the Enterprise Act 2008 Report for 2012-13 will be laid before March 2014 Tynwald. The Report for 2013-14 will be laid before Tynwald in the next financial year. Only payments made under the Financial Assistance Scheme are included in the Report.

1245

SOCIAL CARE

**2.8. Sewerage charge –
Proportion to be paid by social security benefits**

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

What proportion of the 2014-15 sewerage charge will be paid by social security benefits?

Answer: Unfortunately, it is not possible to provide an answer to the Question as written.

1250

To be able to answer the Question then, for every person claiming an income related benefit (income support, income-based jobseeker's allowance or employed person's allowance) we would need to know whether their landlord is going to pass on the sewerage charge to the tenant and the amount of any other housing cost each tenant was required to pay. As housing

allowances within income related benefits are capped, if a person's housing costs are already at the cap or above they would not qualify for an extra allowance.

1255 It is not therefore possible for the Department to assess this information and make a reasonable forecast of likely claims. For example, there is at present uncertainty as to whether some, all or none of the public housing bodies will themselves be passing the charge through to their tenants – in part or in full.

1260 The Department can confirm that tenants or home owners who are required to pay the sewerage charge could receive an allowance in their income-related benefit covering that cost. As an example, under regulation 28(1) of the Income Support (General) (Isle of Man) Regulations 2000, an income support allowance is provided to the claimant if the claimant or any dependant of the claimant is liable to pay charges or rates in respect of water, sewerage and allied environmental services. However, any benefit allowance made would be net of the 5% early payment discount – whether or not the tenant/home owner takes advantage of the discount.

1265

HEALTH

2.9. Salaried Primary Care Dental Services (SPCDS) – Staff employed; clinical sessions

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

How many staff are employed by the Salaried Primary Care Dental Services (SPCDS); how many of these are (a) Dentists and (b) Nurses (Regular and Senior); and how many clinical sessions take place per week by (a) clinical lead Dentists; and (b) the Clinical Director?

Answer: The Salaried Dental Service employs 48 members of staff, a mixture of full and part-time workers.

1270 (a) 12 are dentists
(b) 21 are regular nurses and two are senior nurses
(c) There are 1.7 wte clinical lead dentists who undertake a minimum of 13 clinical sessions per week and the Clinical Director a minimum of one session.

1275

2.10. (SPCDS) Manchester study – Cost and benefit gained

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

What the cost and benefit gained were from the (SPCDS) Manchester study; who was involved in commissioning the study; and what improvements have been measured?

Answer: The study to which the Hon. Member refers was carried out approximately eight years ago and officers of the Department have confirmed that, in line with the Government Policy on Classification of Information and Protective Marking, 2012, the project papers were retained for three years.

1280

The study was commissioned jointly by the Department and the University of Manchester. This research was a pilot study designed to inform further study design regarding consent rates and uptake of participants in dental research within a primary care setting.

1285 Much dental research is conducted within clinical trials units and this was an attempt to
determine if practice based research would be possible. The study sought to implement early
caries detection using the International Caries Detection and Assessment System (ICDAS) and
link this to preventive pathways. As part of the research process, a substantial amount of
training was undertaken with Salaried Dental Service (SDS) dentists into the detection of early
1290 caries and the linkage with preventive treatments. The use of a calibration exercise with
international experts further underpinned the learning and experience gained by SDS staff.
Subsequently, the introduction of care pathways for children with early lesions was adopted
across the Service and provided the basis for the adoption of Delivering Better Oral Health and
the IOM Oral Health Strategy.

1295 The benefits were therefore extensive: 1:1 training of SDS dentists in early caries detection,
assessment and treatment, exposure to Good Clinical Practice Research procedures, audit and
monitoring. The study results suggested that recruitment of patients into research within a
primary care setting, while possible, would be unlikely to lead to sufficient subject numbers to
meet the designed sample size.

1300 The value of the training, provision of dental supplies including toothbrushes and pastes
(which were all distributed to children), and Duraphat (fluoride) Varnish (used in clinics) far
exceeded the research costs.

Order of the Day

3. BILLS FOR CONSIDERATION OF CLAUSES

3.1. European Union (Amendment) Bill 2014 – Clauses considered

Mr Watterson to move.

1305 **The Speaker:** Item 3 on the Order Paper, Bills for Consideration of Clauses. The first of the Bills is the European Union (Amendment) Bill. I call on the mover, Mr Watterson.

Mr Watterson: Mr Speaker, clause 1 simply gives the Bill its short title, and I beg to move that it stands part of the Bill.

1310 **The Speaker:** Mr Quirk.

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

1315 **The Speaker:** I put the question that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 2, please.

1320 **Mr Watterson:** Mr Speaker, clause 2 amends the European Communities (Isle of Man) Act 1973 to add the Croatia Accession Treaty and also the Irish Protocol to the list of the EU Treaties in section 1 of the Act. This clause also establishes a power for the Council of Ministers to make such straightforward changes in future by order, subject to the approval of Tynwald. However, as I mentioned at Second Reading, any substantive change to the Island's Protocol 3 relationship with the EU would still require amending an Act of Tynwald.

1325 Mr Speaker, I beg to move that clause 2 stand part of the Bill.

The Speaker: Mr Quirk.

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

1330 **The Speaker:** I put the question that clause 2 do stand part of the Bill. Those in favour, say aye; against no. The ayes have it. The ayes have it.
Clause 3.

1335 **Mr Watterson:** Mr Speaker, the main effect of clause 3 is to change the Tynwald procedure for most orders under section 2A of the 1973 Act to the normal approval procedure. As Hon. Members are aware, with the exception of orders concerning the application of EU sanctions, an order under section 2A of the 1973 Act currently has to be laid before Tynwald in draft at one sitting and exactly the same draft document must be laid by the Court at another sitting and moved for approval before it can be made.

1340 The current procedures are unnecessarily bureaucratic and a waste of paper. It is not consistent with some other Acts of Tynwald that can apply pieces of EU legislation to the Island. Hon. Members will know that, except for the application of EU sanctions, the power in section 2A of the 1973 Act is not used very often and there is no intention that it should be used more frequently if the Tynwald procedure is changed. It will only be used when it is the most practical

1345 and appropriate course of action and obviously any such orders will still require the approval of Tynwald to have effect.

Mr Speaker, this clause also makes some amendments in respect of the text of the EU legislation as modified in its application to the Island, which must be attached to an order made under section 2A of the 1973 Act. The amendments provide for legal certainty and for updates to the attachment where part of a piece of European Union legislation is applied to the Island as amended by the European Union from time to time, as is the case for example with the lists of persons and bodies that are subject to EU sanctions measures.

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

1355 **The Speaker:** Mr Quirk

Mr Quirk: I beg to second, sir.

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

Finally, clause 4.

Mr Watterson: Mr Speaker, clause 4 repeals the Act after it has been promulgated, but the repeal does not affect the continuing operation of the amendments that are made to the 1973 Act by clauses 2 and 3. As Hon. Members will be aware, this is now standard drafting practice for Acts which only amend other Acts of Tynwald to remove unnecessary clutter from the Island's statute book.

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

1370 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Thank you, Hon. Members.

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

Mr Watterson to move.

The Speaker: We turn now to the Terrorism and Other Crime (Financial Restrictions) Bill, and I understand the mover, Mr Watterson, will group certain of these clauses as we go along, which he will indicate and I have agreed to that.

Members will notice that amongst the tabled amendments is one to the long title on which other amendments depend, so I propose we take the amendment to the long title before we move on to clauses proper.

Mr Quirk.

1385 **Mr Quirk:** Thank you, Mr Speaker.

I move that on page 11 on line 4 of the long title of the Bill be amended so that the words 'to amend other legislation in connection with bail' may be inserted into the Proceeds of Crime Act 2008. The purpose of the amendment is to permit two new clauses, 70A and 70B to be inserted

1390 into the Bill, which addresses a minor, if important error in the legislation, relating to the bail in the Bill Act 1952, and the Police Powers and Procedures Act 1998.

Mr Speaker, I beg to move the amendment to the long title of the Bill standing in my name, sir:

Amendment to Long Title

Page 11, line 4 after 'Proceeds of Crime Act 2008;' insert 'to amend other legislation in connection with bail;'

The Speaker: Mr Watterson.

1395

Mr Watterson: I am happy to second that and reserve my remarks, sir.

The Speaker: Hon. Member, I put the question that the long title be amended, as set out in the Order Paper. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

1400

Thank you, Hon. Members.

We therefore move to clause 1 of the Bill and I call the mover, Mr Watterson.

Mr Watterson: Mr Speaker, clause 1 gives the title of the Act and clause 2 says that the Act will come into operation by Appointed Day Order. Sections or parts of the Act may be brought into operation at the same time or on different days.

1405

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

The Speaker: Mr Quirk.

1410

Mr Quirk: Thank you, Mr Speaker, I beg to second, sir.

The Speaker: I put the question 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 Watterson.

1415

Mr Watterson: Mr Speaker, clauses 3, 4 and 5 provide interpretation.

Clause 3 provides general interpretation for the terms used in the Act.

Clause 4 specifically defines 'financial services'.

Clause 5 defines a 'resident' as a person who is ordinarily resident in the Island. The term 'ordinarily resident' is not further defined and so takes its dictionary meaning. Bodies incorporated or constituted or limited liability companies, partnerships or other unincorporated associations formed under the law of the Island are also resident.

1420

Mr Speaker, I beg to move that clauses 3, 4 and 5 do stand part of the Bill.

1425

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: Hon. Members, I put the question that clauses 3, 4 and 5 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

1430

Clause 6.

Mr Watterson: Mr Speaker, clauses 6 to 12 contain provisions drawn from the Terrorism (Finance) Act 2009, which I will refer to as the 2009 Act, which is to be repealed in its entirety, dealing with the power to make or issue a direction to a person or business. I will speak on each clause separately.

1435

1440 Clause 6 empowers the Treasury to give a direction to a relevant person subject to one or more of the following conditions being met. The first condition is that the Financial Action Task Force has advised that action should be taken. The second condition is the Treasury reasonably believes that there is a risk that financing of terrorism or money-laundering activities are being carried on. The third condition is that the Treasury reasonably believes proliferation in the country or anything that facilitates proliferation poses a significant risk to the national interests of the Island. All these conditions relate to activity or proliferation in the country by the government of the country or by persons resident in the country in question. Proliferation is defined in clause 3 as the development or production of nuclear radiological biological or chemical weapons or systems for their delivery.

1445 Mr Speaker, I beg to move that Clause 6 do stand part of the Bill.

1450 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

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

1455 Clause 7, sir.

Mr Watterson: Mr Speaker, clause 7 sets out the power to give an interim direction to a relevant person if the Treasury has reasonable suspicion, either that there is a risk that financing of terrorism or money-laundering activities are being carried on or that proliferation or the facilitating of proliferation poses a significant threat to the national interests of the Island. The subtle difference is the lowering of the evidential level from reasonable belief to reasonable suspicion.

1460 Subsection (4) restricts the giving of an interim direction to once if the evidence is the same, or substantially the same.

Mr Speaker, I beg to move that clause 7 stand part of the Bill.

1465

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1470 **The Speaker:** I put the question that clause 7 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 8 and schedule 1.

1475 **Mr Watterson:** Mr Speaker, clause 8 introduces schedule 1 which sets out the requirements that may be contained in a direction and the persons to whom they may be given. Schedule 1 broadly replicates the requirements that were in the schedule to the 2009 Act.

Mr Speaker, I beg to move that both clause 8 and schedule 1 do stand part of the Bill.

1480 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question that clause 8 and schedule 1 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

1485

Clause 9.

Mr Watterson: Mr Speaker, clause 9 provides that the Treasury may give a direction to a particular person, any description of persons, or all persons acting in the course of a business in the regulated sector, which businesses set out in schedule 4 to the Proceeds of Crime Act 2008.

1490 Subsection (2) enables a direction to contain different requirements in relation to different persons.

Subsection (3) enables the Treasury to amend the section by order.

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

1495 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

1500 **The Speaker:** I put the question clause 9 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 10.

Mr Watterson: Mr Speaker, clause 10 provides that directions must be contained in an order made by Treasury.

1505 I beg to move that clause 10 do stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1510 **The Speaker:** I put the question that clause 10 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 11.

1515 **Mr Watterson:** Clause 11 requires the Treasury in the case of directions to a particular person, to give notice of a specific direction to the person concerned.

Subsection (3) states that an interim direction is valid for 30 days when a final direction is valid for a year. The period is effective in each case from the day on which the direction is given.

Subsection (4) empowers the Treasury to vary or revoke the direction at any time.

Subsection (5) requires the Treasury to notify the person of the variation or revocation.

1520 Mr Speaker, I beg to move that clause 11 do stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1525 **The Speaker:** I put the question that clause 11 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 12.

1530 **Mr Watterson:** Clause 12 requires the Treasury to publicise the making of an order containing directions. The Treasury must also publicise the fact an order has expired.

Subsection (1) applies the section to directions under clause 10.

Subsection (3) provides that a revocation order or one varying the order to make it less onerous must be laid before Tynwald as soon as practicable after it has been made.

1535 Subsection (4) states that an order, if not previously revoked, expires one year after the day on which it was made. But this does not limit the power of Treasury to a make a further order.

Mr Speaker, I beg to move that clause 12 stand part of the Bill.

1540 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question that clause 12 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
1545 Clause 13 and schedule 2.

Mr Watterson: Clause 13 is extracted from the existing section 50 of the Anti-Terrorism and Crime Act 2003. The difference is that in this Bill the definition of funds as set out in clause 3. Further requirements that may be set out in a freezing order are set out in schedule 2 to the Bill.
1550 Mr Speaker, I beg to move that clause 13 and schedule 2 do form part of the Bill.

The Speaker: Mr Quirk.

1555 **Mr Quirk:** I beg to second, sir.

The Speaker: I put the question that clause 13 and schedule 2 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 14, please.

1560 **Mr Watterson:** Clause 14 is extracted from section 51 of the 2003 Act and provides for the making of final freezing orders. The only difference is that instead of referring to 'country or territory' it refers only to 'country'. This is because in clause 3 of the Bill country includes territory.
Mr Speaker, I beg to move that clause 14 do stand part of the Bill.

1565 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

1570 **The Speaker:** I put the question that clause 14 stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 15.

Mr Watterson: Clause 15 is extracted from section 51A of the 2003 Act. It provides for making of interim freezing orders, and I beg to move that clause 15 do form part of the Bill.
1575

The Speaker: Mr Quirk.

1580 **Mr Quirk:** I beg to second, sir

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

1585 **Mr Watterson:** Mr Speaker, clause 16 provides that an interim freezing order may be given for 30 days and a final freezing order may be given for one year from the date on which the respective orders were made. This is the same as in sections 51A and 50 of the 2003 Act and the earlier clauses of this Bill relating to directions.

1590 Subsection (3) requires the Treasury to keep a freezing order under review.
I beg to move that clause 16 do stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

1595 **The Speaker:** I put the question 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, please.

1600 **Mr Watterson:** Mr Speaker, in empowering the Treasury to make a freezing order, clause 17 specifies that it must be laid before Tynwald and if at that sitting or the next following sitting Tynwald resolves that the order must cease to have effect, it will cease to have effect. It is the negative Tynwald procedure.
I beg to move that clause 17 do stand part of the Bill.

1605 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir

1610 **The Speaker:** I put the question that clause 17 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 18.

1615 **Mr Watterson:** Mr Speaker, clauses 18 and 19 and the subsequent ones up to and including clause 23 relate to the freezing of terrorist assets, and are currently found in the Order in Council applying the UK Terrorist Asset-Freezing etc Act 2010.

Mr Speaker, I propose, moving clauses 18 and 19 together. Clause 18 sets out the conditions under which the Treasury may make a final designation.

1620 Subsection (1) specifies that the Treasury may make a designation if they reasonably believe that a person is or has been involved in terrorist activity, is owned or controlled whether directly or indirectly by the first person, or the person is acting on behalf of or at the direction of the first person. Additionally the Treasury must consider it necessary for the purpose of public protection from terrorism to place financial restrictions on the person. Involvement in terrorist activities defined in subsection (2).

1625 In respect of clause 19, the power to make interim designations is similar to the power in clause 18 except that the Treasury need only to have reasonable suspicion concerning a person's involvement in terrorist activity in order to make the interim designation.

Mr Speaker, I beg to move that clauses 18 and 19 do stand part of the Bill.

The Speaker: Mr Quirk.

1630

Mr Quirk: I beg to second, sir

1635 **The Speaker:** I put the question that clauses 18 and 19 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 20.

1640 **Mr Watterson:** Clause 20 requires the Treasury to notify the designated person and publicise the designation. If the Treasury believes that the designated person is under the age of 18 or that the designation should not be disclosed by reason of national security the prevention or detection of serious crime or in the interests of justice, then it need not publicise the designation generally, but only to such persons as it considers appropriate.

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

The Speaker: Mr Quirk.

1645 **Mr Quirk:** I beg to second, sir

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.

1650

Mr Watterson: Mr Speaker, in moving clauses 21 and 22 together, clause 21 provides that a final designation expires one year after the day on which it was made unless it is renewed. The requirements for renewal of a final designation are that the conditions in clause 18(1) continue to be met.

1655 Subsection (5) indicates that where a final designation expires the Treasury must notify the designated person in writing and to take reasonable steps to bring that fact to the attention of other persons who were informed of the designation.

1660 Clause 22 states that an interim designation expires 30 days after the day on which it was made or in the making of a final designation in relation to the same person, whichever is the earlier. When an interim designation expires, similar notice must be given as for a final designation. Where the interim designation expires on the making of the final designation the steps in relation to notification and publicity in respect to the expiry of one and the commencement of the other type of order may be combined.

Mr Speaker, I beg to move that clauses 21 and 22 do stand part of the Bill.

1665

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

1670 **The Speaker:** I put the question that clauses 21 and 22 stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 23.

1675 **Mr Watterson:** Clause 23 empowers the Treasury to vary or revoke a designation at any time. Written notice must be given to the designated person and reasonable steps must be taken to let persons informed of the designation know about the variation or revocation.

I beg to move that clause 23 do stand part of the Bill.

The Speaker: Mr Quirk.

1680

Mr Quirk: I beg to second, sir

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

1685

Clause 24.

1690 **Mr Watterson:** Clause 24 addresses the situation where a freezing order or a designation is made or a direction is effected by the United Kingdom Treasury based on security sensitive material, and it is considered in the interests of the Island to be in step with the UK in these matters.

Subsection (1) relates to freezing orders or designations and provides that they will have effect on the Island as if made under the provisions of this Act.

1695 Subsection (2) provides that the fact that the UK has effected a direction is to be taken as sufficient for the Treasury to form the same reasonable suspicion or reasonable belief and consequently may likewise effect a direction.

Subsection (3) provides that if a direction made by the United Kingdom is set aside, ceases to have effect or is revoked then any direction made by the Treasury in reliance on the action of the United Kingdom Treasury is treated likewise.

1700 Subsections (4) and (5) empower the Treasury to amend this section by order subject to the approval of Tynwald.

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

The Speaker: Mr Quirk.

1705 **Mr Quirk:** I beg to second, sir.

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

Clause 25.

1710

Mr Watterson: Mr Speaker, clauses 25 to 35 represent a putting together of disclosure and enforcement provisions common to all three types of financial restriction. These clauses do not contain anything not already in operation either in the 2003 Act, the 2009 Act or the Order in Council.

1715 Clause 25 empowers the Treasury to require a financially restricted person to provide it with information about funds or economic resources owned, held or controlled by or on behalf of the financially restricted person.

Under subsection (2) the Treasury may require information about the financially restricted person's expenditure.

1720 Subsection (3) makes it clear that information may only be required for the purposes of monitoring compliance with or detecting evasion of the Act.

Further provisions relating to the powers of the Treasury to require information are set out in subsections (5) to (11). These include the power to request information from other persons in or resident in the Island, who may have information relating to the person.

1725 Subsection (6) specifies a requirement for information must be in writing and must set out the reasons why the information is required. A person subject to a written notice may be placed under a continuing obligation to keep the Treasury informed.

I beg to move that clause 25 do stand part of the Bill.

1730 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

1735 **The Speaker:** I put the question that clause 25 do stand. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 26.

1740 **Mr Watterson:** Clause 26 provides that a notice requiring information under clause 25 may include a requirement to produce certain documents or documents or a specified description. When documents are produced the Treasury is empowered to take copies or extracts and require a person to give an explanation in relation to the document.

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

The Speaker: Mr Quirk.

1745 **Mr Quirk:** I beg to second, sir.

The Speaker: I put the question that clause 26 do stand. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 27.

1750 **Mr Watterson:** Clause 27 makes it an offence to fail to comply with the requirement to give information or provide documents. Included within the offence is knowingly or recklessly giving of false information, producing documents that are false in any material particular, or otherwise obstructing the Treasury whether by destroying, concealing, defacing or mutilating documents or in any other way.

1755 I beg to move that clause 27 do stand part of the Bill.

The Speaker: Mr Quirk.

1760 **Mr Quirk:** I beg to second, sir.

The Speaker: I put the question that clause 27 do stand. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 28.

1765 **Mr Watterson:** Clause 28 is extracted from section 6 of the 2009 Act and empowers an enforcement officer to enter and inspect premises other than domestic premises at a reasonable time. The enforcement officer may observe business, inspect or take copies of documents and require an explanation in relation to any matter relevant to the financially restricted person.

1770 I beg to move that clause 28 do stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

1775 **The Speaker:** I put the question that clause 28 do stand. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 29.

1780 **Mr Watterson:** Clause 29 is extracted from section 7 of the 2009 Act and empowers an enforcement officer to apply for a warrant where there are reasonable grounds for believing certain conditions have been met. If satisfied that an offence has been or is about to be committed by a financially restricted person and there is a relevant document on the premises, a Justice of the Peace may also grant a warrant on those grounds.

1785 Mr Speaker, I beg to move that clause 29 do stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1790 **The Speaker:** I put the question that clause 29 do stand. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 30, please.

1795 **Mr Watterson:** Clause 30 imposes reporting obligations on relevant institutions defined in clause 3 where they have knowledge or reasonable cause for suspicion in relation to financially restricted persons.

Subsection (5) makes it an offence to fail to comply with the reporting requirements.

I beg to move that clause 30 stand part of the Bill.

1800

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1805 **The Speaker:** I put the question that clause 30 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 31.

1810 **Mr Watterson:** Clause 31 empowers the Treasury to disclose any information or evidence it obtains in the exercise of its functions to the persons or bodies set out in subsection (1).

Subsections (2) and (3) define 'in person's own right' and 'relevant Security Council resolutions.' The Treasury may amend subsection (3) by order.

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

1815

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

1820 **The Speaker:** I put the question clause 31 to stand. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 32.

Mr Watterson: Clause 32 provides for disclosure of information or evidence to the British intelligence services.

1825

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1830 **The Speaker:** I put the question clause 32 to stand. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 33, please.

1835 **Mr Watterson:** Clause 33 provides that if the Treasury informs only certain persons of a designation that it may specify that the information they are given is to be treated as confidential.

Subsection (2) expressly prohibits disclosure of the person provided with the information knows or has reasonable cause to suspect that the information is to be treated as confidential.

I beg to move that clause 33 do stand part of the Bill.

1840

The Speaker: I put the question clause 33 do stand. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 34

1845

Mr Watterson: Clause 34 –

The Speaker: Sorry, I should have had the seconder, of course, to clause 33. (*Interjection by Mr Quirk*)

1850 **Mr Anderson:** He is just a bit slow!

The Speaker: Duly seconded.
Clause 34.

1855 **Mr Watterson:** Clause 34 requires the Treasury to co-operate with any investigation in the Island or elsewhere relating to the funds etc of a financially restricted person.
I beg to move that this clause do stand part of the Bill.

The Speaker: Mr Quirk.

1860

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

The Speaker: I put the question clause 34 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

1865

Clause 35.

Mr Watterson: Clause 35 clarifies that nothing done under clauses 25 to this clause is to be treated as a breach of any legal or other restriction. However, subsection (2) prohibits contravention of the Data Protection Act 2002 or the Interception of Communications Act 1988.

1870

Subsection (3) provides for the protection of privileged information. The disclosure of information or evidence is not otherwise restricted.

I beg to move that clause 35 do stand part of the Bill

Mr Quirk: I beg to second, sir.

1875

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

Clause 36, 37 and 38, Mr Watterson.

1880

Mr Watterson: Clauses 36, 37 and 38 relate to the power of Treasury to impose a civil penalty.

Clause 36 provides that a civil penalty may be imposed by the Treasury on a person who fails to comply with the requirement of a direction or a condition of a licence issued under paragraph 7 or schedule 1.

1885

Subsection (2) does not limit the amount of any civil penalty which must be appropriate. Subsection (8) defines 'appropriate' as 'effective, proportionate and dissuasive'.

Subsection (5) provides that if a person is dealt with by way of a civil penalty under subsections (1) or (2) they may not be subject to criminal proceedings for the same offence.

1890

Mr Speaker, clause 37 sets out the procedure where the Treasury determines to impose a civil penalty on a person for breaching a direction.

Clause 38 makes provision for appeal against the decision of the Treasury under clause 37.

Subsection (2) provides that the court of summary jurisdiction may set aside the Treasury's decision, impose any penalty that the Treasury could have imposed or remit the matter back to Treasury.

1895

I beg to move that clauses 36, 37 and 38 do stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1900

The Speaker: I put the question that clauses 36, 37 and 38 stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 39, 40 and 41, Mr Watterson.

1905

Mr Watterson: Clauses 39 to 52 set out the offences relating to the three types of financial restriction. While clauses 53 to 56 deal with the general provisions in relation to offences. I propose to move these clauses in three groups where they deal with offences against each type of financial restriction and a final group dealing with general provisions.

1910

Turning to clauses 39, 40 and 41, the first group relate to offences in relation to directions. It is an offence to contravene a requirement of a direction under clause 39. To circumvent a requirement of a direction under clause 40 and clause 41 provides that it is an offence to provide false information or be reckless as to whether information is false in order to obtain a license under paragraph 7 of schedule 1.

Mr Speaker, I beg to move that clauses 39, 40 and 41 do stand part of the Bill.

1915

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1920

The Speaker: I put the question that clauses 39, 40 and 41 stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 42.

1925

Mr Watterson: The second group, clauses 42 and 43 concern offences in connection with freezing orders.

Clause 42 makes it an offence to contravene a prohibition imposed by a freezing order, or indeed to engage in any activity knowing or intending that it will facilitate contravention by another person. Clause 43 provides a defence.

I beg to move that clauses 42 and 43 do stand part of the Bill.

1930

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

1935

The Speaker: I put the question that clauses 42 and 43 stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 44, Mr Watterson.

1940

Mr Watterson: Mr Speaker, the third group to be moved together, clauses 44 to 52, relate to offences in conjunction with designations and are drawn from the Order in Council applying the UK Terrorist Asset-Freezing etc Act 2010 to the Island.

Clause 44 makes it an offence to deal with funds or economic resources owned, held or controlled by a designated person.

1945

Clause 45 makes it an offence to make funds or financial services available whether directly or indirectly to a designated person.

Clause 46 is similar but makes it an offence for a person to make any funds or financial services available to any person for the benefit of a designated person.

1950

Again, similarly, clause 47 makes it an offence to make economic resources available whether directly or indirectly to a designated person and under clause 48 it is an offence to make economic resources available to any person for the benefit of a designated person.

Clause 49 makes it an offence to participate in any activity the purpose or effect of which is to either circumvent any of the prohibitions in clauses 44 to 48 or to enable or facilitate the contravention of such a prohibition.

1955 Clause 50 sets out exceptions to the prohibitions and clause 51 states that the prohibitions in those clauses do not apply to anything done under the authority of a licence granted by the Treasury.

Finally, clause 52 sets out the penalties for prohibition offences under clauses 44 to 49 inclusive.

1960 Mr Speaker, I beg to move that clauses 44 to 52 inclusive stand part of the Bill.

The Speaker: Mr Quirk.

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

1965 **The Speaker:** I put the question that clauses 44 to 52 inclusive do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 53, Mr Watterson.

1970 **Mr Watterson:** Mr Speaker, I propose to move clauses 53 to 56 together as they set out general provisions in respect of offences.

Clauses 53 and 54 set out the liability of officers of bodies corporate and deal with proceedings against unincorporated bodies.

1975 Clause 55 deals with the liability of residents or businesses associated with the Island where the offence takes place wholly or partly outside the Island and enables the offence to be treated as having been committed in the Island for the purposes of proceedings.

Clause 56 imposes a time limit for the instigation of summary only proceedings.

I beg to move that clauses 53 to 56 inclusive stand part of the Bill.

1980 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question that clauses 53 to 56 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

1985 Clause 57, please.

Mr Watterson: Mr Speaker, clauses 57 to 62 provide for supervision by the court of the exercise of powers by the Treasury.

1990 Clause 57 provides the right to appeal to the High Court to set aside any decision of the Treasury in relation to its functions under the Al-Qa'ida and Taliban (United Nations Measures) (Isle of Man) Order 2002 or financial restriction under Part 2 of this Act other than a matter described in clause 24(2).

1995 Clause 58 provides for the review of any other decision of the Treasury under Part 4 other than a decision to which clause 57 above applies. Any person affected by a decision of the Treasury under Part 4 may apply to the High Court to have that decision set aside.

Clause 59 is supplementary.

Clauses 60 and 61 provide general provisions about rules of court and specific provision about rules of court regarding disclosure.

2000 Clause 62 relates to the appointment of a special advocate and clauses 60, 61 and 62 are drawn from sections 25, 26 and 27 respectively of the 2009 Act.

Mr Speaker, I beg to move that clauses 57 to 62 inclusive stand part of the Bill.

The Speaker: Mr Quirk.

2005 **Mr Quirk:** I beg to second, sir.

The Speaker: I put the question that clauses 57 to 62 inclusive do stand part of the Bill. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Clause 63, please.

2010

Mr Watterson: Mr Speaker, I would like to move clauses 63 to 70 inclusive of Part 5 together, and deal with clauses 71, 72 and 73 separately. Mr Quirk has some amendments to the Bill which he will wish to introduce before clause 71 and in relation to clause 73.

2015 Mr Speaker, clause 63 enables the Treasury to delegate its functions under this Act other than the power to make orders to any organisation in the Island responsible to the prevention or investigation of financial crime and of the financing of terrorism.

Clause 64 is about giving of notices as required under the Act to the person or business or the last known address of the person or business.

2020 Clause 65 requires the Treasury to provide an annual report to the Treasury on the exercise of its functions or to state that it has not exercised any of its functions if that is the case. Where it differs from similar provision in section 19 of the 2009 Act is that if the Treasury has delegated any of its functions to an organisation in the Island it should include in its report the exercise of its functions by that organisation.

2025 Clause 66 provides for the supervision of business in the regulated sector for the purpose of securing compliance with the requirements of any direction. A relevant supervisory body is one set out at paragraph 2 of schedule 4 to the Proceeds of Crime Act 2008 and this provision is drawn from section 20 of the 2009 Act.

2030 Clause 67 requires the Treasury to assist a relevant supervisory authority or other appropriate body drawing guidance that would be relevant guidance when issued and published for the purposes of the Act. This is drawn from section 21 of the 2009 Act.

2035 Clause 68 provides for codes of practice for the purposes of preventing and detecting the financing of proliferation and terrorism and is drawn from section 27A of the 2009 Act. The difference is that it now refers also to the financing of proliferation. The addition of the power to make codes in relation to proliferation as well as financing of terrorism is another element in the Island as a responsible jurisdiction insuring its legal powers and standards meet international expectations.

2040 Clause 69 empowers the Council of Ministers to apply to the Island with such modifications as it considers necessary any Order in Council made under the United Nations Act 1946 (of Parliament). This is in relation to the implementation of United Nations resolutions dealing with international terrorism, conflict, crime against humanity and related matters. Any order made by Council is subject to the positive Tynwald procedure.

Finally clause 70 applies the Acts to the Crown.

I beg to move that clauses 63 to 70 inclusive do stand part of the Bill.

2045 **The Speaker:** Mr Quirk.

Mr Quirk: I beg to second, sir.

2050 **The Speaker:** I put the question that clauses 63 to 70 inclusive stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Hon Members, the long title having been amended, I now invite Mr Quirk to move new clause 70A in principle.

Mr Quirk: Thank you, Mr Speaker.

2055 I thank the Hon. Members for agreeing to my amendment to the long title of the Bill, and wish to move the insertion of a proposed new clause 70A and 70B in principle together – if the House has agreed to the principle the new clause 70A and 70B form part of the Bill, I will then move in detail.

2060 Mr Speaker, the new clauses 70A and 70B are proposed to be inserted into the Bill because when preparing the memorandum that was sent to the Ministry of Justice for the purpose of securing Royal Assent for the Criminal Justice and Other Amendments Bill, the Police Powers Bill, which just completed its legislative passage through the branches, minor gaps in the drafting relating to bail were discovered, which if not corrected would result in the Police losing their powers to arrest a person who fails to comply with any conditions of their bail. This was clearly
2065 not intended when the Bill was drafted and put through the branches. The purpose, therefore, of the new clause 70A and 70B is to address the gap identified and enable the Police to deal with bail as the Bill had intended.

Mr Speaker, I beg to move in principle the new clauses 70A and 70B form part of the Bill:

New clauses

Page 49, line 25 after clause 70 insert –

'70A Amendment to the Bail Act 1952

(1) The Bail Act 1952 is amended as follows.

(2) After "bail by recognizance" in sections 15(1) (arrest of person who breaches conditions of bail) and 15A(1)(a) (breach of condition) insert "or police bail".

(3) After the definition of "bail condition" in section 15C insert –

""police bail" means bail granted or varied in accordance with Part IV of the Police Powers and Procedures Act 1998; and".'

'70B Amendment to the Police Powers and Procedures Act 1998

For "section 52" in section 50A(3)(b) and (5)(b) of the Police Powers and Procedures Act 1998 substitute "section 15 of the Bail Act 1952".'

The Speaker: Mr Anderson.

2070

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

The Speaker: Hon. Members, I put the question that new clause 70A and new clause 70B form part of the Bill. Those in favour please say aye; against no. The ayes have it. The ayes have
2075 it.

I call on Mr Quirk to move clause 70A in detail.

Mr Quirk: Thank you, Mr Speaker.

2080 Mr Speaker, moving in detail the clauses together, the new clause 70A inserts the words 'or police bail' after the words 'bail by recognizance in sections 15(1) and 15A(1)(a). In this section 15C insert a definition for 'police bail'. The effect of these changes is to ensure that the Police have the same powers to arrest a person who breaches the conditions of bail granted to them, as they do to arrest a person who breaches the condition of bail granted by a court.

2085 The intentions behind the changes brought about by the Police Powers Bill was to enable the Police to grant bail with conditions and empower them to be able to arrest a person, not just to report to the police station at a time and date stated but for failure to comply with the conditions which bail was granted.

2090 Mr Speaker, the new clause 70B therefore amends sections 50A(3)(b) and (5)(b) to refer to section 15, arrest of person who breaches bail, of the Bail Act 1952, rather than sections 52 of the Police Powers and Procedures Act 1998. This has secondary benefits of linking the matters to

do with bail to the Bail Act, rather than having some matters dealt with through this Act and some in the Police Powers and Procedures Act.

Mr Speaker, I beg to move that new clauses 70A and 70B as detailed do stand part of the Bill.

2095 **The Speaker:** Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

2100 Mr Speaker, very happy to second this amendment that is going back into the Bill – no problem at all on that. But whilst we are just dealing with police station bail once again, the Minister will recall myself and the Hon. Member for Onchan, Mr Hall, attending upon his premises last summer, with our concerns about police station bail and the curtailing of police station bail, and the Minister did say that he would look into this matter and revert.

2105 If it is appropriate, I think just at this particular point in time, for the Minister perhaps just to state whether he is going to put some restrictions on the issue to do with police station bail and especially the abuse of it that does happen occasionally, and in order to bring better control there from it.

The Speaker: Mr Watterson.

2110 **Mr Watterson:** Mr Speaker, yes I did review the issue of police bail during the back end of last year. I thought I had reverted back to the Hon. Member on that and if I have not, my sincere apologies to the Hon. Member, I will revert back to him on that issue.

The Speaker: Mr Quirk, do you wish to reply?

2115

Mr Quirk: No, sir.

The Speaker: I put the question first that new clause 70A stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

2120 Mr Quirk, did I take it you had moved clause 70B?

Mr Quirk: Yes, 70B as well, sir.

2125 **The Speaker:** In that case I put the question that clause 70B do stand part of the Bill. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Clause 71, Mr Watterson.

Mr Watterson: Mr Speaker, clause 71 refers to schedule 3, which sets out the amendments to the 2003 Act.

2130 Paragraph 1 of the schedule slightly amends the definition of ‘terrorism’ set out in section 1 of the 2003 Act, in order to take into account helpful observations by MONEYVAL. Section 1 will now be clear that the commission of a Convention offence is of itself terrorism whether or not it is carried out with the intention or purpose set out in subsection (1)(a).

2135 Paragraph 2 amends the requirement in section 2 of the 2003 Act to publish amended lists of Proscribed Organisations so that they must be published electronically rather than in two newspapers published and circulating in the Island.

2140 Paragraphs 3 and 4 deal with the offences of facilitating funding and money laundering, in relation to the offence of facilitating funding it is currently an offence to fail to exercise due diligence or adequately investigate whether the money is or will be used for terrorist purposes. It is recognised that the exercise of due diligence is sufficient and is a realistic expectation on business. In the case of money-laundering the defence of neither knowing nor having reasonable suspicion that property is terrorist property has been re-inserted into section 10.

2145 Paragraph 5 amends sections 11 and 14 of the 2003 Act so that they refer to section 4 of the Proceeds of Crime Act 2008 in respect of the definition of 'business in the regulated sector.' This amendment will ensure that the same definition of 'business in the regulated sector' applies both in respect of terrorism offences and ordinary criminal offences.

Paragraph 6 amends references to the disclosure of information so that they now refer to information or evidence. This takes account of a legal opinion in a matter which identified that there can be a difference in law between the two.

2150 Paragraph 7 inserts a considerable amount of material designed to place further safeguards on the police power of stop and search in relation to terrorism. Safeguards include the requirement to make a code about the exercise of the power and a new schedule 8B is inserted to control the power to search in specific areas or places.

2155 Paragraph 8 clarifies the provisions relating to search warrants by limiting the life of warrants under schedule 5 of the 2003 Act to three months.

Paragraph 9 substitutes section 82 of the 2003 Act.

I beg to move that clause 71 and schedule 3 do stand part of the Bill.

The Speaker: Mr Quirk.

2160

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

The Speaker: I put the question that clause 71 and schedule 3 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

2165

Clause 72.

Mr Watterson: Clause 72 makes a number of amendments to the Proceeds of Crime Act 2008.

2170 In subsection (1) the offence has changed from being involved in arrangements relating to criminal property to facilitating the acquisition, retention use or control of criminal property by or on behalf of another person. This is to meet international standards in terms of ensuring that there are no legal weaknesses in enabling the defence of criminal activity.

2175 Subsection (2) ensures the penalty for breaching a provision of a Code of Practice in respect of money laundering is the same as applies to breaching a code of practice in respect of the counterfeiting... sorry, the *countering* of the financing of terrorism or proliferation – one for the book there, Mr Speaker!

Subsections (3) and (4) are about ancillary money laundering offences.

Subsection (5) inserts subsection (5) into section 223 so codes of practice are made subject to the negative Tynwald resolution procedure.

2180

I beg to move the clause 72 do stand part of the Bill.

The Speaker: Mr Quirk.

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

2185

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

Clause 73 and schedule 4, Mr Watterson.

2190 **Mr Watterson:** Clause 73 deals with the expiry of certain provisions of this Act and repeals the provisions set out in schedule 4. These include the repeal of the 2009 Act in its entirety and Part VII, relating to freezing orders, of the 2003 Act as their provisions are now incorporated in the Bill.

Mr Speaker, I beg to move that clause 73 and schedule 4 do stand part of the Bill.

2195 **Mr Quirk:** My amendment, sir.

The Speaker: Mr Karran.

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

2200

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

2205 Mr Speaker, I am grateful to the Hon. Members for agreeing to amend the long title of the Bill and the insertion of the new clause 70A and 70B. As a consequence of the amendments, the list of repeals in clause 73 need to be amended to include sections 70A and 70B, as well as sections 71 and 72.

I beg to move that the new clause 73 be amended in accordance with the amendments standing in my name, sir:

Amendment to clause 73

Page 51, line 1, clause 73(2) for 'section 71, 72' substitute 'sections 70A, 70B, 71 and 72'.

2210

The Speaker: Mr Teare.

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

2215 **The Speaker:** I put first the amendment in the name of Mr Quirk. Those in favour of the amendment please say aye; against no. The ayes have it. The ayes have it.

Clause 73 as amended, those in favour please say aye; against no. The ayes have it. The ayes have it.

Thank you, Hon. Members. That brings us to the end of the clauses stage of the Terrorism and Other Crime (Financial Restrictions) Bill.

3. CONSIDERATION OF CLAUSES

3.3. Health Care Professionals Bill 2014 – Clauses considered

Mr Henderson to move.

2220

The Speaker: We move now to Item 4 on our Order Paper... sorry, no, we do not. We move to the next Bill for clauses, the Health Care Professionals Bill, and I call on the mover, Mr Henderson.

2225

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Vainstyr Loayreyder, the overarching purpose of the Bill is to prescribe the manner in which certain health care professionals are required to be registered and for all related purposes.

2230 The main aims of the Bill are to facilitate new arrangements for doctors' revalidation – a new process in itself – and to update and improve the legislation around the regulation of various other health care professionals, including doctors, nurses and midwives, and some allied health professionals, chiropractors, osteopaths.

For various reasons, some legislative, some contractual and some historical, the Isle of Man is inextricably linked to the United Kingdom in the area of regulating its health care professionals,

2235 and the Department of Health is therefore obliged to closely follow the UK if it is to be able to continue to employ the services of qualified registered health care professionals on the Island.

In researching how best to introduce new legislation for revalidation, it was identified that the existing legislation governing the regulation of various health care professionals would benefit from an update and that, in addition, the opportunity should be taken to bring the Island into line with the UK and add the professions of chiropractic and osteopathy to the professions which are regulated on the Island.

2240 A public consultation on the Bill received almost universal support and the British Medical Association, which is the representative body for most doctors in the UK, has specifically indicated that it is happy that the Bill establishes an equivalent regulatory system to the UK and that therefore the association has no objections to this Bill; indeed, as have the Isle of Man Medical Society incorporating the local branch of the British Medical Association.

2245 The Bill contains 16 clauses. Hopefully the branches of Tynwald will support this Bill and it will come into operation on the day on which Royal Assent to it has been announced at Tynwald by the President of Tynwald.

Mr Speaker, turning to the Bill, part 1 of the Bill is introductory and clause 1 confirms the short title for the Act as the Health Care Professionals Act 2014.

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

The Speaker: Mr Cregeen.

2255 **Mr Cregeen:** Thank you, Mr Speaker.

I beg to second and reserve my remarks.

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.

2260 Clause 2.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2265 Clause 2 allows for all sections of the Act, apart from this clause and clause 1, to be brought into operation using Appointed Day Orders and allows an Appointed Day Order to also make any transitional or savings provisions. It is the Department's intention to progress an Appointed Day Order at the earliest possible juncture after Royal Assent is announced so that the Act can come into operation as soon as possible.

I beg to move that clause 2 do stand part of this Bill.

2270 **The Speaker:** Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

2275 **The Speaker:** I put the question that clause 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2280 Clause 3 contains the interpretation for the Bill and in particular includes the term 'health care professional' to mean any of the following.

2285 Firstly, a registered medical practitioner, that is a person who is a fully registered doctor and holds a licence to practice as such. Some terms in the interpretation are further defined as having the same meaning as in UK legislation – for example, in respect of doctors in the UK Medical Act 1983. This is deliberate as the imperative now is for Manx legislation in this area to

mirror the UK as closely as possible so that the Island can react swiftly to changes in practice and standards and continue to attract a good quality of professionals. The existing legislation around the regulation of doctors is contained in the Medical Act 1985, which is to be repealed by this Bill in clause 15.

2290 Secondly and thirdly, fully registered chiropractors and fully registered osteopaths are defined as health care professionals. Although the Chiropractors Act and Osteopaths Act were introduced in the UK in 1994 and 1993 respectively, no equivalent legislation has previously been introduced in the Isle of Man.

2295 Fourthly, nurses and midwives are included in this Bill. The existing legislation covering nurses and midwives is contained in the section 39A to 39D of the National Health Service Act 2001. The equivalent UK legislation is Nursing and Midwifery Order 2001.

2300 Finally, numerous smaller professions, such as physiotherapists and speech therapists, most of which are currently regulated under the Health Professions Order 2002 as amended, are brought into this Bill under the umbrella title of 'relevant professionals' by referring to the equivalent UK legislation, the Health and Social Work Professions Order 2001. The list of professions will be updated in line with the UK, which has also been previously circulated, Vainstyr Loayreyder.

2305 Social workers are explicitly excluded from the list of relevant professionals as they are already regulated under the Regulation of Care Act 2013. The Health Professions Order 2002 is to be repealed under clause 16 of this Bill.

And just to advise, Vainstyr Loayreyder, hopefully there will be an amendment moved and first tabled to this just to reorganise the word 'professional' and 'profession' as a minor amendment to make the Act run in legal accordance.

2310 So with that, Vainstyr Loayreyder, I beg to move that clause 3 do stand part of the Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

2315

Mr Anderson: Thank you, Mr Speaker.

2320 Hon. Members, due to an unfortunate oversight, two very small amendments are required to the Health Care Professionals Bill and these come in clause 3, which we are on now, where it has been identified that the definition of 'relevant professional' does not quite work in relation to the reference the UK Health Professionals Order mentioned within it. After consideration by the legislative drafters, it is proposed that the title of this definition should refer to 'relevant profession' instead of 'professional'.

As a consequence of this change, reference to 'relevant professional' in the definition of registered professional also needs to be amended to 'relevant profession'.

2325 I hope you will support these amendments so the Bill can proceed.

I beg to move:

Amendments to clause 3

Page 6, line 10 for 'relevant professional' substitute 'relevant profession'.

Page 6 line 14 for 'relevant professional' substitute 'relevant profession'.

The Speaker: Hon. Member for Ayre, Mr Teare.

2330 **Mr Teare:** Thank you, Mr Speaker.

I beg to second.

The Speaker: I put the question...

2335 Mrs Cannell, did you wish to speak? (**Mrs Cannell:** Yes.)
Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Sorry, I should have given you the eye a bit earlier.
(*Interjections and laughter*)

2340 I just wanted to ask the hon. mover of the Bill, in his opening remarks he said that the contents of the Bill, the principle of the Bill has... I cannot remember the exact terminology he used, but he suggested that it did not have unanimous support, it had the majority of support. I wonder if he could indicate which registered medical professional was actually against the aspects of the Bill or if he could clarify his opening remarks, please.

2345 **The Speaker:** Mr Anderson, do you wish to reply?

Mr Anderson: No...

The Speaker: Mr Henderson.

2350 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

In answer to the Hon. Member for East Douglas, as far as I am aware there has been no objection to this. Quite the contrary, it is a legal requirement. End of story. We use the term 'overwhelming' to try and describe the situation and merely that, Vainstyr Loayreyder.

2355 **The Speaker:** I put first the amendment to clause 3. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3 as amended, those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 4, please.

2360 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

I would just like to say, in commencing clause 4, I will however just check my explanation to the Hon. Member for East Douglas and come back to her with a positive on the Third Reading (**A Member:** Hear, hear.) if I might, just to recheck myself, but I think I am fairly accurate in what I am saying.

2365 Clause 4, Vainstyr Loayreyder, part 2 of the Bill deals with matters specifically relating to registered medical practitioners.

2370 Clause 4(1) is a modified rewording of section 1 of the existing Medical Act 1985, and the equivalent section from the UK Medical Act 1983, and simply confirms that if a person who is not a registered medical practitioner tries to recover a charge for providing medical advice or attendance or for performing a surgical operation, they would not be able to do so through a court of law.

2375 As in the UK, it is not actually illegal for any person to provide medical advice or attendance or to perform a surgical operation, which may be, in legal terms, as simple as applying a bandage or plaster, or suggesting that someone takes a paracetamol for a headache, as long as they do not claim to be, or give the impression that they are, a qualified medical practitioner. We will come back to this in clause 6.

2380 The aim of clause 4(1) is to take away any incentive that someone might have to set up a business to undertake these functions, but allow, for example, charitable organisations to undertake the functions at no charge.

Clause 4(2) states that clause 4(1) only applies to medical practitioners, in that where certain other professionals are allowed, through their own professional qualifications and registration, to provide medical advice or attendance or perform surgical operations, they are not restricted from pursuing charges through the courts by this Act.

2385 I beg to move that clause 4 do stand part of this Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

2390

The Speaker: I put the question that clause 4 do stand. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 5, please.

2395

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

In the autumn of 2012, the United Kingdom introduced a new system for the General Medical Council to review the performance of doctors and to confirm their registration and licence to practice – this is known as revalidation. The first full year of a five-year cycle of revalidation started in the UK early in 2013.

2400

Although the Island did not have to start operating the scheme at the same time as the UK, it does need to start as soon as possible to allow all doctors to be revalidated within the first five years of the scheme.

2405

Within the National Health Service the existing annual appraisal process for doctors will continue, alongside revalidation and the Department will continue to have the option to refer a doctor for a further action by the GMC if there are any concerns within the five years.

As part of the new scheme, all health bodies in the UK are required to appoint responsible officers to manage the process locally and clause 5(1) will give the Department the legal authority to act as such a body.

2410

The role of 'responsible officer' is a new one. Each doctor in the Island will be linked to a responsible officer, who responsibility it will be to make a recommendation to the GMC as to whether the doctor should be revalidated as fit to practice.

Clause 5(2) requires the Department to appoint one or more responsible officers, in accordance with the UK Responsible Officers Regulations.

2415

Clause 5(5) defines the UK Responsible Officers Regulations. The Department has taken the view that, because of the desire to mirror the UK as closely as possible in this important area, it is more appropriate to adopt the UK regulations and avoid the need to constantly update our own regulations.

2420

The responsible officer will be responsible for ensuring that appropriate systems of clinical governance and appraisal are in place to enable revalidation to take place for all of the doctors in the Island. This includes private doctors as well as those employed or contracted by the Department so they need to have enough influence to make sure that organisations, including the Department of Health and GP practices, meet the requirements of the scheme. The appointee is therefore usually a senior licensed doctor and it is anticipated that the Department's Medical Director will fulfil the role here.

2425

Our responsible officer will be revalidated by a senior doctor from the UK.

Clauses 5(3) confirms that our responsible officer will have the same functions as a responsible officer in the UK and must co-operate with the General Medical Council in the same way.

2430

The GMC have made it clear that appointing responsible officers, other than via legislation, would be unacceptable to them, and the Island would be considered as having not met the standards set for the revalidation scheme. Under these circumstances, the GMC would not then renew doctors' registrations, thus removing their licence to practice.

2435

Whilst in theory a doctor could still work in the Isle of Man, it has been made very clear to the Department that no self-respecting doctor would come to work in the Island if we did not have this legislation. This is because if the Island was not recognised by the General Medical Council, any work done here by a doctor would not then count towards their revalidation and they would risk their registration being compromised or possibly even withdrawn.

2440 Any doctors who might come to the Island under these circumstances would most likely be doctors who were not interested in maintaining their registration, due to imminent retirement or perhaps a chequered past.

Without the links to the GMC, which validation will facilitate, we would have great difficulty checking on a doctor's history. The Department does not consider this an acceptable alternative. Therefore, Vainstyr Loayreyder, I beg to move that clause 5 stand part of the Bill.

2445 **The Speaker:** Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

2450 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

2455 I just have a couple of queries. When the hon. mover spoke on subsection (5) about the UK Responsible Officers Regulations, these are UK regulations, are they not? They are made under the UK Medical Act and also the Health and Social Care Act 2008. I am just wondering at what time, what opportunity would Hon. Members get to see a copy of those regulations and whether or not this particular clause, subsection (5) is pre-empting Tynwald approving the regulations, because usually regulations are laid before Tynwald for approval or not, as the case may be?

2460 My second question is that when the Hon. Member says that the Medical Director will be the responsible officer, the person to take up this particular role, I am just wondering what impact that will have on going forward with the Beamans Report that specifies that in the future any Medical Director should not have any surgical obligations? I am just wondering whether or not we are looking at perhaps having to change the legislation if the Beamans recommendations come into full force going forward?

2465 Thank you.

The Speaker: Mr Henderson to reply.

2470 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

I am a little confused here with what Mrs Cannell has put to me because the regulations we are putting through here hopefully – and the Act is to, as I have explained – mirror entirely the UK regulations for the sake of reciprocity and for ease of recruitment and so on, and for us to make sure our revalidation is completely at home with the UK – in fact, one and the same thing.

2475 So we have to have an Act, legislation and Orders that mirror the UK. This did go out to consultation a good while ago, Vainstyr Loayreyder, so all Members were aware of it and of the wording and of how we were going to do it. If the Hon. Member wishes to have further information on the printed UK regulations, then certainly she can come and see me afterwards and I can obtain a copy if she so wishes.

2480 With regard to the Medical Director, whatever the Beamans Report says or does not say, or whatever any other report says or does not say, the issue is the registration and licence to practice of a medical practitioner, and that is paramount and core within this. It is something that has to be done by law, certainly in the UK, and hopefully here. What I said to start with in moving the clauses today was hopeful approval by the branches in Tynwald, and I am certainly not pre-empting what may or may not happen at a future date, but I am asking for the House's concurrence with the clauses this morning.

2485 But we do envisage that the Medical Director post will cover the responsible officer designation, as put in the legislation, and that is how it is going to have to work, Vainstyr Loayreyder. So if there are queries that Mrs Cannell feels that I have not touched upon, she is

2490 more than welcome to come and see me later and certainly I can put them out or at the Third Reading if necessary.

Gura mie eu, Vainstyr Loayreyder.

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

2495 Clause 6, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2500 Clause 6 deals with offences and evidence in relation to all of the various health care professions defined in part 1.

The Department has decided that in the first instance the penalties for the various offences in this part should remain as they are set out in both the existing Manx legislation and the equivalent UK legislation. That is in all cases, on summary conviction, a fine not exceeding £5,000.

2505 Clause 6 creates the offence of falsely representing oneself as a health care professional with intent to deceive, either expressly or by implication.

In order to remove any doubt that this might only apply to registered professionals, the clause goes on to say that any person who describes himself or herself by any name that implies that they are a health care professional is also guilty of an offence.

2510 Subclauses (3) and (4) also make it an offence for another person to falsely represent a person as a health care professional.

I beg to move that clause 6 stand part of the Bill.

The Speaker: Mr Cregeen.

2515

Mr Cregeen: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The President: Mr Singer.

2520

Mr Singer: Thank you.

2525 If I could make a comment, and perhaps the Hon. Member could come back to me on this, where did the figure of £5,000 come from, because to me it seems to be rather low for somebody who is misrepresenting themselves as a health professional and in fact could treat people and cause serious injury or maybe even death to somebody? This appears to me to be rather low and I wonder why the Department decided on this figure.

The Speaker: Mr Anderson.

2530 **Mr Anderson:** Would the mover agree with me that the more important thing is that the GMC would have a sanction on this which would be more for punishment than the actual fine?

Mr Singer: No, they cannot. They are not registered.

2535 **The Speaker:** Mover to reply.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2540 There are several issues afoot here with regard with this. The £5,000 fine is set as per the UK and we are mirroring that at the minute. It may be that it could, in theory, in the future be reappraised.

However, this is addressing the act of misrepresenting oneself. It is about using your name and deceiving a member of the public; it is not about what you may or may not cause as a result of that. So that is different again, which may well be brought to a court of law under different circumstances. So I think that should address the Hon. Members.

2545 So, if you like, Vainstyr Loayreyder, you could be prosecuted for misrepresentation, and then you could be taken again for other issues that may well have come as a consequence of that. So I think that should reassure Members.

I beg to move, sir.

2550 **The Speaker:** I put the question 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.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2555 Clause 7 makes it an offence for a health care professional to carry out, or give the impression that they are prepared to carry out, the functions of a health care professional if their registration is suspended.

I beg to move that clause 7 do stand part of the Bill.

2560 **The Speaker:** Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

2565 **The Speaker:** I put the question that clause 7 do stand. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2570 Clause 8 creates the offence of falsely representing oneself as holding a licence to practice as a health care professional.

I beg to move that clause 8 stand part of the Bill.

The Speaker: Mr Cregeen.

2575

Mr Cregeen: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

2580 **The Speaker:** I put the question that clause 8 do stand. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2585 Clause 9 creates the offence of performing the functions of a midwife without being registered as such.

Subclause (2) creates exceptions for registered medical practitioners; medical practitioners and midwives, whilst they are undergoing specific midwifery training; and persons who are required to carry out the functions of a midwife because of sudden and urgent necessity.

2590 No offence is committed under this clause by an unqualified person who was present at a birth, as long as they did not assume responsibility by assisting or assuming the role of a medical practitioner or registered midwife.

An unqualified person may include a non-registered midwife, a doula or labour coach, a nurse, the woman's partner, a relative or a friend. A doula or labour coach is a non-medical person who assists a woman before, during and after childbirth by providing information, physical assistance and emotional support.

2595

Vainstyr Loayreyder, I beg to move.

The Speaker: Mr Cregeen.

2600

Mr Cregeen: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

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

2605

Clause 10.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 10 confirms that certificates mentioned in the Acts and Orders referred to in the Bill are to be taken as evidence of the matters they are certifying.

2610

I beg to move that clause 10 do stand part of Bill.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

2615

I beg to second and reserve my remarks.

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

Clause 11.

2620

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 11, part 4, contains the final provisions of the Bill.

Clause 11 states that a registration suspension does not automatically terminate any employment or appointment held by a health care professional. However, the professional must not carry out the functions of their employment or appointment during the period of the suspension.

2625

I beg to move that clause 11 stand part of the Bill.

The Speaker: Mr Cregeen.

2630

Mr Cregeen: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Mrs Cannell.

2635

Mrs Cannell: Thank you, Mr Speaker.

I just wonder, and if the Hon. Member has not got the information to hand, perhaps he could advise the House at Third Reading, but in his knowledge and with his briefing papers, is there a sort of expectation as to how long a professional person might be suspended for? Is there a pattern? What is the maximum period of suspension for a professional, if he could advise? If he has not got that information now, Third Reading will be fine.

2640

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2645 I am afraid I will have to refer the Hon. Member to the General Medical Council's website if she wants to look at the kind of examples she is looking for. In effect, what she has asked is how long is a piece of string. It depends on what has caused the actual suspension from the professional register, whether it was medical, nursing or otherwise, and to what degree what kind of investigations that would incur as a result of whatever action it might be. It could be something as simple as lasting a week or two or it could be something that is considerably longer. The point with the clause is that it places a protection in for the public where a concern has been raised and a registration has been suspended. It puts an assurance in that that person must not practice why the suspension is in place.

2655 **The Speaker:** I put the question that clause 11 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2660 Clause 12, under the National Health Service Act 2001, the modification of the regulation of certain professions in England can be applied to the Island by Order, but only if the changes in England have been made using an Order in Council under the UK Health Act 1999.

Clause 12 extends this provision so that the Department can use an Order to apply any legislative changes to the Island which have been applied in England in relation to the health care professionals covered by this Bill.

2665 The extended provision will avoid the need for us to introduce amending primary legislation every time there is a change to the UK legislation. This should speed up the whole process of keeping up to date with England, which, in this area, is imperative. For example, the new English provisions relating to revalidation could have been implemented on the Island by now if this provision had already been in place.

2670 The professions regulated by the Dental Act 1985 and the Opticians Act 1996 have been included in this provision as they were included in the previous provisions under the NHS Act 2001.

2675 Dentists and opticians could also have been brought into the other provisions of this Bill, but it was identified that their respective existing Acts, which contain legislation which extends beyond simply regulating health care professionals, may need more significant updating which could cause delays. Because of the urgency to implement revalidation, the Department decided not to risk a delay and to leave progressing the updating of these Acts to a later date.

2680 Subclause (2) of clause 12 will allow the Department, by Order, to add additional types of health care professional to the list contained in the definition of health care professional in clause 3. Given the way in which this Act is constructed, an additional type of health care professional would only be added if the UK decided to regulate a health care profession which is not covered by the existing definition.

Subclause (3) allows an Order to also make any necessary consequential statutory changes.

2685 Subclause (4) requires the Department to consult representatives of any relevant professions before making an Order under this clause, and subclause (5) requires an Order to be approved by Tynwald.

I beg that clause 12 stand part of the Bill.

2690 **The Speaker:** Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

2695 **The Speaker:** I put the question that clause 12 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 13.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
2700 Clause 13 makes amendments to the NHS Act 2001 as a consequence of this Bill by repealing sections 39A to 39D and 40 and amending the definition of 'medical practitioner' to that Act to reflect the meaning in this Bill.

Sections 39A to 39D contain provisions relating to the regulation of nurses and midwives which will no longer be needed, and section 40 contains the wording, which has now been
2705 amended and included as clause 12 of this Bill.
I beg that clause 13 stand part of the Bill.

The Speaker: Mr Cregeen.

2710 **Mr Cregeen:** Thank you, Mr Speaker.
I beg to second and reserve my remarks.

The Speaker: I put the question that clause 13 stand. Those in favour, say aye; against, no.
The ayes have it. The ayes have it.
2715 Clause 14, please.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
Clause 14 contains all of the amendments to other legislation which are required as a consequence of this Bill.

2720 A definition of 'medical practitioner' in the schedule to the Access to Health Records and Reports Act 1993 is amended as a consequence of the Medical Act 1985 being repealed.

Wording in schedule 1, paragraph (6) of the Control of Employment Act 1975 is amended as a consequence of the Medical Act 1985 being repealed.

2725 The definition of 'registered' in section 3(1) of the Interpretation Act 1976 is extended to include reference to any of the professions mentioned in this Bill.

Definitions of 'doctor' in schedule 2 to the Medicines Act 2003, section 38(1) of the Misuse of Drugs Act 1976, and section 9(2) of the Poisons Act 1979 are amended as a consequence of the Medical Act 1985 being repealed.

2730 Wording in section 2(1)(c) and (e) of the Veterinary Surgeons Act 2005 is amended as a consequence of the Medical Act 1985 being repealed.

Wording in section 8(11) of the Video Recordings Act 1985 is amended as a consequence of the Medical Act 1985 being repealed and as a consequence of the Nurses and Midwives Act 1947 having been repealed by the Regulation of Care Act 2013.

I beg to move that clause 14 stand part of the Bill, Vainstyr Loayreyder.

2735

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

2740

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

2745 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Clause 15 repeals the Medical Act 1985 which is no longer required as a consequence of this Act.

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

2750 **The Speaker:** Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

2755 **The Speaker:** I put the question that clause 15 do stand. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

And finally, clause 16.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2760 Clause 16 revokes the Health Professions Order 2002, which is no longer required as a consequence of this Act.

I beg to move that clause 16 do stand part of the Bill and in doing so would... I think we have already confirmed that. There was just a little information that the cost of the additional work load required for the purposes of this Bill would be met within existing resources.

2765 I beg to move, sir.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

2770 I beg to second and reserve my remarks.

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

Thank you, Hon. Members.

4. BILLS FOR THIRD READING

4.1. Control of Employment Bill 2013 – Third Reading approved

Mr Shimmin to move:

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

2775 **The Speaker:** We turn now to Item 4 in our Order Paper, Bills for Third Reading. Control of Employment Bill, and I call on the mover, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

2780 I would like to thank Hon. Members for their interest and support at the previous readings of the Bill and prior to that of the presentation in January. I also put on record my gratitude for those who attended my Department to clarify certain other points.

2785 I would now like to briefly deal a number of points which were raised during the clauses stage. Firstly, as regards the status of voluntary workers under the Bill – a point raised by the Hon. Member for Ramsey, Mr Singer – I can confirm that such workers are one of the exempt categories under paragraph 7(6) of the schedule.

2790 The Hon. Member for Onchan, Mr Karran, raised a point as to the hypothetical case of a person who is granted a Work Permit on the basis of a statement on an application form which turns out to be false or omits information, who then goes on to become an Isle of Man Worker. Prior to the person becoming an Isle of Man Worker, the Department has powers to revoke the permit under regulations, the following being grounds for revocation in the draft of 2014 regulations, and I quote:

'The fact that the application for the permit includes a statement (whether relating to the holder, to his or her employer, to a relevant person or to any other person) which is false in a material particular, or omits to disclose a material particular, such that a true and complete statement would have caused the Department to refuse to grant or to renew the permit, as the case may be.'

Also under clause 15(4) of the Bill, the Department has powers to prosecute the individual who makes a false statement and this carries a maximum penalty of six months in prison for doing so or a fine not exceeding £7,500, or both.

2795 Also under clause 16(3) of the Bill the time limits for a prosecution we have identified are three months from the date on which evidence sufficient, in the opinion of the Attorney General to warrant the proceedings came to his knowledge, but subject to an overall time limit of 12 months after the offence was committed. We do acknowledge that it is always possible that someone might lie on an application form, who then goes on to become an Isle of Man Worker
2800 five years later, and that in theory it would be too late for a prosecution to take place; however, in our view the existing sanctions are sufficiently dissuasive to deter people from submitting an erroneous application form.

Secondly, if an application form with false information is not discovered within the five years in which it takes to become an Isle of Man Worker, it is potentially unlikely that it would ever be
2805 discovered.

Thirdly, to the best of our Department's knowledge, there is no case that is such and similar to that envisaged by the Hon. Member. We have sought legal advice on the point and the Department does not consider there is any need to amend the Bill to deal with this remote possibility.

2810 Moving on to other points, while the Department supported some amendments and opposed others, we have listened carefully to some of the arguments put forward by Members. We note the comments on the potential difficulties of policing exempted employments, made by Mr Karran, and therefore we will consider moving an amendment in another place enabling the Department to obtain some additional information regarding persons who are exempt. We also
2815 take note of the comments on the administration of permits, made by the Member for West Douglas, Mr Thomas, and we will be reflecting as to how we might improve the way that Work Permits are administered.

In addition, the Hon. Member for Rushen, Mr Watterson, has brought to our attention a lacuna in one of the exemption categories, which we now believe can be dealt with by an
2820 amendment in another place.

Mr Speaker, before closing, I would like to extend the Department's thanks to Mr Ken Gumbley, who has drafted the Control of Employment Bill and worked with my Department on the project over a long period of time to produce what we consider to be a very internally coherent and well thought out Bill, which stand the Island in good stead for many years to come
2825 and which, taken with the new draft regulations, will be a great improvement over the existing legislation.

I would also like to put on record my personal thanks to the officer, Mr Jonathan Clague, who likewise has worked with this over many years and I believe has satisfied many Hon. Members' questions and queries on this item, as well as all other areas under his responsibility. He has my
2830 personal thanks.

I beg to move the Control of Employment Bill 2013 be read for a third time.

The Speaker: Mr Skelly.

2835 **Mr Skelly:** I beg to second and reserve my remarks.

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

**4.2. Representation of the People (Amendment) Bill 2013 –
Third Reading approved**

Mr Anderson to move:

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

2840 **The Speaker:** Lastly, we turn to the Representation of the People (Amendment) Bill, and I call the Member, Mr Anderson.

Mr Anderson: Thank you, Mr Speaker.

2845 This Bill puts into legislative form resolutions made by Tynwald that the 24 seats of the House of Keys be divided into 12 constituencies of two Members each, thereby delivering a quality of voting for and representation in the House of Keys. The new boundaries of the constituencies are set out in the Third Report of the Boundary Review Committee, which was approved by Tynwald.

2850 The Bill also ensures that there will be regular review of the number and boundaries of constituencies in the future, through the appointment from 2021 and every second election thereafter of an Electoral Commission. The Electoral Commission will also be able to consider such other matters relating to elections as Tynwald may by resolution direct. This Bill will come into effect in time for the General Election of 2016 and not before.

2855 Hon. Members will excuse me if I do not go on at length in respect of the very significant purpose of this Bill. (**Several Members:** Hear, hear.) The extensive and at time passionate debate on equality and fairness that took place in this House last week was, I feel, extremely helpful in highlighting the issues. One amendment has been made, which is under clause... 11A, Constituencies, the entry, which read 'Malew, Arbory and Castletown' has been replaced by 'Arbory, Malew and Castletown' and therefore placed at the head of the alphabetical list of constituencies.

2860 It was also raised last week that there were one or two houses where it was unclear from the boundary maps in which constituencies they fell. If the Hon. Members would also like to provide me with the addresses of the properties, I will undertake to have these looked into and clarified as needed.

2865 Mr Speaker, a lot of time and thought has been invested over the past three years in a sincere attempt to end inequality in elections to the House of Keys and in the levels of representation in the House. I am grateful to Members for the seriousness of and responsibility in which they have addressed this matter, and for their support and conviction in moving forward with the most far-reaching constitutional change our parliamentary system has achieved in decades.

2870 Mr Speaker, therefore I beg to move the Bill be read for a third time.

The Speaker: I call Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

2875 I am happy to second this, because despite what has been alleged by various Members of the House of Keys about my motivations, I have always supported the principle of equalisation. (**A Member:** Hear, hear.) (*Interjections*) I just do not agree necessarily that we have been as bold as we should have been. So I am happy to support this.

2880 I am disappointed obviously that the Bill moves forward to Legislative Council in a slightly less perfect way than it would have done had you listened to me last week, but I am more than happy to offer my support and I look forward to the 2016 election.

The Speaker: Before we proceed with the debate, Hon. Members, the mover, Mr Anderson, when referring to the amendment that was made under clause 3, 11A, said that the amended version agreed was 'Arbory, Malew and Castletown'. The version I have printed is 'Arbory, Castletown and Malew'. Would the Member, for the record, agree with that?

Mr Anderson: For the record, Mr Speaker, I am happy to agree with that.

2890 **The Speaker:** Thank you, Hon. Member.
Now, the floor is open. Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

2895 Once again, I put on record that I have no animosity to the Member in moving this. I know when I first came into politics, he was the... well, yes, he was the first Minister that I was under, I suppose, if that is a technical term. So I am now holding nothing against him (*Interjections*) but still, at this eleventh hour, there is still an opportunity there.

2900 I was hoping, and maybe still seeking assurance from the Member moving this, that a definitive map, especially of the Onchan areas which will be sliced away, and if I am seeking it right that he has actually given assurance that there is, I think, only one anomaly in Onchan where one property (*Laughter*) –

Mr Anderson: There is more than one! (*Laughter*)

2905 **Mr Bell:** There are at least three!

Mr Quirk: – is one constituency or another, and I do not know whether we toss a coin or what happens, but it may be nice to give some clear guidance to that particular area.

2910 I was disappointed really that Members of the House did not take the opportunity to support my colleague from Onchan, Mr Karran, to give that reassurance for the local authority areas, because only time will tell and history will come about when maybe we are not here, which will... maybe the warning that we gave that it may come about... that it will be just a snatch for convenience purposes for money or a particular boundary area and those persons who have enjoyed living in a constituency which has been progressive towards the future and provided facilities, homes, businesses and made the community of Onchan a lively place to live in and which people have enjoyed, by giving it the Third Reading here today.

Mr Anderson: We are not knocking it down.

2920 **Mr Quirk:** My stance is going to be, Minister, as you always know... sorry, Member, backbencher... fellow backbencher now –

Mrs Cannell: Mr Speaker –

2925 **Mr Quirk:** – that I still will be voting against it. (*Interjection by Mrs Cannell*)

As I say, it is nothing personal to the Member moving this, but I have to put on record that I was against it when it was first originally done. I do believe and support some of our colleagues from Rushen regarding, did the people who it has affected the second time round when a decision was made after the boundary review had another little cherry pick at it... were they
2930 given enough time to consult on that? The jury is definitely in for me: no, they did not.
Sorry, I am voting against.

The Speaker: Hon. Member, Mrs Cannell.

2935 **Mrs Cannell:** Thank you, Mr Speaker.

I wonder if the hon. mover could advise the House on who he anticipates taking the Bill in the Legislative Council, because I think whoever takes it is largely dependent on the strength of the character of that individual, I think (*Interjection*) going by what the various Members have said through the reading of this Bill?

2940 And further, whether the mover can advise that with a fair wind and the Bill receiving all of its approvals in another place and becoming law, when he would anticipate it coming into law? I know that it is very hard to judge, I expect, when he would expect Royal Assent, but how soon after Royal Assent would he anticipate the maps being available to indicate where the boundaries are of the new constituencies?

2945 And finally, Mr Speaker, can I just offer my praise to the Hon. Member for the determined manner in which he has read and taken this Bill through all its stages. (**A Member:** Hear, hear.) Praise to him for moving this, which is quite significant in moving forward in the history of the Isle of Man and its political structure.

Thank you.

2950

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

Mr Karran: Vainstyr Loayreyder, we in the Liberal party support the principle of equality of representation as far as this is concerned. I believe that it has been a missed opportunity today
2955 as we did not follow the amendments I put down. I think it would have added to democracy, either to the structure as far as the parliamentary process is concerned, to have seen six four-seat constituencies. I am disappointed that the personalities got in the way, as far as many outside this Hon. House is concerned, giving the declaration that parliamentary seats are nothing to do with local authority seats. I think that amendment was a home goal to
2960 Government by not supporting it.

I also would like to put on record that whilst personally I supported the principles of electoral reform, and I know that many of my constituents are very, very disappointed with a two-seat constituency, I do believe that it is right that there should be the equalisation as far as representation is concerned.

2965 When coming into this seat, we had the absurdity of where we had a Labour stronghold, namely, North Douglas, with 1,000 votes more than Ayre, and Ayre had two representatives to the Labour stronghold having one representative with 1,000 more voters to do the job. We have come a long way and I appreciate that.

I was somewhat disappointed with the way my amendments, as far as this Bill is concerned,
2970 were trying to be blackguarded as a way of delaying tactics. (**Mr Watterson:** Hear, hear.) (**Mr Gawne:** Shameful.) I did not put anything in the way as far as trying to sending it back to consultation, send it to commissions, and I just think it is just another appalling example of the press, once again, not giving a balanced opinion of some of us that have been in this House for maybe too long in many people's eyes, and not long enough as far as some other people are
2975 concerned.

Hon. Members, I hope that we can develop that national strategy, that national Government with two-seat constituencies. I am really pleased that we have hopefully killed off, once and for all, 24 single-seat constituencies, which would have left us no more than state representatives.

2980 I think the decision has been made today, and obviously I will support, on the binding principle of the issue of equality of representation, something that we have always wanted to see, where many people have fought in the urban areas against the farming areas in the past to get equal representation, and I believe that this is a step in the right direction.

2985 I just would like to say to the mover that I find it really quite a waste of resource, with the amendment that has been accepted, why there was a need for reprinting the Bill. I really do think that that was just a waste of paper, timber and resources, and I just would be either bemused to know why anybody wasted their time reprinting the Bill as it is not going to be... when it becomes an Act, it becomes a matter of law.

Thank you, Vainstyr Loayreyder.

2990 **The Speaker:** Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

2995 A very short question: is the mover of this Bill, on behalf of Tynwald, happy to confirm that he expects the Representation of the People No. 2 to come back shortly; and, if so, given the high praise he has had from colleagues, would he perhaps consider bringing it back in the short future? (*Laughter*) I think he mentioned April at one point.

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

3000 **Mr Anderson:** Thank you, Mr Speaker, and I thank Hon. Members for their contributions.

As we have said before, this is a journey. We are not getting to the end destination maybe, but we are certainly going a long way down the road of equality and I welcome Mr Gawne's... who has acknowledged before that we are stepping out on a journey and acknowledging that it is a bit of a Damascus Road for Mr Gawne because he has now got up and seconded the Bill.

3005 I do acknowledge the 'misreference' I made in my introductory remarks, Mr Speaker.

3010 In relation to Mr Quirk, Mr Quirk has been consistent. He has been consistent in his remarks and we just have to agree to differ on this occasion I think. This is a significant change. It is a significant progress that we are going to these 12 two-seat constituencies. I think people have made their contributions and made their points well known and we will never all agree. We will all have an ideal within our own heads. This is a compromise, if you like, and who knows... Mr Karran was disappointed that some of his amendments had not been taken on board, but can I assure him that this is just for House of Keys constituencies; it has nothing to do with local authorities. We did not want that to be confused and that is why we rejected his amendment last time. I acknowledge that his party does agree with equal representation and that is why they supported the Bill thus far.

3015 In relation to the Appointed Day Order, that will be in place, Mrs Cannell, for 2016, and that is when it comes into force. I suspect it will get approval very shortly, but the Appointed Day Order will be in time and that is the important thing.

3020 In relation to the maps, they are already available in the Tynwald Library. If there is any confusion on individual areas, the Chief Secretary's Office will be quite happy to clarify any of that and make sure that if there are any changes needed, they will be made within a matter of weeks so that people know exactly where they stand on constituency boundaries.

3025 In relation to Mr Karran's comment about this being a waste of paper, being reprinted, it is out of our control. That is something that is dealt with by the Clerk of Tynwald's Office and so he is gladly taking responsibility for that. (*Laughter*)

In relation to the No. 2 Bill, which the Chief Minister has given a reassurance only last week that it will come forward in a matter of haste, Hon. Members, that will be a CoMin Bill and therefore I look forward to somebody else taking that. *(Laughter)*

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

3030

The Speaker: Hon. Members, I put the question that the Representation of the People (Amendment) Bill be read for the third time. Those in favour, please say aye; against, no. **(A Member:** Divide.) Division called.

3035

Hon. Members, I must advise the voting system *is* working. There is a malfunction with the main screen, but the screen on the Clerk's desk is clearly working and is visible and the Clerk will read out the result.

Please vote, Hon. Members.

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

3040

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

The Speaker: With 18 votes for, 5 votes against... would the Clerk read out the voting numbers, please?

3045

The Secretary: Representation of the People (Amendment) Bill etc, Third Reading: 18 votes for, 5 against.

A Member: Could you call the names?

3050

The Speaker: Could you announce the names of the Members voting accordingly?

The Secretary: Those who voted for: Mr Karran, Mr Ronan, Mr Crookall, Mr Anderson, Mr Bell, Mr Singer, Mr Quayle, Mr Teare, Mr Cannan, Mr Cregeen, Mrs Beecroft, Mrs Cannell, Mr Robertshaw, Mr Shimmin, Mr Thomas, Mr Skelly, Mr Gawne and Mr Speaker.

3055

Those who voted against: Mr Quirk, Mr Hall, Mr Houghton, Mr Henderson, Mr Watterson.

The Speaker: Thank you, Hon. Members.

That concludes the business of the House today. The House will now stand adjourned until the next sitting, which will take place at 10 o'clock on 11th March in this Chamber.

The House adjourned at 1.00 p.m.