



HOUSE OF KEYS OFFICIAL REPORT

RECORTYS OIKOIL
Y CHIARE AS FEED

PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 15th April 2014

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Volume 131, No. 15

ISSN 1742-2264

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. L D Skelly and Hon. P A Gawne (Rushen);
with Mr R I S Phillips, Secretary of the House.

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House of Keys

The House met at 10.00 a.m.

[MR SPEAKER *in the Chair*]

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

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

The Speaker: The Chaplain will lead us in prayer.

PRAYERS

The Chaplain of the House of Keys

Leave of absence granted

10 **The Speaker:** Hon. Members, I have given leave of absence to Mr Shimmin, who is away on Government business... [*Inaudible*] (*Interjection*) ... not away on Government business (*Laughter*); and to Mr Watterson, Hon. Member for Rushen, who is unwell.

1. Questions for Oral Answer

CHIEF MINISTER

1.1. Services free at point of delivery – Access and eligibility criteria

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

When clear access and eligibility criteria for each of those services that will no longer be provided free at point of delivery in 2014-15 will be published and applied?

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

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

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

20 **The Chief Minister (Mr Bell):** Mr Speaker, as the Hon. Member will be aware, the new Minister for Policy and Reform has not yet been in post for a month. I know this is a priority area for the Minister and I know he is keen to ensure consistency and transparency in any approach to service access criteria. It is something we are working on, but we are not in a position to provide information yet.

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

Mr Thomas: Thank you, Mr Speaker.

I notice that, in the progress report, the objective WR1.1, which was the clear access and eligibility criteria, will be published and applied during 2014-15 and data will be available by 31st March 2014. That is amber. Does it remain amber?

30

The Speaker: Chief Minister to reply.

The Chief Minister: I have answered the Question, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, can the Ard-shirveishagh inform this House of what mechanism he is going to use? Is he going to use a mechanism such as a tax certificate to say that if people are over a certain amount of income they will not get it? Would he be considering something on the lines of using the average wage as a benchmark for some of these universal benefits as a way of giving the criteria level for what it should be?

40

The Speaker: Chief Minister.

45 **The Chief Minister:** Mr Speaker, I cannot speculate yet as to what the final shape of this might be.

1.2. Universal payments – Examination re continuation of payment

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

Pursuant to his statement in Tynwald on 21st January 2014 about an examination of whether universal payments should continue to be paid regardless of income or personal wealth, how (a) Tynwald and (b) the general public will be involved in this examination; and what the timetable is?

The Speaker: Question 2. Hon. Member, Mr Thomas.

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

The Speaker: Again, the Chief Minister to reply.

55 **The Chief Minister (Mr Bell):** Mr Speaker, once again, the Hon. Member for Douglas East, Mr Robertshaw, is committed to ensuring full engagement and consultation with both Tynwald

and the general public on this most important matter; and again, I do not have a timetable as yet but I know we are moving this agenda forward.

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

Mr Thomas: Thank you, Mr Speaker.

Can I ask the Chief Minister then what is the point of having a timetable in the Government plan if we no longer have a Government timetable?

65 **The Chief Minister:** The timetable will be confirmed in due course, Mr Speaker.

The Speaker: Mr Karran.

70 **Mr Karran:** Has the Ard-shirveishagh given any extra thought to the proposals that I suggested long ago that, in view of the fact that it costs us something like £34 million on the pension premium, we should be using something like the issue of the average working wage as a criteria for those who are over pensionable age to be able to... under that level should only get that pension premium?

75 Does the Ard-shirveishagh not agree that it does give an impression that there is a void as far as any real strategic policy on making these hard decisions that are going to happen to be made if we are going to protect our proud record of the past?

The Speaker: Chief Minister.

80 **The Chief Minister:** Mr Speaker, I do not need the Hon. Member to remind me or talk about making hard decisions. (**A Member:** Hear, hear.)

We are progressing this as best we can and all these various issues will be considered and put in place when the proposals are ready.

85 **The Speaker:** Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

90 Back on 21st January, in the speech that I referenced in my Question, the Chief Minister referred to £250 million-worth of payments. Does that mean old age pensions, the basic pension and all other benefits, like Carer's Allowance, are also going to be reviewed; in which case, when is that debate going to happen? It was promised back in July 2012 and I do not believe this national debate has really started as yet.

The Speaker: Chief Minister.

95 **The Chief Minister:** Mr Speaker, again, I have answered that question.

The Speaker: Mr Karran.

100 **Mr Karran:** Vainstyr Loayreyder, would the Ard-shirveishagh consider that, as I was considering putting a proposal down at the previous Tynwald sitting, we put a motion down at the next Tynwald sitting – that will give him some leadership as far as having to make those sort of difficult decisions as far as the issues of some of the universal benefits that need to be addressed?

105 **The Speaker:** Chief Minister.

110 **The Chief Minister:** Mr Speaker, I have made it very clear on a number of occasions, as has Mr Robertshaw, the Minister for Policy and Reform, that we are working on a range of proposals at the moment. We are not in a position yet to finalise it. These are very delicate, very complicated and very sensitive proposals which will have to be properly thought through before being brought to Tynwald. Simply trying to bounce Tynwald into a decision which has not been properly discussed is not helpful at this stage.

115 **The Speaker:** Mr Karran.

Mr Karran: Would the Ard-shirveishagh not agree that the fact is that the hard decisions are going to have to be made sooner rather than later; and the fact is that if we do not start making these decisions sooner it is going to mean less flexibility, particularly if they do not get addressed before the next General Election, and the next House will have a crisis on its hands as far as funding is concerned?

120 Would the Ard-shirveishagh be prepared to put some input into a motion to Tynwald and see whether he would agree with some of the hard decisions that are going to have to be made as far as this issue is concerned in order to protect frontline services?

125

The Speaker: I think you have answered the question, Chief Minister.

The Chief Minister: I have, Mr Speaker, and I can only reiterate I have made this proposal to Tynwald for the whole of this administration about having to make very difficult decisions to protect the future. I am glad the Hon. Member for Onchan has now realised that.

130

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

Mrs Beecroft: Thank you, Mr Speaker.

135 Could the Chief Minister clarify exactly what he has done, in the last two and a half years since he became Chief Minister, in this respect?

The Speaker: Chief Minister.

140 **The Chief Minister:** I have answered that question, Mr Speaker.

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

Mr Teare: Thank you, Mr Speaker.

145 Does the Chief Minister not agree with me that we should have as wide as possible consultation (**Mr Thomas:** Hear, hear.) on this matter, because we are not planning for the next election – we are planning for the next generation, sir?

A Member: Hear, hear.

150

The Speaker: Chief Minister.

The Chief Minister: That has been our intention all along, Mr Speaker; but before you can have a wide-ranging debate, which is necessary, we need to get clarity of thought on the various aspects which are going to be affected by this. The changes which are brought in will have a direct and immediate impact on people's lives and it is most important that the proposals which are thought through are thought through properly, properly argued, properly consulted on and then brought to Tynwald with that case to underpin it.

155

160 **The Speaker:** Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Will the Chief Minister concede that the timetable slipped back in 2012; the debate was supposed to happen in 2013 and perhaps thereafter?

165

The Speaker: Chief Minister.

The Chief Minister: We are moving towards that debate, Mr Speaker.

170

The Speaker: Mr Karran.

Mr Karran: Would the Ard-shirveishagh just clarify the fact of his amnesia? As the Minister for Education who brought in pre-school education reform, this is about the only thing that has been done as far as less in the private sector.

175

The Speaker: Question.

Mr Karran: Would the Ard-shirveishagh not agree with the fact of the water rates and bringing about the only thing that has ever been credible as far as massive infrastructure renewal as far as this Island...? Does he not feel that his comments are somewhat belittling and insulting to this House when the likes of the Hon. Member for South Douglas actually asks for some proof of the statements that he has made and he just dismisses them without any statements of justification?

180

185

The Speaker: I am not going to allow a long speech and this is turning into a debate. Chief Minister.

The Chief Minister: I do not understand the question he is making about the water rates, Mr Speaker.

190

Most Members ought to be aware of the huge amount of work that has gone on right across Government over the last two and a half years in every single Department. Every Minister, every departmental Member – those who are prepared to engage as departmental Members – has had an input into trying to develop a strategy which will protect those frontline services, will bring a fair restructuring of the benefits system and transform it into one which is sustainable and affordable into the long-term future. This work has been going on for two and a half years, and if Members are not aware of that then they have been asleep for the two and half years, frankly.

195

Mr Speaker, this is an incredibly difficult and sensitive area of work that we have to do. It is not one to be used as a political football or for point scoring in this particular assembly. We have to look after the welfare of many thousands of people. It is most important that we get this restructuring right and enough thought and intellectual input goes into it as possible to make sure we have something which is sustainable for the future. That is my ambition. That is a promise I have made as Chief Minister and one which I will continue with.

200

205

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I must say, Mr Speaker, I do not think Members need a lecture this Tuesday morning from the Chief Minister.

210

Can I ask him, is he waiting for the £¾ million report from the consultants before he then lets the House know in which direction he is going? Will he take some advice from me, that before

he makes any more public statements in Tynwald or this hon. place he thinks before he opens his mouth and makes sure that he does in fact deliver, because his talk is proving rather cheap these days.

215

The Speaker: More of a comment than a question, Chief Minister.

The Chief Minister: Mr Speaker, if the Hon. Member turned up at meetings more often she might have a better idea of what goes on across Government and possibly even be able to make some input into it.

220

A Member: Hear, hear.

Mrs Cannell: Shame on you!

225

The Chief Minister: Mr Speaker, I am not lecturing this House; I am trying to highlight a point, which we have been trying to stress now for two and a half years, about the massive problems which are facing Government in terms of sustainability of our benefits system, our welfare system, our tax system, our Health Service and our pensions. These are long-term challenges which will threaten the welfare future of the Isle of Man if we do not get it right. That is the point I am making. It is not something to be rushed into. We need to have time to think about it.

230

The whole point of setting up the unit and establishing the Minister for Policy and Reform is to be able to focus more clearly on the development and delivery of this change, and that is exactly what is happening at the moment.

235

The Speaker: Final supplementary question, (**Mr Henderson:** Hear, hear.) Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, and to the Chief Minister for a fuller reply.

In the spirit of not point scoring but asking questions to help the debate move forward, can the Chief Minister define what the Minister for Social Care meant back in 2012 when he said that this debate would require a full public engagement at the earliest possible stage in a way that goes beyond the normal consultation process?

240

The Speaker: Chief Minister.

245

The Chief Minister: I am sure that the Hon. Minister of the time meant that it meant full possible public engagement.

1.3. Re-spraying of road vehicles – Legislation re pollution and worker safety

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

What statutory legislation controls pollution and worker safety arising from the re-spraying of road vehicles; and to what extent the UK Secretary of State's Guidance Note PG 6/34 (04) applies in the Island?

The Speaker: Question 3. Mr Thomas.

250

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

The Speaker: Chief Minister to reply.

255 **The Chief Minister (Mr Bell):** Mr Speaker, in respect of odour nuisance, statutory air pollution control for re-spraying of road vehicles in the Isle of Man is primarily controlled through the Public Health Act 1990 statutory nuisance provisions, which authorises local authorities to serve an abatement notice if emissions are prejudicial to health or a nuisance.

260 In respect of worker safety, should any pollutants be generated and released by a business operating in the Isle of Man to an extent that they are potentially harmful to members of the public, either the Health and Safety at Work etc Act 1974 as applied to the Isle of Man or the Management of Health and Safety at Work Regulations 2003 could be used to ensure appropriate standards.

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

Mr Thomas: Thank you, Mr Speaker.

270 I apologise to the Chief Minister for actually having to ask him this Question, but one of the issues behind the Question is that currently the statute and the enforcement is actually very dispersed between Departments. Does the Chief Minister agree this is a priority, given some incidents that have happened recently in the constituency I represent?

The Speaker: Chief Minister.

275 **The Chief Minister:** Mr Speaker, if the Hon. Member has a particular problem I would be very happy if he would come and talk to me about it.

HEALTH AND SOCIAL CARE

1.4. Flybe patient transfer contract – Government assistance re night-stopped planes

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

How the Government assists Flybe to accommodate crew on night-stopped planes to fulfil obligations in the patient transfer contract?

The Speaker: Question 4. Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

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

The Speaker: Minister for Health and Social Care, Mr Quayle.

The Minister for Health and Social Care (Mr Quayle): Thank you, Mr Speaker.

285 Following discussions with executives from Flybe in December 2013, Flybe advised the Department of their intention to close the Isle of Man to Liverpool route and only retain the Isle of Man to Manchester route for the passengers and patients travelling to the north west of England.

290 The Department, supported by representatives from the Treasury and the Department of Infrastructure, entered into negotiations with Flybe to secure the Isle of Man-Liverpool route for the patient transfers contract. The terms of the financial arrangements, Mr Speaker, I am unable

to disclose as they are subject to a contractual confidentiality and nondisclosure clause.
(**Mr Karran:** Surprise, surprise!)

295 The loss of the Isle of Man-Liverpool route would have had several negative effects, in that
Manchester – would be far in excess of the amount that has been renegotiated. In addition to
the increased cost of flying into Manchester, the impact upon patients in terms of extra
travelling time, the risk of missed appointments and the cost of travelling to their appointments
from Manchester meant that the retention of the Liverpool route was the only real viable option
for the Department and our patients.

300

The Speaker: Supplementary, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, and to the Minister for Health and Social Care for his
openness and transparency.

305

Was it the Minister's intention or was it Government's intention to inform this House about
this subsidy, because I can remember denials of any subsidy fairly recently in this House and in
the other place.

310

Secondly, if there is now a subsidy and there has been procurement for this patient transfer
contract, under World Bank rules would that not mean that it would have to be retendered
because other airlines could perhaps take advantage of that service with this new information
about the subsidy?

The Speaker: Minister to reply.

315

The Minister: Thank you, Mr Speaker.

320

I am somewhat surprised by the Hon. Member's comments on subsidy. We have a contract
that was tendered. Within a short period of time of that contract being awarded to fly be, we
were advised that they were going to pull out of that route. As a result of no longer flying that
route and the change to their business, there were extra costs if we wanted to keep that route
going. We either accepted that or we looked at other ways of getting our patients to the various
hospitals. We had to consider (a) the cost in pounds, shillings and pence to the taxpayer – this
was the cheapest way of doing it; and (b) the impact, more importantly, on our patients of
having to get to the hospital, and this gives our patients the best transfer that they can
experience possible. From a retendering point of view, this was only two months after the
contract had been awarded, so it was a very short period of time and we did, as a Department,
have full Treasury concurrence that it would be a pointless exercise retendering on a contract
that just needed to be altered.

325

Thank you.

330

The Speaker: Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

335

I am sure everybody was very relieved when we discovered that we were keeping the route
to Liverpool, but could the Minister just clarify whether it was actually the Department that
asked for the confidentiality clause in it?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

340

I cannot comment on who asked for the contract. That is not something I have got the
information on, but I am happy to give the Hon. Member for Douglas South a letter to confirm
whether it was the Department or the airline. (**Two Members:** Everybody.) Everybody.

The Speaker: Mr Thomas.

345 **Mr Thomas:** Thank you, Mr Speaker, and to the Minister for his answers to date.

It is well known that accommodation can be tight in TT and on other occasions when events like that happen. Is the Minister concerned that the 16 or so crew that are needed to be night-stopped will actually be able to find accommodation; and would it not have been better to actually have locally based crew through some other arrangement using this money that has
350 now been... [*Inaudible*]?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

355 I am somewhat surprised... Obviously the Hon. Member has another airline company or something which has approached him, but it is nothing to do with us. A price has been entered into, we have agreed it, we have got full Treasury approval on how the contract has been awarded, and how they spend it is entirely up to them – it has got nothing to do with my Department how they spend the money. We have agreed a price and that has been accepted, so
360 really I cannot see that where they stay or what they do has any relevance to this Hon. House.

The Speaker: Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh son Slaynt not agree that this is
365 another glaring example, as far as Government is concerned, of its patronage and its fiefdomism as far as not allowing a situation where you have open contracts, open tenders, where you change the tenders after the situation?

How does the Minister reconcile a man from business and from private enterprise... how he justifies his... when we had claims when I moved the motion about World Bank standards... This
370 is a... [*Inaudible*] abuse and will be questioned as far as World Bank standards are concerned and just shows –

The Speaker: Question.

375 **Mr Karran:** – the Council of Ministers... [*Inaudible*] (*Interjection*)

The Speaker: That is a comment, not a question.

A Member: Hear, hear.

380

Mr Karran: It's a fact.

1.5. Blood Transfusion Service – Operation; encouragement to give blood

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

How the blood donor service is operated; and whether any enhancement to encourage the giving of blood is planned?

The Speaker: Question 5. Mr Thomas.

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

The Speaker: Minister for Health and Social Care, Mr Quayle.

390 **The Minister for Health and Social Care (Mr Quayle):** Thank you, Mr Speaker.
The Isle of Man Blood Transfusion Service (BTS) began in 1947 and was supported then, as it is today, by generous donations of blood from the Manx public.

The service is based and managed by the pathology department, located within Noble's Hospital. The Isle of Man BTS hold blood donor sessions in Douglas, usually twice per month on Wednesday evenings and once per month on a Sunday. In addition, there are a number of
395 mobile blood donor sessions held at Port Erin, Ramsey, Castletown and Peel at various times during the year.

The service is provided using a combination of permanent and temporary staff across various disciplines. These are nursing staff, donor attendant staff, porters and biomedical scientists. The biomedical scientists and the portering staff are permanent staff, whilst the nursing staff and
400 blood donor attendants are all bank staff. This means that they do not have a permanent contract of employment and therefore may not always be available for the sessions the service requires. This is, at times, extremely difficult to manage and causes concern and difficulties.

At each session, blood is collected and then transported to the pathology department. The blood is then screened against a panel of infectious diseases – HIV, hepatitis B, hepatitis C, syphilis and HTLV3 virus – to ensure the blood is safe for transfusion. The blood is also tested to
405 determine the blood group. Once the blood has been grouped and passed the infection screen, the blood is then labelled, released for use and is available for blood transfusion into patients.

It is important to know that the Isle of Man BTS only produces blood red cells and that the specialist blood products such as cytomegalovirus negative blood, irradiated blood for cancer
410 patients and platelets normally for cancer patients always have to be purchased from the UK.

Mr Speaker, in terms of whether any enhancement to encourage the giving of blood is planned, I am able to confirm that the Isle of Man BTS is developing a website to make the process of becoming a blood donor easier.

The Isle of Man BTS have developed plans to encourage blood donation by attempting to
415 hold corporate blood donor sessions at large local businesses which have indicated that their staff were willing to donate blood at their workplace. However, as there are only sufficient bank nurses to provide this current service, this option has not been actioned.

Another impediment to encouraging the giving of blood is that the premises that are used for donating blood is due for refurbishment and it is anticipated that funding will be found from
420 within the identified minor works programme for this.

Mr Speaker, I believe that the Isle of Man BTS is essential to the operating of the Hospital, and whilst we believe the UK could supply the 2,000 units per year, there is no guarantee of this supply, and in essence the Isle of Man BTS provides security of supply of blood for the Isle of
425 Man.

The Speaker: Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker, and to the Minister for that comprehensive illumination of the process that sounds like it is improving – and that is the reason for this
430 Question, because in fact that service is provided from the constituency I represent and I was actually inundated with letters about two aspects in particular. The first one is the use of off-Island facilities, and it seems like that is being considered by the Minister; and the second one is the standard of care for blood donors and the appreciation they perceive that they get. For instance, one example I have got here –

435

The Speaker: Put the question, Mr Thomas, please. (**Mrs Cannell:** Question.) This is not a debate.

440 **Mr Thomas:** Will the Minister consider thanking blood donors by providing certificates, which is normal in the UK? I have had a reasonable number of complaints from elderly people who have not had that in the Isle of Man in recent years.

The Speaker: Mr Quayle.

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

Obviously, I was not aware of the certificate system. If that is something that will help improve our system, then I am always looking at ways of improving the service and I will look into it.

450 **The Speaker:** Hon. Members, that brings us to the end of Questions for Oral Answer. There are four Questions for Written Answer and the answers are being circulated.

2. Questions for Written Answer

CHIEF MINISTER

2.1. National Insurance and Social Security policy review – Further details

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

- (a) What the (i) terms of reference, (ii) budget and (iii) reporting deadline and process were for the provision of consultancy for the Strategic Review of Social Security and National Insurance policy carried out for the Department of Social Care and the Treasury for which expressions of interest were invited before noon on Friday, 21st December 2012;*
- (b) which organisations, (i) expressed interest, (ii) were short-listed and (iii) were successful in the consequent procurement process; and*
- (c) what the terms of reference, budget and procurement process for any second phase of this consultancy were?*

The Chief Minister (Mr Bell): (a) (i) The terms of reference for what can be described as Phase I of the review are as set out in sections 2.1 and 3.1 of the tender documentation issued in December 2012, which can be found at Appendix A.

455 (ii) The anticipated cost of the full review (both scoping and implementation phases) was £1 million, with around £250,000 assessed as the approximate budget for the phase which was the subject of the Invitation of Expressions of Interest which closed on 21st December 2012 (Phase I).

460 (iii) The primary deliverable of Phase I was an implementation plan based on an informed appraisal of the present situation, which would set out the workstreams, timescales and inter-dependencies; resource requirements; project costs; and, drawing on the consultant's expertise and experience, initial views on the key issues. This would be delivered both as a written report and as a presentation to the Council of Ministers. The written report was completed in July 2013 and the Consultant presented to the Council of Ministers on 12th September 2013.

465 The project was subject to weekly reports on progress and monthly project management meetings with Treasury and Department of Social Care officers.

(b) (i) Capita Consulting, Giselle Molnar, SBA, RSM Tenon, KPMG, Intelligence, Auxesia Ltd, Deloitte, Social Market Foundation, Institute for Public Policy Research.

470 (ii) There was no short-listing process; all 10 organisations which expressed an interest were invited to tender, and two organisations applied. The tender at this stage was for the scoping and planning phase.

(iii) RSM Tenon won the tender.

(c) Phase I of the project was completed in July 2013. One of its outputs was the production of the workstream requirements for Phase II. This information can be found at Appendix B.

475 Given the complexity and time constraints of the project, and the initial difficulty encountered in obtaining suitably qualified contractors prepared to tender, it was considered by the project team that Phase II was better suited to a negotiated contract with the same consultants who had been successful in the Phase I tender. The Council of Ministers was advised of this intention when it approved the commencement of Phase II.

480 The anticipated cost for Phase II is approximately £750,000.

It should be noted that in August 2013, RSM Tenon was dissolved and the personnel from that organisation, who had completed the Phase I work, set up the organisation Ci65 Ltd (a company registered in England and Wales). It was Ci65 with which a contract to complete Phase II would be negotiated. In approving Phase II, the Council of Ministers was aware of the

485 changes that had occurred in this regard. It should be noted that RSM Tenon were the lead
element for a number of specialist advisors who also remained with the project under Ci65.

Appendix A – Phase I Terms of Reference (extract from Tender Documentation)
Review of the Isle of Man’s Social Security and National Insurance system and Related Policy
Section 2 – Specific Instructions to Tenderers

2.1 Nature of the Agreement (Information)

490 The Isle of Man is a self-governing British Crown Dependency, located in the Irish Sea
between the islands of Great Britain and Ireland within the British Isles. It has a population of
around 84,000 people.

The Isle of Man’s social security scheme is heavily modelled on the United Kingdom’s, though
there are differences between the two, as described below. This situation is driven by the
495 existence of long-standing reciprocal arrangements between the Isle of Man (IOM) and the
United Kingdom (UK), intended to ensure that workers moving between the jurisdictions have
the same rights and obligations under the national insurance scheme in both jurisdictions.
Broadly, those arrangements require that a single system of national insurance operates
between the two jurisdictions, both in respect of national insurance contributions (NICs) and the
500 pensions and benefits that are funded out of NICs. The arrangements also necessitate financial
exchanges between the jurisdictions.

Local enhancements to state pensions have been introduced in the IOM (which sit outside
reciprocal arrangements) and which have separate eligibility criteria, including the requirement
that an individual must be ordinarily resident in the Island for benefit to be payable, i.e. the
505 pension supplement and retirement pension premium schemes. There are other local
enhancements operating in the IOM not directly related to state pensions, such as those
provided by the TV licence (refunds) scheme, the continued existence of a universal funeral
payment and a significantly higher rate of Christmas bonus. As well as a social insurance scheme,
the Island has a relatively generous social assistance scheme funded by taxation, comprised of
510 universal benefits and income-related benefits as well as various lump-sum payments.

In the financial year 2012-2013 the Department expects to spend around £260 million on
state pensions and other social security benefits. £182 million of this will be met from NICs (of
this figure approximately £40 million is received from the UK in respect of benefits the
Department pays on the UK’s behalf), while £78 million will be funded from general taxation.
515 The Manx National Insurance Fund has a reserve of approximately £670 million at current
values; and during 2011-12, income from all classes of NI was £166.8 million, of which £35
million was transferred to the Department of Health.

As regards NI-funded benefits including the state pension, the reciprocal agreement requires
that the eligibility criteria and rates of benefits payable in the Island are maintained in parity
520 with those having effect in the UK. So, for example, legislation providing for increases in state
pension age in the UK have been mirrored in IOM domestic legislation.

Until April 2003, the rates and thresholds for national insurance in the Island were the same
as the UK, however since then different rates and thresholds have applied in the Island to those
in the UK. However, the contribution conditions for entitlement to contributory benefits remain
525 the same in both countries.

Challenges currently facing the IOM

There are three key challenges facing the Island:

1. A significant current account fiscal deficit, which is expected to return to balance in 2016;
- 530 2. Demographic changes, principally the growth in the number of older people due to rising
life expectancy; and
3. The need to remain competitive with other similar jurisdictions in terms of employment
costs

These challenges are summarised as follows:

535 **Loss of Government income**

In recent years the IOM has lost nearly one third of its total revenue income permanently and, as a consequence is currently running a fiscal deficit. While economic growth will help to address this, IOM Government has set itself the target of balancing its income and expenditure within the next four years. This will require substantial cuts in expenditure and/or rises in income. The preferred policy is the former. Social security is one of the largest and fastest growing costs to the taxpayer and so must be a key contributor to the necessary savings. This loss of income only affects those benefits and services funded from general taxation, those benefits funded from National Insurance income have not been affected.

545 **Demographic changes**

The greatest demographic challenge is the growth in the number of older people due to rising life expectancy. The table below illustrates the projected scale of the challenge:

	Population of the Isle of Man (rounded)				
	2011 (census)		2041 (projected)		Change
Children Under 16	15,000	18%	16,000	16%	7%
Adults 16 to 65	54,500	64%	56,000	55%	3%
Older people over 65	15,000	18%	29,000	29%	93%
TOTAL	84,500		101,000		20%
Pensioner support ratio	3.6		1.9		-47%
Dependency ratio	1.8		1.2		-31%

Other high-dependency groups are growing faster than the wider population, notably:

- The severely disabled due to advances in health and care services
- Vulnerable children and families due to better detection
- Those with a mental health condition due to improved understanding.

The costs to the taxpayer to support these groups are therefore rising faster than the wider population growth.

555 **Competitiveness**

Other similar jurisdictions (the Channel Islands for example) have control over their social security schemes: whereas a result of the reciprocal agreement between the Island and the UK that is not the case here. The Island therefore has no control over how much reciprocal benefits cost, and as a result has limited ability to vary the amount of national insurance that needs to be raised to fund them. In relation to the national insurance contribution paid by employers this could be seen to put the Island at a disadvantage with its competitors

Actions required to respond to these challenges

In response to these challenges, the IOM Government has set three strategic priorities:

1. Protect the vulnerable
2. Grow the economy
3. Balance Government's Budget within the next 4 years.

The Council of Ministers believes that to achieve all of these will require Government to target scarce public funds to those in greatest need very effectively based on both need and means.

Social security is one of the largest and fastest growing costs to the taxpayer and so must be a key contributor to the necessary savings. Universal benefits such as child and disability benefits can be means-tested to achieve savings while protecting the most vulnerable. The Department wishes to explore how to do so as rapidly, efficiently and effectively as possible.

Other Departments are also seeking to understand how means-testing can be undertaken in the most effective, efficient, consistent and fair manner and applied to the targeting of other public services, such as public sector housing rents, health charges (e.g. for prescriptions),

580 tuition costs for higher education and bus fares. IOM Government cannot afford to have multiple systems for the assessment of means, neither in terms of cost nor in terms of public confidence.

The Department of Social Care already undertakes means-testing in relation to nearly one in 10 households for income-related benefits. The Treasury has vital information for income tax purposes; however it is up to a year out of date. IOM Government is therefore interested in how it might establish suitable integrated systems to allow for appropriate assessment of means, 585 building on the knowledge and systems of DSC and the Treasury. There is a delicate balance to be had between the simplicity of any system (which aids public understanding and trust) and its specificity (in relation to income, expenditure, assets and other factors to ensure a fair and accurate assessment is made in relation to a specific need). This is an issue other jurisdictions have wrestled with and IOM Government is very interested in how others have managed this to 590 best effect.

The Department of Social Care has recently consulted the Island's public on whether:

- entitlement to certain benefits and services which are currently provided on a universal, non-means-tested basis should instead be determined on the basis of needs and means; and
- the level of rents for social housing should be determined by tenants' ability to pay.

595 The analysis into the merits and nature of means-testing should build upon the work done to date by both the Department and the Treasury.

Treasury has recently consulted on the future taxation strategy for the Island, which includes national insurance and the impact of any changes to the system of national insurance should take into account the findings of this consultation.

600 Under the direction of the Island's Council of Ministers, Treasury and the Department of Social Care also wish to examine whether the current reciprocal social security arrangements with the UK continue to be in the Island's best interests, or whether it might benefit the Island to break away from those arrangements in order that it may tailor its social security programme to one more befitting of a small jurisdiction. If it is felt that the current agreement is no longer in 605 the Island's best interest then Treasury and the Department would wish to examine whether any future agreement should jointly cover benefits and national insurance or whether separate agreements should be used to cover these two matters.

The Department and the Treasury also wishes to explore whether it is appropriate to maintain a National Insurance Fund which is the equivalent of around 3.7 years' annual 610 outgoings, or whether it might be prudent to use some of the Fund's reserve for local economic development purposes. This requires a careful consideration of the potential economic benefits of any change balanced with the potential risks to the long-term sustainability of the Fund in light of growing state pension liabilities.

615 Regardless of whether there is an 'ideal' multiple of outgoings for the size of the Fund, the Department and the Treasury is interested in what options are available for investing in the Island's economy in such a manner that both aids economic growth as well as generates an adequate return on the Fund.

Next steps

620 The planned review of the Isle of Man's Social Security and National Insurance ('the Review') system and related Policy is now required to aid policy development and implementation planning. It is anticipated that this review will take around a year to complete.

The Department and the Treasury are now seeking a suitable organisation to support the initial scoping and planning phase, which is expected to require three months commencing in 625 February 2013.

The Contractor will enter into the Agreement with the Department for a one year term.

3.1 Specification (Mandatory)

630 The Contractor will be expected to carry out the scoping and planning phase for the Review and produce an implementation plan that will be used to direct, contract and complete the remainder of the Review. The implementation plan must include: timescales; major workstreams (including changes to people, processes and IT systems); the resources required to support this; and the major risks in the project, including mitigation.

The Review and implementation plan will include the following items:

- 635 • Familiarisation with all aspects of the Island’s social security and national insurance schemes, including the requirements and operations which support the existing reciprocal arrangements with the United Kingdom
- Consideration of how the Island’s arrangements compare with those of other jurisdictions, including the use of appropriate benchmarking
- 640 • Consideration and recommendations on:
 - How social security benefits should be funded in the future
 - the best means to ensure that benefits are properly targeted to those in genuine need
 - whether means-testing is the most effective and efficient method to ensure the proper targeting of other public services, including public sector housing rents, health charges (e.g. for prescriptions), tuition costs for higher education and bus fares
 - 645 ○ the likely impact of the UK’s planned social security and national insurance reforms on the IOM
 - in light of the above, whether it is in the Island’s best interests for the existing reciprocal arrangements to continue or whether it would be beneficial for the Island to introduce independent national insurance and social security regimes
 - 650 ○ if it is considered that the current reciprocal arrangement is no longer appropriate, what if any form of agreement should the Island have with the UK
- Consideration of what level of national insurance reserve fund is or would be appropriate for the Island in light of current and projected future income and liabilities; and
- 655 • Consideration of what options are available using the NI Fund to invest in the Island’s economy in such a manner that both aids economic growth as well as generates an adequate return on the Fund.

660 **Deliverables**

Meetings

The Contractor is required to attend a minimum of six meetings at the Department’s premises on dates to be mutually agreed, and will include the following:

- Start-up meeting
- 665 • Interim progress meetings (not less than one per month based upon three month program)
- Draft report review meeting
- Final report meeting.

In addition to these meetings, the Contractor will be required to report to, and take instructions from, the Department Project Manager. They will be required to attend meetings with Government Officers, as necessary, to familiarise themselves with the operation of the Island’s social security and national insurance schemes, which may include:

Sponsoring Departments:	Social Care and the Treasury
Key Departmental Stakeholders:	Economic Development, Information Systems Division (who are responsible for the Government IT systems)

675 *Implementation Plan*

The Contractor must produce a detailed implementation plan that demonstrates how the review can be realised and which covers the following as a minimum:

- Identification of all major workstreams necessary to deliver the full review
- For each workstream, provide:
 - 680 o Program
 - o Required Resource (by skill)
 - o Projected costs (Estimated internal and external)
 - o Deliverables
 - o Risk register (incl. mitigation)
- 685 • Identification of interdependencies between the workstreams
- A strategic risks register for the entire project.

Report

690 The Contractor must prepare a written “Report” based upon its analysis and prior experience on the key issues of the Review. This Report should provide as a minimum:

- Identification of key specific questions to be addressed by the Review
- A general insight into the likely options to be progressed in the Review
- An indication of the key issues to be resolved in order to successfully deliver the Review.
- Political elements/issues that might impact on option selection.

695 The Contractor shall provide a minimum of five hard copies of the report and the original in electronic format.

Presentation

700 The Contractor must deliver two on-island presentations, based upon the agreed deliverables to:

- Officers of interested/affected Departments
- Members of Tynwald

The dates and times of these presentations will be mutually agreed.

705

Appendix B – Phase II Terms of Reference

Provision of support for an options review of Social Security and National Insurance polices

Terms of reference

Reform of State Pension Project

This section sets out the terms of reference for the workstreams for Project 1.1 – the reform of state pensions.

710 Produce a Report and companion Implementation Plan giving evidence-based options for the reform of pensions and benefit systems and changes to the funding and expenditure of the NI Fund to enable it to explore options to provide pensions and benefits in perpetuity to IoM citizens. This workstream will contribute through providing evidence-based option in the area of pension reform.

Workstream 1 – Move towards a more targeted safety net

ACTIVITIES	DELIVERABLES
Assess minimum coverage required to ensure those that need support are protected Establish options for who to target coverage at Support a consultation on pension arrangement options Produce detailed actuarial and economic impact assessment of the revised pension arrangements	Detailed actuarial and economic impact assessment of the revised pension arrangements Options for targeting coverage Costs, benefits and impacts of these differential targeting approaches

715 **Workstream 2 – Seek to reduce the impact of cliff edge retirement ages by supporting people gradually into retirement**

ACTIVITIES	DELIVERABLES
<p>Assess current impact of cliff edge retirement ages Establish options for the different stages of retirement Produce a detailed impact assessment on the potential displacement of labour opportunities for younger workers Actuarial and economic analysis to support this</p>	<p>Detailed impact assessment on potential displacement of labour market opportunities for younger workers Impact of cliff edge retirement ages Evidence based options for different stages of retirement</p>

Workstream 3 – Promote the use of other (private) pension supplements

ACTIVITIES	DELIVERABLES
<p>Conduct market analysis to understand the size of gap Understand legal-fiscal reasons for current private pensions provision on the IOM Consult with the pensions sector and IFAs Develop a range of choices for decisions by IOM Support consultation on these choices with wider IOM Model these choices to understand the cost/benefits and risks</p>	<p>Inclusion of workstream 3 in Project 1.1 progress reports Market analysis Range of choices for promoting the use of other pension supplements, modelled to show their costs/benefits and risks Results of consultations reported in final programme report</p>

Workstream 4 – Diminish the real value of the existing state pension offer over time

ACTIVITIES	DELIVERABLES
<p>Model a range of options for diminishing the rate of increase of the state pension Projecting these reduced rates of increase over the short, medium and long term to understand the impact on the fund Showing the impact of these savings on the NI Fund (spend and contributions) Support the consultation on these options as part of the wider pensions consultation Commission external economic-actuarial support to cover the projections and calculations</p>	<p>Inclusion of workstream 3 in Project 1.1 progress reports Market analysis Range of choices for promoting the use of other pension supplements, modelled to show their costs/benefits and risks</p>

Workstream 5 – Consider opting out of Single Tier and consider alternative arrangements

ACTIVITIES	DELIVERABLES
<p>Provide support in engaging with the UK government if opting out and breaking the reciprocal arrangements is appropriate. Establish the legal issues therein Understand and cost the administrative implications to IOM Develop alternative suggestions (if appropriate) Support consultation on these options as part of the wider pensions consultation</p>	<p>Inclusion of workstream 5 in Project 1.1 progress reports Administrative costs of changing/opting out of the reciprocal arrangements Legal issues concerning changing/opting out of the reciprocal arrangements included in final programme report Alternative suggestions (if appropriate)</p>

720

Workstream 6 – Determine a maximal level of pension’s benefits

ACTIVITIES	DELIVERABLES
Model the passported benefits level that being a pensioner brings in the IOM Understand the links and anomalies Seek to create formulae for establishing maximal levels of benefit minimum income levels Cost these in terms of impact to current IOM SS budget Model setting different levels in cost/benefit terms as well as budget impact	Inclusion of workstream 6 in Project 1.1 progress reports Model of the passported benefits level that being a pensioner brings in the IOM Formulae for establishing maximal levels of benefit minimum income levels (if possible) Cost of these in terms of impact to current IOM SS budget and a model to show cost/benefit levels

Terms of Reference – The future of Manx Pension Supplement Project

The section sets out the terms of reference for the workstreams of Project 1.2 – the future of the Manx Pension Supplement.

725 Produce a report and companion Implementation Plan giving evidence-based options for the reform of pensions and benefit systems and changes to the funding and expenditure of the NI Fund to enable it to provide pensions and benefits in perpetuity to IoM citizens This workstream will contribute through providing evidence-based options for Council in the area of pension reform – with particular reference to changes to the Manx Pension Supplement,

730 **Workstream 1 – Closed off new entrants**

ACTIVITIES	DELIVERABLES
Model a range of options for closing off the pension supplement in case the decision is taken to close off the supplement Consult on these options as part of the wider pensions consultation Commission external actuarial support to model the different options	Inclusion of workstream 1 in Project 1.2 progress reports Alternative scenarios to closing off the pension supplement to new entrants Model showing the impact of making changes at different times and ages

Workstream 2 – Diminish real value of supplement overtime

ACTIVITIES	DELIVERABLES
Model demography and needs of beneficiaries Understand (linked to modelling elsewhere) the cliff edges and anomalies in the system Suggest suitable safety nets to ensure the most vulnerable are protected Actuarial and economic analysis to support this	Model of the demography and needs of the beneficiaries Suggestions for suitable safety nets to ensure the most vulnerable are protected Evidence based options for costs, benefits and dis-benefits of changes to the pension supplement

Terms of Reference – The activation approach and the Future of Housing Support Project

735 This section sets out the terms of reference for the workstreams of Project 2.1 – the activation approach and the future of housing support.

Produce a Report and companion Implementation Plan giving evidence-based options for the reform of pensions and benefit systems and changes to the funding and expenditure of the NI Fund to enable it to provide pensions and benefits in perpetuity to IoM citizens.

740 This workstream will contribute through providing evidence-based options for Council in changes to getting working age people participating fully in the labour market.

Workstream 1 – Accelerate activation programmes to increase conditionality and align benefit offers as part of this

ACTIVITIES	DELIVERABLES
Assess current employment and disability programmes Challenge these programmes and ensure they meet headline strategic choices Develop recommendations on how to achieve service delivery and making gateway more effective Define a strategy for activation that sets the rules, systems and processes, services, nature and structure of future benefits Consult on senior official opinion and on community and key stakeholder opinion.	Evaluation of current employment and disability programmes Recommendations to improve service delivery - making gateway more effective A strategy for activation that sets the rules, systems and processes, services, nature and structure of future benefits A standalone management report with simple recommendations on changes to improve performance

745 **Workstream 2 – Reinforce the system to ensure progression in work pays (up to a minimum income level)**

ACTIVITIES	DELIVERABLES
Evaluate the current system Assess minimum income levels Conduct 'making work pay' calculations	Inclusion of workstream 2 in Project 2.1 progress reports Evaluation of current system Assessment of minimum income levels

Workstream 3 – Establish minimum income levels and passported benefits and map the interrelationship between departments to ensure the vulnerable are protected

ACTIVITIES	DELIVERABLES
Conduct economic modelling, budget analysis and analysis of passported benefits to establish minimum income levels and passported benefits and map the inter-relationship between departments to ensure the vulnerable are protected	Inclusion of workstream 3 in Project 2.1 progress reports Recommendations for inter-department relationships to ensure the vulnerable are protected Minimum income levels and passported benefits established

750 **Workstream 4 – Housing to be viewed as part of the route back to work, not barriers to employment**

ACTIVITIES	DELIVERABLES
Ensure housing, particularly payment of income support as housing rental payments, is included in all aspects of phase 2	Inclusion of housing costs in required areas of Phase 2

Terms of Reference – Propose alternative funding arrangements Health Project

This section sets out the terms of reference for the workstreams of Project 3.1 – propose alternative funding arrangements for health.

755 Produce a Report and companion Implementation Plan giving evidence-based options for the reform of pensions and benefit systems and changes to the funding and expenditure of the NI Fund to enable it to provide pensions and benefits in perpetuity to IoM citizens

This workstream will contribute through providing evidence-based options for Council in considering the NI Fund’s funding of health

760

Workstream 1 – Options for broadening the funding methods for IOM away from just NI

ACTIVITIES	DELIVERABLES
Conduct a research exercise into potential alternative funding models for IOM NHS Consider the impact of alternative funding models on the IOM’s reciprocal arrangements Create a set of potential forward options for broader discussion Conduct a short feasibility study for implementing the alternative funding arrangements Consider how to consult further with a wide range of groups and interests during development and once options are created	Project 3.1 progress reports Options for alternative funding models Short feasibility study for implementing the alternative funding arrangements

Terms of Reference – Invest in a broader Portfolio Project 4.1 ¹

This section sets out the terms of reference for the workstreams of Project 4.1 – invest in a broader portfolio.

765 Produce a report and companion Implementation Plan giving evidence-based options for the reform of pensions and benefit systems and changes to the funding and expenditure of the NI Fund to enable it to provide pensions and benefits in perpetuity to IoM citizens.

This workstream will contribute through providing evidence-based options for Council in alternative investment approaches for the NI Fund

770

Workstream 1 – Agree an appropriate ratio of investment for a portion of the NI Fund

ACTIVITIES	DELIVERABLES
Develop the options for investment and outline the differing investment levels and choices Outline the differing risk profiles potentials within these Identify levels that could be invested Consult on these levels of investment	Options for investment and for levels that could be invested

Workstream 2 – Investment options should range from the current position to private and social investment on the Island and abroad

ACTIVITIES	DELIVERABLES
Identify a suite of investment options Identify a range of SPVs to deliver these investments Conduct an options appraisal of the costs/benefits of differing options and vehicles Select one investment option and one vehicle for a pilot programme Support the IOM in the commencement of this	Suite of investment options and SPVs Options appraisal of costs/benefits Pilot programme

¹ During contract negotiations this deliverable was removed from the contract as it was identified that this piece of work could be delivered by alternative means.

Terms of Reference – Future of Benefits Project

775 The section sets out the terms of reference for the workstreams of Project 5.1 – future of benefits.

Produce a report and companion Implementation Plan giving evidence-based options for the reform of pensions and benefit systems and changes to the funding and expenditure of the NI Fund to enable it to provide pensions and benefits in perpetuity to IoM citizens

780 This workstream will contribute through providing evidence-based options for Council in how it supports a future benefit system

Workstream 1 – Conduct a full review of the ‘ad hoc’ payment of benefits

ACTIVITIES	DELIVERABLES
<p>Map all benefits and payments made to citizens by IOM</p> <p>Model these into system to allow inter-relationships to be understood</p> <p>Cost these individual benefits in cash terms to enable them to be understood as part of passported benefits</p> <p>Cost these benefits to enable departments to understand expenditure impacts</p> <p>Work across departments to identify efficiency and reduce discrepancies</p> <p>Explore reductions in cost through improved joint working</p> <p>Identify beneficial effects on individuals through this</p> <p>Understand current rationale for PAC</p> <p>Review cost and benefit assessments behind this</p> <p>Model different levels of PAC to enable consideration of variations to PAC</p>	<p>Review of all benefits-payments and anomalies to assess their costs/benefits and unintended consequences across Government (including PAC)</p> <p>Standalone management report identifying anomalies</p>

Workstream 2 – Model the different means testing service delivery options

ACTIVITIES	DELIVERABLES
<p>Develop the operating model, design and TOR for the ‘Office of Means Testing’ with means testing integrated throughout the IOM service offer</p> <p>Carry out a detailed impact assessment of means testing on all passported benefits</p> <p>Establish criteria to determine the hardest to help that would be excluded from means testing</p> <p>Model the principles and guidance to the application of means testing</p> <p>Assess all benefits for means testing suitability</p> <p>Model the system to enable different ‘masks’ to be applied to the models and datasets to create means testing scenarios</p> <p>Use these different scenarios to identify cliff edges, barriers and changes to existing services – using a ‘customer journey’ method to explain its impact</p>	<p>Inclusion of workstream 2 in Project 5.1 progress reports</p> <p>Business case for Office of Means Testing</p> <p>Assessment of benefit suitability for means testing</p>

Workstream 3 – Model the means testing options chosen as part of passported benefits

ACTIVITIES	DELIVERABLES
<p>Carry out a cost/benefit analysis for each means testing approach – including costs of implementation, technology required, impact to be made through the system adopted, and the number of beneficiaries of the change</p>	<p>Costs and benefits of each means testing approach</p>

785 **Terms of Reference – Reviewing the close arrangements with the UK project**

This section sets out the terms of reference for Project 6.1 – reviewing the close arrangements with the UK.

Produce a Report and companion Implementation Plan giving evidence-based options for the reform of pensions and benefit systems and changes to the funding and expenditure of the NI Fund to enable it to provide pensions and benefits in perpetuity to IoM citizens

790

This workstream will contribute through providing evidence-based options for Council in relation to the impact of other proposed changes to the reciprocal relationship with the UK.

Workstream 1 – Review the close working relationships

ACTIVITIES	DELIVERABLES
Understand and assess the impact of changing reciprocal arrangements in general and in specific cases This reciprocal work will also consider political stress tests on current systems and services The work will be framed in light of ongoing changes, particularly UK devolution	Current report outlining reciprocity implications of forward choices selected

795 **Terms of Reference – Revenues Project 7.1**

This section sets out the terms of reference for Project 7.1

Produce a Report and companion Implementation Plan giving evidence-based options for the reform of pensions and benefit systems and changes to the funding and expenditure of the NI Fund to enable it to provide pensions and benefits in perpetuity to IoM citizens

800

This workstream will contribute through providing evidence-based options for Council in changes to the revenue-taxation to provide for changes to NI Funding.

Workstream 1 – Increasing the rate of national insurance funding

ACTIVITIES	DELIVERABLES
Undertake economic analysis to understand the costs, benefits and associated risks of changing NICs. Consult with appropriate organisations and canvass their view on changing NICs to pay for social security Produce economic analysis with gradations of impact for each percentage point rise	Project 7.1 progress reports Economic analysis to understand the costs, benefits and risks associated with raising NICs Economic analysis with gradations of impact for each percentage point rise

**2.2. Provision of services –
Access and eligibility criteria**

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

Which services will be provided free at point of delivery and which should be means tested; and which access and eligibility criteria will be applied in each case?

805 **The Chief Minister (Mr Bell):** The Hon. Member for Douglas East, the Minister for Policy and Reform, is currently reviewing the existing work which has been done on service delivery and access to services based on means and needs. It will be a fundamental principle that access to services will be fair and developed around the means and needs of the individual.

TREASURY

**2.3. Island air transport –
Availability of financial support**

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

From which Isle of Man Government (a) internal or external funds or, (b) revenue expenditure budgets actual or underwriting financial support of any type could be provided for any aspect of Island air transport provided by any flight operator; whether any such support was provided in 2013-14; and whether the provision of any such support is planned for 2014-15?

The Minister for the Treasury (Mr Teare): (a) Internal or external funds from which financial support might be provided to a flight operator providing Island air transport are as follows:

1. Economic Development Fund (EDF)

810 The EDF aims to provide support for projects which will develop the economy of the Isle of Man, and produce a positive contribution to its Gross National Product (GNP).

This contribution will be calculated by assessing the impact of new employment, investment, company profitability, or other such economic benefits that the Department of Economic Development shall determine, on the Island's GNP. The value of the contribution to the
815 exchequer will form the basis of any offer of assistance and will normally be calculated as a proportion of eligible expenditure.

EDF funding is usually only considered where it is determined that the Financial Assistance Scheme (see below) is not appropriate.

2. Marketing Initiatives Fund (MIF)

820 The primary aim of the MIF is to provide funding for initiatives which promote the Island to various markets and encourage access to business development opportunities. Bids are invited where the costs and economic benefits associated with an initiative are clearly defined and measurable. The Department of Economic Development has recommended support from the MIF before for specific air route initiatives previously, and details are provided in the Annual
825 Marketing Initiatives Fund Report which is presented to Tynwald each year.

(b) Revenue funded support for a flight operator might be sought from the Department of Economic Development's Financial Assistance Scheme.

The Financial Assistance Scheme Guidelines (which are available to view on the Isle of Man Government website¹), state that support may be provided to an organisation upon its
830 demonstration of tangible benefits and continued growth and diversification of the Isle of Man economy, including the creation of appropriate employment opportunities. Under the Scheme guidelines, all applications are to be considered against Departmental priorities.

The Scheme could support a flight operator if it could be demonstrated that increasing access to the Island would attract additional visitors and therefore additional visitor spending. Support
835 might also be available for promotion to increase awareness of the Isle of Man as a visitor destination and/or an economy to do business with.

In addition support may be provided through the Department of Economic Development's revenue budget for tourism in relation to specific promotions.

¹ <http://www.gov.im/categories/business-and-industries/growing-a-business/financial-assistance-scheme/>

Moving to the second part of the question, support has been approved and committed in 2013-14 and 2014-15 as follows:

Year	Application amount approved and committed	Amount paid to date
2013-14	£100,000	£50,000
2013-14	£12,000	£8,805 ²
2014-15	£100,000	0

No support has been provided for underwriting routes.

² There is no expectation that the remaining balance will be required as the time limit on this has now passed

COUNCIL OF MINISTERS SOCIAL POLICY AND CHILDREN'S COMMITTEE

2.4. Poverty on the Isle of Man – Joint Strategic Needs Assessment

The Hon. Member for Douglas West (Mr Thomas) to ask the Chair of the Council of Ministers Social Policy and Children's Committee:

Pursuant to his Answers in the House of Keys on 3rd December 2013:

(a) Whether the needs assessment of poverty on the Isle of Man has been completed and when it will be published;

(b) what the Joint Strategic Needs Assessment, (i) terms of reference, (ii) budget, (iii) reporting deadline and format are and which Members, officers and contractors are carrying it out; and

(c) how Tynwald and the general public will be involved in consideration of the policies and criteria used for the identification of needs and the allocation of resources before commissioning intentions are decided?

845 **The Chair of the Council of Ministers Social Policy and Children's Committee**

(Mr Robertshaw): a) The Joint Strategic Needs Assessment (JSNA) is intended to cover more than the issue of poverty on the Isle of Man. The group has collated core data based upon the English Index of Multiple Deprivation. This index uses seven domains to assess deprivation across communities. The domains used are: income deprivation; employment deprivation; 850 health deprivation and disability; education, skills and training; barriers to housing and services; crime; and living environment domain. Information within each of these domains has been collated along with illustrative data not contained within the English index, but relevant to an Isle of Man context.

855 The final work of writing and pulling together the report has commenced and it is anticipated this will be presented to SPCC in May. SPCC will then decide how onward dissemination of the information contained in the report will be undertaken.

b) The JSNA was a piece of work commissioned by SPCC.

860 Its aim is to provide a comprehensive need assessment which is a key element and prerequisite for effective strategic planning. A Joint Strategic Need Assessment is the basis from which Government and its partners may decide on priorities and actions that will help improve outcomes and make the best use of available resources.

The key element of the agreed priorities indicated by a JSNA is that they will be agreed and adopted across government departments for the relevant area; used to inform service planning and re-design, impact will be measured collectively and targets adjusted consistently.

865 One of the foundations for the development of a JSNA is the effective sharing and use of information, and an analysis of the implications of the information held by government departments across all those partners who are responsible for the planning of services.

870 On the Isle of Man, there has been lengthy discussion about the need to develop a range of services, sometimes reactively to the needs of individuals or small groups, without a broader understanding of need. In some cases this has had a direct impact on our ability to plan comprehensively for the design of services. Reactive approaches inevitably impact on the Government's ability to ensure best use of scarce resources in the longer term.

There was no budget or dedicated resource identified for the piece of work, officers tasked with the JSNA have been expected to contribute in addition to their usual roles.

875 As identified above, it is anticipated that the JSNA will be completed in May.

880 The work is being undertaken by a group of officers from across government. These include representatives from: Cabinet Office, Health and Social Care (Adult Social Care, Children and Families, Mental Health, Public Health), Treasury and Home Affairs. In addition information has been requested and received from the Council for Voluntary Organisations, Department of Environment, Food and Agriculture, Housing Division of DHSC, Social Security (now Treasury) and Education and Children.

885 c) The members of the JSNA group have not been tasked with identifying policy priorities. Their role is to present a report which identifies needs. This will then allow government departments to identify their priorities and develop strategies based on an assessment of need across all communities on the Island.

It is up to commissioners of services to use their usual consultation routes and governance structures to seek the views of the people who will be affected by these priorities.

Order of the Day

3. BILL FOR SECOND READING

3.1 Landlord and Tenant (Private Housing) Bill 2014 – Second Reading approved

Mr Robertshaw to move:

That the Landlord and Tenant (Private Housing) Bill 2014 be read a second time.

890 **The Speaker:** We turn to Item 3, Bill for Second Reading, the Landlord and Tenant (Private Housing) Bill.

Hon. Members, before I call on the mover, I wish to declare a personal interest, a registered interest in the subject matter. I would perhaps invite, at this stage, any Member who is not intending otherwise to speak in the debate – if they have such an interest to declare, it might be more efficient to declare it now before the debate begins.

895 Mr Karran.

Mr Karran: The only interest I have is that I have a property across in the United Kingdom, but not in the Isle of Man, and so in effect there is no –

900 **The Speaker:** Mr Anderson.

Mr Anderson: I would declare an interest, as my wife has a property that is rented.

905 **The Speaker:** Thank you very much.
Mr Singer.

Mr Singer: I have a property which is rented at the moment.

910 **The Speaker:** Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.
I have a business of property rentals which I wish to declare.

915 **The Speaker:** Mr Ronan.

Mr Ronan: I have one property, which up until recently I rented, sir.

The Speaker: Mr Crookall.

920 **Mr Crookall:** Thank you, Mr Speaker.
Yes, I declare an interest.

The Speaker: Mr Hall.

925 **Mr Hall:** Thank you, Mr Speaker.
I declare a pecuniary interest on this matter, which is entered in the Members' Register, as my wife and I let a property in the Isle of Man, so we are technically landlords.

The Speaker: Thank you very much, Hon. Members. That is very helpful.
I call on the mover, Mr Robertshaw.

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Mr Robertshaw: Thank you, Mr Speaker.

Before I begin, I would like to inform Hon. Members that I am not a landlord myself, but members of my immediate family are. I know that there will be others in the House who may be speaking to also indicate their position.

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One of the three priorities of this Government is to protect the vulnerable in our community, and this was the initial policy driver for this Bill. The Government pays out approximately £4 million per annum in benefits to individuals for housing support. These are people on low incomes, and research demonstrates that they are the most likely to live in substandard housing; therefore, the public purse is not being used effectively.

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As we have progressed with this work, it has become apparent that light-touch regulation of this sector is vital due to the increasing trend towards private renting – a trend driven by issues such as the limited availability of mortgage for first-time buyers. In the UK, private renting has now overtaken the public sector for the first time since the 1960s.

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One of the main aims of the Bill is to introduce a central register for all private rented properties across the Island, because currently we do not know how big the private rented sector is, but evidence from the UK shows that the sector has nearly doubled in the last 10 years.

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Also, due to individuals seeking greater investment returns on savings, there has been a growth in the number of landlords with only one property. Not surprisingly, therefore, many are unaware of their responsibilities under existing legislation. In the same way that employers running smaller companies find employment regulation helpful, I am confident that people with little or no experience in the rental sector will be guided by the scheme and find it helpful.

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As Hon. Members are aware, there is some existing legislation in place that governs the relationship between landlords and tenants, and some have questioned the need for additional legislation; so I will turn now to the gaps in existing legislation provision.

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Firstly, the Island has no comprehensive information on the exact size of the private rented sector. Members have raised the point that there are lists held by local authorities of flats, and now houses, of multiple occupancy; however, for flats, these are only when first built or converted, and so there is no up-to-date information on ownership past that point. There is no record of overall numbers of landlords or private rented properties across the Island, as individual houses are not registered.

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Secondly, because of this lack of information, enforcement on property condition is reliant on receipt of complaints from a tenant. They are reluctant to do this for fear of repercussions and research shows that the more vulnerable are the least likely to complain. There is real vulnerability here for some tenants, and those who attended the presentation will recall me talking about one particular tenant I found to be in quite dreadful circumstances. She was doing her utmost to provide for her children, and despite the unforgivably low standard of the property – penetrating damp in the children's room, rotten floorboards, totally inadequate heating, non-existent insulation, draughty windows and doors and totally botched cowboy repairs – she nonetheless defended her landlord to me. I spoke to you about the Stockholm syndrome.

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People like this feel trapped and it impacts heavily on their health and well-being. Do not underestimate the profoundly damaging impact this type of property is having on outcomes for some of our families. (**A Member:** Hear, hear.) If in *any* doubt, please talk to our public health doctors and seek out their views in this regard, and they will tell you. In addition, without any central register, currently when inspections take place officers have no way of knowing if the landlord has other properties which are being let, which may have similar problems.

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As mentioned previously, with the growth in landlords, many are unaware of their obligations under existing legislation, which can cause problems for them and their tenants. By introducing

980 mandatory registration, all landlords will be aware from the beginning what their rights and responsibilities are, thus providing greater protection and comfort for both parties.

The Island is not alone in seeking to address this issue of regulation for the private rented sector. Other jurisdictions either have registration schemes in place or are bringing legislation forward to address the issue. In developing this legislation, the Department has looked at the numerous examples of schemes for private landlords elsewhere.

985 In terms of other European countries, private renting has been historically a predominant housing option. Therefore, regulation is much stronger, particularly in relation to rent control and protection of tenancy. Their legislation goes much further than we wish to here.

In the UK, under the Housing Act 2004, individual local authorities are required to register houses of multiple occupancy, but local authorities can also introduce selective licensing schemes; and indeed, in the last few years, local authorities have introduced such wider schemes – for example, Newham in London now registers all private rented dwellings. Licence costs vary between authorities, but can be in excess of £1,000 depending on the number of properties a landlord has. Failure to license is an offence under the Housing Act and carries a maximum fine of £20,000. Research has shown that selective licensing has not adversely affected the private rented market. Furthermore, both the Labour and Conservative parties have indicated clearly their intention for further regulation of the sector going forward.

Turning to Wales, under their proposed new Housing Bill, landlords and agents will be required to register and become accredited with a local authority. Landlords and agents who do not sign up to the scheme will be guilty of a criminal offence with *no* maximum ceiling placed on the fine level. The proposed registration fee to join the scheme will be £50, plus an annual administration fee of £20. Landlords and agents will also be required to pass a fit and proper test to become approved and will then have to complete an accredited training course paid for by the landlord.

1000 In Scotland, registration for landlords has been mandatory now since 2006, and landlords register by authority area. Registration costs £55, plus £11 per property. There is a maximum fine of £50,000 for being unregistered.

In the Republic of Ireland, a very different scheme operates, whereby the tenancy itself – each and every tenancy – is registered. Registration costs €90.

1010 Northern Ireland has its Housing (Amendment) Act, which has been passed and will introduce mandatory registration for landlords. Registration costs £70.

The Department has used evidence from other jurisdictions to create legislation that is actually unique to the Island. The proposed legislation takes account of existing legislative provision, the Island's size and the nature of the housing market.

1015 The Bill has three main elements. Number one is mandatory registration. The legislation will require all landlords of private rented properties who are not exempt to be registered with the Department. If they are not registered, it will be illegal for them to operate. This will create a central register for all private dwellings, regardless of whether they are a flat or a house, and will enable the Island to have comprehensive data on the private rented sector.

1020 Number two is compliance with minimum standards. All landlords, or letting agents if one is used, and their rented dwellings will be required to comply with minimum standards. These standards are not set out in the Bill, as the majority are drawn from existing legal requirements that cover all housing on the Island – for example, the condition of the property – but they also include the following. Personal requirements: the landlord must be a fit and proper person, i.e. not convicted of certain offences. If they have been and the conviction is not spent under the rehabilitation of offenders rules, then they can still rent their property but must use a letting agent to manage the tenancy. Letting standards mean that a landlord cannot discriminate against a prospective tenant on the basis of their race, ethnicity or sexual orientation. Property management standards are related to how the landlord must manage the tenancy – for example, ensuring that a tenancy agreement is in place, which provides certainty for both

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parties in their roles and responsibilities as well as clarity over who does what with regard to repairs and maintenance.

1035 Number three is empowering the Department to enforce against the minimum standards. If a landlord fails to comply with the minimum standards, the Department will be able to take enforcement action. In the same way as enforcement is currently undertaken, the approach will be transparent, appropriate to the age and type of property, and proportionate. Property management standards will be considered on application to the Department, with key documents having to be submitted – for example, the standard tenancy agreements, an inventory and repairs contact details. Environmental health officers of the Department of Environment, Food and Agriculture will inspect the condition of a property on behalf of the Department of Health and Social Care. They will be the ones authorised to enter premises, as is the case now. The registration scheme that the Bill creates will ensure all landlords are aware of their responsibilities, but the minimum standards are as much about protecting a landlord as they are the tenant, by ensuring tenants' responsibilities are also captured.

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1045 The Department launched a voluntary registration scheme in February 2013 so that landlords could better understand the process and feedback could be sought on the process. This has helped the Department begin to dispel some of the myths about how the scheme will operate in practice. There are now over 30 landlords and over 100 properties registered under the voluntary scheme. Registration is a straightforward process. It involves a landlord submitting one form to the DHSC, on which are listed their property details and on which they *self-declare* that they are meeting each of the minimum standards.

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1055 If a landlord does not personally meet the requirements of being a fit and proper person, they can still let their property but must use a letting agent. These are referred to as a 'representative agent' under the Bill. A landlord who does meet the requirements can still choose to use a letting agent, referred to in the Bill as a 'nominated agent', but ultimately it is the landlord who is responsible for notifying the Department of any changes to their details or their property details.

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1065 There will not be an automatic requirement for an inspection on registration. Instead, officers will conduct these on an information or knowledge-led basis; but, rather than as currently, they will not be predominantly reliant on a complaint from a tenant. Furthermore, unlike the current situation, officers will be able to inspect more than one property in a landlord's portfolio to ensure any issues are not prevalent in all. As currently, environmental health officers, who will be authorised officers under the Bill, will take an open and proportionate approach to inspection and enforcement. DEFA already have a published policy on enforcement, which has clearly defined steps.

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1075 Finally, there has been some concern over the level of fees. Interim fees were contained in the draft Bill which went out for consultation, and have stayed the same. The fees for registering are £55 per landlord and £11 per property every three years. To give some examples, a landlord with one property would pay £66 to register for three years – that works out at £22 per year, or 42 pence per week. For a landlord with 10 properties, the cost over three years would be £165, working out at £5.50 per property per year, or 10 pence per property per week.

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1085 Let me now turn to a brief overview of the specific provisions of the Bill. The Bill is made up of part 1, the introductory. This part contains the opening provisions. This part mainly covers the Bill's short title and commencement, purpose, application and exemptions in the Bill, and definitions for certain key terms.

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1095 Following the presentation on the Bill to Hon. Members, the point was raised that some Members may seek an amendment to remove the exemption for public sector housing. As outlined, one of the main aims of the new legislation is to create one centralised register of private sector landlords. This is already available to Government and the public for all public sector housing. Furthermore, local authorities have to submit performance data to the DHSC, setting out how they meet certain standards, and Government already has powers to tackle local authorities who are failing in their housing duties under the Local Government Act. In

addition, there are not similar issues in terms of tenants' unwillingness to complain, as there are complaints processes in place.

1085 Second, it is to ensure that all private sector properties are meeting minimum standards. These minimum standards are not listed in the Bill as the majority are around property condition and are drawn from existing housing legislation. This legislation covers both private and public sector housing. The only additions in the minimum standards are around the standards relating to personal requirements, letting or managing the property, and some of the standards in
1090 relation to managing the tenancy. These standards are either not applicable or already apply to public sector housing as detailed below. The personal requirements in the minimum standards are not applicable to public sector housing as the letting process is undertaken by the local authority or the DHSC, not an individual landlord.

1095 In relation to letting or managing the property, there are standard procedures in place for the allocation and management of all public sector housing, as agreed by Tynwald. To give examples, public sector housing has standard tenancy agreements charging a weekly rent which is payable in advance; all tenants are issued with a rent card or equivalent, which clearly sets out the charges to the tenant – rent, heating charge where applicable, and the rates charged.

1100 Standard procedures are also in place for managing public sector tenancies. Again, to give some examples, landlord contact details are contained on every letterhead, are printed on the rent card or equivalent and tenants' handbooks – including office opening hours, how to report a complaint, or repair and emergency repair numbers. Occupancy levels are determined by the size of the property and are set out in the affordable housing standards.

1105 Turning to part 2 – the landlord registration – this states the offences and consequences of not being registered and contains the details of the registration process and access to the register. Only those with an appropriate interest – for example, a prospective tenant – can be provided with information from the register. I understand there have been some concerns about the provision for giving information to the UK. Information will not be freely provided. The provisions state DHSC *may* provide information, and that would be confirmation of whether a
1110 landlord was registered or if the DHSC had taken any enforcement action on any of a specific landlord's properties. We also may share general statistical information for research purposes.

1115 Some Members have raised concerns about the maximum level of fines set out in the legislation, which I should also like to address. The robust penalties contained in the Bill, as with any piece of Manx legislation, set out the maximum amount a court can impose on serious breaches of the law. These penalties represent the final step in a long process of non-compliance, where the landlord has been given ample formal opportunity to address the situation and has refused to do so. The extent of such penalties will be determined by the court, based on the evidence placed before it, *not* the Department. No court would apply a fine simply for forgetting to renew an application or having substandard property, unless there had been a
1120 repeated and deliberate failure to put right following the various formal requests to do so. Legal action is only taken when every other remedy has been exhausted and will be used as a last resort against a landlord who has fallen below acceptable standards. The maximum amounts are consistent with other recent housing legislation – for example, Hon. Members recently agreed a maximum penalty for failure to register a flat or a house of multiple occupancy under the
1125 Housing (Miscellaneous Provisions) Act in 2011, of £20,000.

Turning to part 3 – compliance with the minimum standards – this contains details on enforcement under the legislation, including powers to enter premises, issue notices of non-compliance and improvement notices, and the power to suspend or cancel registration. This part also states the offences for failing to comply with minimum standards.

1130 Part 4: a review of decisions. This part provides details of the review and appeals procedure under the Bill.

Part 5 – miscellaneous – provides for evidentiary and other matters for proceedings, regulations under the legislation, and other general matters.

1135 Part 6: transitional and consequential provisions. This part of the Bill provides for the transitional provisions and amendments to existing legislation detailed in schedule 2. The schedules contain the definitions and amendments of existing legislation.

Mr Speaker, when the Bill was first proposed, it led to a strong reaction from some sectors; but during the consultation period and beyond, officers have been able to engage and there is now something of a greater understanding of the aims of the Bill and many are beginning to see the benefits.

1140 I have been encouraged by the establishment of the Manx Landlords Association, representatives of which have been meeting with officers from the Department as the Bill has progressed. Whilst there are still some areas of disagreement, the Association are now seeing the benefits of registration as being in the interests of *good* landlords by protecting them and their profession from the small minority of bad landlords. The legislation will avoid situations where landlords are competing unfairly in a sector where others are not meeting basic standards. It will also ensure potential new investors are not dissuaded from entering what they currently see as an unregulated market, and there is evidence to that effect.

1150 Mr Speaker, during the initial stages of policy development, queries were raised about the potential impact on the Island's private rented market. The Department does not believe that there will be a negative impact. The process, as I have outlined to Hon. Members today, will be *light touch*, and the total involvement of most landlords will be to simply complete the registration form every three years. There is no automatic inspection on registration and we will trust landlords to self-certificate through the completion of the registration form.

1155 As detailed, registration schemes are becoming the norm and are already in place in many countries. Recent research has found English councils which have brought in selective licensing found that it had resulted in a small minority of landlords selling their properties. However, overall there has been little to no reduction in private properties for rent. In addition, the introduction of licensing has seen less churn on the part of tenants and fewer empty properties.

1160 I hope, through the policy presentation to Hon. Members and through the further detail provided in the House today, Members will have a greater understanding of the need and intention of the legislation.

Mr Speaker, I beg to move that the Landlord and Tenant (Private Housing) Bill 2014 be read a second time.

1165 **The Speaker:** Hon. Member, Mr Houghton.

Mr Houghton: I am sorry, Mr Speaker, I am not seconding it.

1170 **The Speaker:** Mr Ronan.

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

1175 **The Speaker:** Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

I think there are quite a number of Members who have got concerns about this Bill, and I think... if I may slightly pre-empt the debate by saying there is a move later that this is likely to go on to a committee, which I would be very supportive of.

1180 First and foremost, Mr Speaker, when the Minister gave a presentation, quite some time ago, on his intentions of bringing forth a Bill, the target that I was asking him to bring about at that time, and hoping he would come back with, was *targeted* legislation at those landlords who were specifically ruthlessly out of order.

1185 If I might just give a couple of instances on that, there are I think at least three very large property-owning landlords on this Island, and out of those three, some of those properties are

really poor. (**A Member:** Hear, hear.) A lot of those sit in the hon. mover's constituency, a number of which I have been in. It has been shameful to see, when you have a small family – usually a single-parent family – who are stuck in the basement of a dump flat, running in damp, dangerous, jerry wiring and everything else.

1190 I will give you just a few instances. We all know, we have probably all been in there, and the Member moving this Bill has been in there. In fact, he showed us a photograph of one of the properties in the presentation he gave... of some really poor premises that people are expected to live in, and there is no doubt that legislation needs to be tightened up to deal with that, Mr Speaker.

1195 The jerry wiring was jerry. This is bare wires hanging out of knackered plug sockets. The very best example I can bring was a house in Mona Street that I was in a good few years ago now – it was the best example – where this careless landlord had done a botch-up of the premises... moved walls around with partitions, the partitions were not right and the doors were not hung properly. Do not worry about that: there was loads of vermin coming in under the door and it was awful. But the best was he had put a bath in this room, where there was a light right above it on a pendant set. On the pendant set was a bulb hanging down on a wire, in view of the spray of the shower, on the bulb, and the person using those premises, with a young child, did not realise how dangerous it was. Any of those amongst us who are electrically minded know that in most premises there is no protection on lighting power. The lighting power is not protected by earth linkage arrangements, as it is on power supply. But you can forget all this: these were old wired-in... a fuse wire situation that went out with the ark, *long* after the ark. It was highly dangerous. I got that particular tenant out of there within a week, and told them not to use the shower in the future, and so on; but of course I am not certain what actually happened after that flat was vacated. It might have been re-let again; I just do not know. That is what I was looking for in this legislation – targeting, where environmental health officers have real power to deal with those circumstances in particular.

1205 I have been in many dump flats. On other occasions, some of the landlords had keys to the premises and were actually entering the premises, without the tenant's knowledge, when the tenant had just come out of the shower, or what have you. This was wholly wrong, disgraceful behaviour – that still goes on, Mr Speaker. We understand landlords having keys to property, but they may not enter without the tenant's knowledge and understanding or prior arrangement. We all understand all of that.

1220 So that was the power of the legislation which I was hoping the Minister was going to come back with in order to deal with those specific examples, of which there are many – and I mean *really* deal with them, not doing what happens on many occasions with Government legislation, where you always hit the good guy.

1225 There are a lot more landlords now who have been pushed into buy-to-let properties because of the lack of interest or return on capital investments in banks and elsewhere; but in those cases, where someone buys a very nice house and puts the whole thing in really tip-top order and then leases the property out, they themselves fall foul of really bad tenants. I can tell you of dozens, and I am sure the other Members in this Hon. House can tell you of dozens of complaints about tenants making a mess of properties, ill-treating them and leaving the premises, when they have left usually owing thousands in debt, in unpaid rent... the property has been smashed to pieces, in a really bad state and so on. That is something that happens a lot, Mr Speaker.

1230 In my former life in the Isle of Man Constabulary in the past, you would go into flats after a drugs raid and see these dumps – which were not dumps when they were actually let out by well-meaning landlords – where the place was totally wrecked: they had even had fires in rooms, they had sawed up floor boards, they had done all sorts of things. It is unbelievable. You really do need to get into some of these flats to see what I would like to say 'rogue tenants' have actually caused to people's properties. (**A Member:** Hear, hear.)

1240 I list a number of issues here that those well-meaning landlords – and that is most of them probably; I do not know, I would say 70% or 80% of landlords – who keep their premises and let their premises to a very high standard... When they get the premises back, by fair means through the court – longstanding waiting cases going to court, then the eventual possession order, then the eventual eviction, and even then the Coroner will not play ball and get them out on the date of their eviction etc – the place is an absolute wreck of a place: it has been trashed time and time again.

1245 What I would ask the Minister is where in the legislation is the protection for well-meaning, high-standard, good-meaning landlords? (**Mr Quirk:** Hear, hear.) Where is it in this legislation? Because there are two sides to this: bad tenants, of which there are very many; and bad landlords, which we need to target more specifically. *Not* the good guy. We always shoot the good guy in legislation and let the monkeys run off still, where they are able to do so.

1250 What I was hoping to see in this legislation was, for instance, a list – a way, a meaningful list, by fair means or foul – of bad tenants, badly behaved tenants; because when that tenant moves out, he moves out into another tenancy. He does not buy a first-time buyer's house, or what have you. Those sorts of people leave their flats in good order and get their deposit back.

1255 Where is the list? Where is there a list that the Department could hold to warn other landlords of bad tenants and their behaviour – that is, their antisocial behaviour? By gosh, there is some antisocial behaviour that goes on in tenancies. The couldn't-care-less tenants keep the rest of the block of flats awake at night with bad behaviour and loud music. Of course, I have been to this Hon. House before and got legislation under the Noise Act to deal with that, so that is a lot less, but it is still there: people banging doors, jumping up and down and all the rest of it all night – because they have been asleep in the daytime when other people in that block of flats, working, have been out in the daytime. They are sleeping, and while those hardworking people want to sleep, the good tenants, they are being upset by bad tenants. Where is the strength in dealing with that?

1260 The contravention of the tenancy agreement, and I am talking about in the larger pale of... the significant aspect of bad behaviour and easy means of immediate eviction. Somebody says, 'Oh no, but they have human rights. The person that you are going against has human rights. He might not have done that and he might not have done this.' So you might get an officious landlord, who might want to throw this tenant out because he just wants to do it, blaming other things on him. So I turn to independent sources that eventually eke their way through to the courts under the system that we have, and that is the Isle of Man Constabulary. They are the ones who are visiting these premises late at night and see and hear all the bad behaviour. Perhaps a senior police officer can sign an immediate order of eviction after a drugs raid to get that bad tenant out and then get them on a list of tenants who do not know how to behave themselves. A bit harsh, and a lot of people call me for being harsh with harsh ideas; but when you are out there in the street, dealing with thugs and hooligans and criminals who could not care less and who are above the law – because that is what they are – then what chance has the landlord got? Where is it in the Bill to deal with things like this?

1275 I have dealt with non-payment of rent; but in the non-payment of rent, shouldn't there be an easier way to have them evicted? A bit of thought in it, a bit of thought given to the boldness of it, because if a tenant... and the courts look at these tenants in a whole different way than the actual landlords do, where they are given more time, and 'Oh, well, try and pay it,' and this, that and the other, and there are methods for the former DHSS – the DHSC now, or whatever you call them... We keep changing the name of that Department more than we do our laundry, don't we, these days? (**A Member:** Hopefully!) But the DHSS that everybody understands, because it is still there in the thing, isn't it, when landlords say, 'We don't want any DHSS tenants in the properties' – and you can understand why, but there are an awful lot of really good DHSS tenants, a lot of them. So it is the ones who are misbehaving who are the ones we want to deal with.

1290 Mr Speaker, also damaged premises. I mentioned that earlier, but that is a huge add-on to
the cost of a business of a landlord. When the premises are damaged, there is usually non-
payment of rent. It can take an age to get them out, so that runs into £1,000 or £2,000 – and I
will bet I am being miniscule on that. There are the damaged premises that cost a fortune to do
up, and then the time that those premises are offline is a loss of main profits to the landlord.
Where in the Bill is there some credible protection for dealing with that? Because it is not fair to
a business and a landlord, renting out domestic premises, that they are not properly protected,
1295 and that is what I wanted to see in the Bill.

So if I could summarise, Mr Speaker, and I am sure there will be other Members saying the
same thing, but if I can summarise... Strict targets of legislation at the cowboy and rogue
landlords, of which most of them are not, and very swift action within powers for the
environmental health officers to deal there. And then, for the case of protecting landlords, very
1300 strict legislation that is supported and has to be supported by police evidence, because they are
the people on the scene and it usually ends up in that particular area where the police have to
attend upon premises, time and time again, like I have already mentioned. So they could file a
report that is quickly dealt with and more quickly leads to that tenant being evicted because of
his behaviour and all the rest that goes on in the premises of those tenancies – and there are a
1305 great number of areas that really need to be looked at.

So I will leave it at that, Mr Speaker, but I just wanted to set the scene on all of this because
there are two sides to every story and there are two sides to this story.

Thank you.

1310 **The Speaker:** Hon. Member for Douglas South, Mr Cretney.

Mr Cretney: Thank you, Mr Speaker.

I rise to strongly support the Second Reading of this Bill, as I have since prior to the last
General Election.

1315 Like a number of Members, I attended the presentation put on by the Department recently,
and amongst the first slides were pictures that I have seen many of over the years, in terms of
inadequate and even squalid, at times, accommodation. Housing is and remains the biggest
issue that I receive representation about, and that is in all its forms. I have been pleased to have
played my part in a number of improvements, but *much* remains to be done.

1320 I said at the presentation, and repeat here, that with the massive investment in the public
sector housing stock over the last 20 years, there is no question that we have witnessed
significant improvements, but I am aware from first-hand experience that in some areas in the
public sector there remain serious problems about its condition. Some elements of the private
rented sector remain in very poor condition. I have recently visited properties in the private
1325 sector, one of which was in very poor condition and the landlord, who lives off Island, was not
responding to concerns expressed. This new proposed legislation would have assisted that Manx
family.

I made it clear at the presentation that it seemed that this legislation and the problems
highlighted by the slides should not only apply, as it seemed to me, to the private sector, but
1330 also to public authority housing and agricultural workers' dwellings, and I have made that clear
publicly.

I have since been in extended dialogue with the Attorney General's Chambers and legislative
drafters, and latterly the Minister and senior housing officers provided me the opportunity to
express my concerns about issues that still apply to publicly owned properties. These include, on
1335 occasions, maintenance work not being carried out on a timely basis, or at all sometimes. They
include the situation where local authority houses have remained vacant over an extended
period after a tenancy is finished. They include major issues with damp ingress in areas and a
number of other concerns where we are all aware that ultimately the taxpayer picks up the
deficiency on local authority housing.

1340 Can I say here, as I did in the meeting, that the senior housing official at my local authority, in my opinion, is doing an excellent job in trying to make the housing system repairs and allocations much fairer and efficient, and I am sure he would agree that a major task still lies ahead.

1345 What became apparent in my discussions is that much of the proposed legislation in this Bill already applies to local authorities and agricultural workers' tenancies. Government is clearly already aware of what property is owned by which public sector body. Public sector tenants or their representatives, if they are doing their job right, are not reluctant to report issues for fear of intimidation or threat. Local authorities have to submit performance data to the Department about how they meet certain standards and Government already has the powers to tackle local
1350 authorities who are failing in their housing duties under the Local Government Act.

From my observation, there is no doubt, however, that this element should be subject to an ongoing and healthy challenge and debate on behalf of tenants, as I have outlined previously.

1355 In my opinion, good landlords, who are the vast majority, have nothing to worry about in the proposals before us today because what the legislation proposes is that all private sector properties are to meet minimum standards not listed in the Bill as they are drawn from existing housing legislation which already applies to both public and private accommodation.

If I can respond just a little, and I am sure the Minister will do it much more adequately than I, but in terms of the Hon. Member for North Douglas and his comments, all I would say is that all legislation, sadly, has to be framed in a way that it tackles those who abuse areas of our life.
1360 That is why, in my opinion, good landlords have nothing to worry about; but bad landlords, look out, because it is about time we caught up with you. (**Mr Houghton:** Hear, hear.)

On that point, I was assured at the meeting I had that the housing review that has been taking place will lead to improvements in the areas I have outlined around efficient maintenance and management of the public sector housing stock. I can assure the Department that I, and I
1365 am sure others, will be challenging it to deliver on this.

In relation to agricultural workers' dwellings, I have been given assurances that such properties already have to meet all property condition standards and environmental health officers can take action to enforce this. Having come across some very poor accommodation in this area in the past, I do hope that such standards can be properly enforced. The reason it is not
1370 appropriate for these properties to be included, I have been advised, is that they are contained in the Agricultural Holdings Act 1969 and Agricultural Tenancies Act 2008, which provide unique conditions and rights of redress for the tenants of those properties. I am not aware of how these operate in practice, so I have accepted such advice at face value.

1375 There can be very few areas of life that are as important as decent housing. If we truly are an inclusive society that cares for the vulnerable, I believe we not only have an obligation to support this Bill, but to support and encourage the Department to ensure we continue to see an ongoing improvement in the housing stock, which in a number of areas is clearly overdue. This includes ensuring legislation is up to date and appropriate and that management of the stock in both public and private sectors is efficient and continues to improve in terms of its quality and
1380 the impact of those who live in it.

Mr Speaker, I strongly support the Second Reading of this important piece of legislation.

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

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

Taking up a couple of points made by the previous speaker, I also wanted to just comment on the exemptions in the Act of certain privately rented tenancies. If we come on to the agricultural tenancies, and I certainly have not received any assurance as the previous speaker has, but I would think that tenants need coverage under this Act to ensure that they have equal
1390 protection. (**A Member:** Hear, hear.) We do not need two Acts. We should have everybody protected under the same Act. (*Interjection*)

1395 Secondly, the exemption of holiday home lets: I think anybody who is in a holiday home let deserves a minimum standard of protection. They book a holiday, they come across and they walk into a premises and they do not know what standard it is going to be. Also, we do know that many holiday lets have become long-term lets, and we know certain people who will, probably illegally, let their holiday lets over the full year.

1400 If I can then refer to the local authority housing, I think most Hon. Members here from time to time do receive complaints of problems that are not resolved in a reasonable amount of time by the local authority. Those tenants then have no further action they can take against the local authority and therefore they need the protection if the local authority behaves occasionally as a poor landlord. So I really think we will need to look at these exemptions. I do not see why we should...

1405 Under this Act, we do not have the level playing field that we are saying we need, and therefore I really think these exemptions need to be looked at, and the exemptions that I have mentioned actually need to be incorporated into this Act so that everybody has equal protection.

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

1410 **Mrs Cannell:** Thank you, Mr Speaker.

I agree entirely with the comments made by the Hon. Member for Ramsey, Mr Singer. The fact of the matter is the Isle of Man does not have a homeless persons Act, which is a safety net for all these places that the Minister, when moving this morning, has quoted in terms of what provisions they have, what licensing scheme they have, how they deal with this, what their charges and their fees are. The difference here is that they have a homeless persons Act to fall back on and we do not.

1420 So you take an example of a small landlord, someone who owns a property, lives in part of it and rents out the rest of it perhaps to one or two tenants. That person becomes registered, but one of the tenants makes a complaint. Environmental Health come in and give that landlord – this small landlord who is living in the property as well – a long list of works that the environmental health inspector requires to be done to the fabric of the property. We are looking at a Victorian property, of which there are many in my constituency. The landlord looks at that, he gets builders in, he gets quotations in, he works out how he is going to do it, how long it is going to take to do it, and his finances; and he discovers that he cannot do it within the time framework that is given to him. So he goes back and he tries to barter a deal with the environmental health inspectors to give him more time, but there is no **(A Member: Discretion.)** security of knowing that you are going to be able to bargain for more time.

1430 So what does a small landlord do? Well, he or she, the first thing they are going to have to do is to serve a notice to quit and go for an eviction order in order to get the premises empty, in order to spend the money over a reasonable period of time to bring the property up to scratch. In the United Kingdom, if that were to happen, the onus would be on that landlord to find alternative accommodation for those tenants whilst the work was being done. That is the difference.

1435 So, please, Hon. Members, do not be swayed by what the Hon. Member has done, in terms of his research – and I am pleased they have researched other jurisdictions away from the Isle of Man, but the one key element that they have, and we have not got, is a homeless persons Act. That is the first point.

1440 The Hon. Member moving the Bill said this is light-touch legislation. There is no such thing as light-touch legislation. *(Laughter)* It does not exist. There is no legal definition for 'light-touch' legislation.

What he did say is that landlords should not be fearful of this new Bill coming forward because they have to self-declare the minimum standards. Currently, as the law stands, if you register your property for renting out, you are subject to an inspection, which is the right way to

1445 do it. If you register a flat and you want to rent it out, it is inspected to make sure that it complies with the minimum standards – which are not going to change, according to the mover. We are reliant upon other legislation to provide the minimum standards. So that, to me, is a backward step and not a forward step, the self-declared standards.

I think it is a big mistake that if landlords are going to have to apply for registration on a mandatory basis they are not automatically inspected, because what this legislation is is another
1450 piece of legislation that is going to be reactive and not proactive. So, in terms of the Hon. Member for North Douglas, Mr Houghton, he wanted targeted legislation, and I do not blame him, but this does not provide for that. **(Mr Houghton: Hear, hear.)**

The only minimum standards being provided here are in terms of... the Minister said there will have to be a tenancy agreement. I have no problem with that. For every tenant there should
1455 be an agreement with the landlord, in terms of who is responsible for what.

I am a bit curious that a landlord who has an unspent offence cannot be the landlord but is allowed to enlist someone to act as the landlord, such as an agent. I cannot see the rationale of that. What does it matter if someone has an unspent conviction? If they are a good landlord and they are providing a good roof over somebody's head, why can't they continue to be the
1460 landlord? I do not see the rationale for that to be included in any kind of law.

The Minister said the voluntary registration scheme that he brought in, we criticised – some of us criticised – when it came in because we knew that what would happen is that the heavy hammer would come in with legislation to make it mandatory. The Minister said he was quite encouraged that 30 out of 100 properties have registered. Well, actually, my intelligence is we
1465 have 70 landlords on the Isle of Man – they may well own 100 properties between them, but 30 out of the 70 went on the voluntary register and the others did not because they were not in agreement with the ethos that was being used in terms of bringing forward this legislation.

So what do we have in this new law? What we have is that the tenants have got extra rights. The tenants already have quite a large number of rights under the Housing (Miscellaneous Provisions) Act 1976. That is going to stay, so everything in terms of the enforcement of non-compliance of minimum standards will fall back onto the 1976 legislation, where the tenant involves Environmental Health and Environmental Health gets involved... or, for non-payment of rent or disruptive behaviour or damage to the property, notice to quit and then an eviction order is sought and it goes to the court. The Hon. Member for North Douglas referred to this.
1470 The Deemster has the power, under the 1976 Act, to defer and stay the execution for up to one year. So that is not going to change; that is going to stay as it is. *(Interjection Mr Houghton)*

How is this Bill going to address the fact that there are in fact a lot of property owners who go through an agent to rent out the property, but they actually live abroad? Currently, under the existing legislation, which will stay in terms of enforcement, the local authority will chase a private property owner for... and I have got three properties in Douglas East where they have
1480 been abandoned, they are not habitable – they are mid-terrace and they are causing *huge* problems to the adjacent properties in terms of rising damp and all the rest of it, and the local authority, in trying to pursue rights for the people either side, can do very little about it because the owners actually live abroad.

There was one case recently with a property in Derby Road, where in the end a sheriff in South Africa had to be engaged to try and hunt down and find the owner to serve a notice on him to tell him that, if he did not do something pretty quick, this property was going to be acquired by the local authority or it would be up for auction by the Coroner – it would be wrested by the Coroner. It took nearly *five years* to achieve that.
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So what does this new Bill provide? Does that improve that situation? No, it does not. It does not, so it is not dealing with the fundamental issues. The only thing it is really dealing with is forcing for the first time a landlord to become registered, and if they forget to renew their registration they have got problems. They could be fined, they could be put in prison; but furthermore, if they have a tenant who is renting that flat during the period of non-registration, because the landlord has forgotten to do it, that tenant can claim back all the rent they have
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paid during that period. *That* is new in here. Where has that come from? Why do we need that? The Bill is not dealing with the fundamental problems that we have had in terms of the private property market. It is not dealing with them, but it is upsetting the market – it really is.

1500 I am in agreement that there should not be as many exemptions in the legislation as there currently are. Mr Singer mentioned about the holiday accommodation. I know that there are flat dwellers who will always be flat dwellers because they like living in flats and they like to move around. They move around and they shop the market, and what they do, many of them – not all, but many of them, single people usually, will actually approach the landlord of a private tourism flat to see if they can rent it in the winter, because they can rent it cheaper in the winter than
1505 they could in the summer. Then, at the end of the winter, they will go back to perhaps another favoured landlord, where they have had good premises, a good relationship and the rent is not too dear, and go back into that flat.

We have a transient population within the flat market, and Douglas East, my constituency, accommodates the largest proportion of the transient population. I have represented that area
1510 for 18 years in here and three years as a local town councillor. I understand the market. I know of all the problems, and I also would echo that there are some *appalling* places where people are living, where you can see slug trails all the way through on the carpet – if you can call it carpet; it sticks to your feet when you walk in. I am not saying something does not need to be done about that; quite the opposite, what I am saying is that this new law that is being proposed
1515 is not harnessing any of that. It is tinkering with the market.

No impact assessment. We are at a time when the economy is struggling. The mover of the Bill said that the private rental market is growing. Yes, it is, and why is it growing? Because there are many people unable to sell their property, but they are still forced... because of their job, they have had to relocate and go back perhaps to the United Kingdom. That is happening a lot at
1520 the moment, so people are wanting to rent out their property because they are unable to find a buyer. So yes, that is growing and it will continue to grow.

So we need to be mindful of what the impact is going to be on this market, particularly in view of the fact that we have no homeless persons Act. If we had a homeless persons Act, I would feel a little bit reassured that there is a safety net for people; but there is not, and what
1525 we could end up with is a lot of people... and the Minister said that there is some evidence that it happened, I think in Wales, when the regulations came in and some of the small property owners, the landlords, threw in the towel and said, 'Well, enough is enough. I cannot be doing with this. I have got a lot of paperwork to do and a lot of responsibility now in terms of just making sure all the fire equipment is tested and I comply with all the fire regulations. Oh, I'm not
1530 doing this anymore.'

The other thing that has not been mentioned yet but might come up is this toilet charge of £50 a year. I have spoken to some small landlords, responsible landlords, and they said, 'I cannot pass that on to my tenants. Some of my tenants have lived with me a long time. They are still on the same rent. I have never increased their rent because they are good tenants. I cannot now
1535 impose this toilet charge. I will have to cover that.' This is what this legislation is targeting: the small sector, the good sector, the responsible sector, whilst the big boys will still get away with murder.

There is a lot more that could be said, but I am not going to say it. (**A Member:** Hurray!) What I would say is that I will not be supporting Second Reading. I am disappointed that the next Item
1540 on the agenda is subject to the Bill receiving approval of Second Reading. What I will say is this: before we even get to the vote and the end of this debate, this definitely needs to go to a committee of the House. (**Two Members:** Hear, hear.) It *has* to go to a committee of the House because it is tinkering with a market that is *very* sensitive and very important in terms of putting roofs over people's heads, and we do not have the caveat of a homeless persons Act, which we
1545 *should* have.

Thank you.

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

Mr Quirk: Thank you, Mr Speaker.

1550 I would just like to echo the sentiments from the last speaker, and also Mr Singer from Ramsey.

1555 First of all, if I could say that the consultation exercise that was done some time ago in 2013, the original consultation response was that the landlords themselves... 67 people responded to the consultation. That was, in percentage terms, by the Department's own figures, 47.9%. Over nearly 50% of the responses came from the landlords themselves, and we know what they said because it is in here. There were a number of local authorities that submitted views... [*Inaudible*] I have not been able to gain any of those, whether they think it is quite sensitive or not, but maybe in the life... or maybe in the *short* life of this Bill they will come out.

1560 What gives me a concern, to the Minister, is when in his opening address he said that his Department has been consulting with the Landlords Association all the way up. I do not believe that is correct, and I am sure the landlords who were waiting for further talks with the Department... I know the committee has had talks with the Department, the officers concerned. I think they have had one meeting with the Minister at an early stage. But, hey-ho, we have a meeting, I think it is on Thursday, and I am sure somebody will probably just nod to me there...
1565 Wednesday it is, at the South Douglas Old Friends in Finch Road –

A Member: Available for Bar Mitzvahs!

1570 **Mr Quirk:** Yes, available for parties and Bar Mitzvahs... where the officers are going to explain the finer points of the Bill after the consultation exercise, which one would have hoped the Department would have done a little bit earlier, and for reasons I do not know, it has not been able to happen. But the Bill has gone forward before the second bit of the consultation exercise or the explanation to those people who are going to be affected is going to take place, and I think that is quite peculiar. It does not need to be rushed.

1575 If I could say that if we are bringing legislation into the Isle of Man, then it has to be fair to all the citizens of the Island – that is whether they are tenants or they are landlords, and I do not think this is... The Bill does say 'Landlord and Tenant (Private Housing) Bill', and a number of Members have already hit on the thing that it is skewed and one-sided.

1580 Where is the fairness in play for those landlords who are fair? There are some of them, and we do have legislation, current legislation... We have four sets of legislation that have been in for some time to tackle those other issues that have come about. I have not had any explanation from various Departments. One agency is with Agriculture and Fisheries, the environmental health officers. I would like some facts and figures from the Department too, because a lot of people quote damp, and I can say that 90% of the damp issues are condensation, mostly to do –
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Mr Henderson: That is a load of rubbish, Mr Quirk.

1590 **Mr Quirk:** It is, Mr Henderson, (*Interjection Mr Henderson*) and in the coming months – (*Interjection Mr Henderson*) sorry, Mr Speaker – I will actually prove it to Mr Henderson, and maybe he can eat his words.

A Member: It will be a long day for you.

1595 **Mr Henderson:** If you come up to Willaston –

The Speaker: No private conversations, please.

Mrs Cannell: Hear, hear.

Mr Quirk: Thank you, Mr Speaker.

1600 Maybe some of the Members are realising and they getting a bit worried.

I can also say that the Environmental Health Department have an onerous job to do sometimes with some of these in making that fine judgement and balance. Well, here we have in the Bill, and the Minister's words here today, that some of the environmental health officers will take a courteous view and look at each situation; but the legislation quite clearly says that if
1605 you are in default, something happens. You can go to court.

I have, if the Minister is not aware, also taken advice from the Attorney General's department on some amendments, and I will be... and I hope the Bill does not get its Second Reading... I will put that. It is a shame it does not go to committee first, but I will be supporting it if it does go to committee because it needs examination – which brings me to the consultation
1610 exercise again, where a number of advocates and the Law Society are a consultation organisation. I know for a fact, because I have spoken to a number of advocates in private business and also large advocacy firms as well, who have indicated that the legislation may not be drafted in the best way for the Isle of Man, never mind the parts it is supposed to regulate, which I have already said is the landlords and tenants, and maybe in the future would give the
1615 courts some difficulties, which brings me to a point where were the Minister is saying that the tribunal will be the rates and valuations tribunal to examine difficulties or disputes in there.

I would like to see, as Mrs Cannell said, something in the Bill that gives the Bill a bit more wow factor for the future, that the landlords can take an issue to the tribunal, if that is non-payment of rent or a dispute over the property, the conditions in the property there, and that
1620 tribunal will make a decision in about say six to 10 weeks. That is something new that the Minister could do, and we are here in the Isle of Man – we can do things differently.

We are talking about 5%, or less than that, of landlords who are bad who need to be addressed. I still think it is strange to me to find out why the Government agencies we have got at the present time are not tackling that 5% by putting a prohibition notice on them or an
1625 improvement notice on them and dealing with that particular issue.

The concern I do have as well, Mr Speaker, is regarding, at the moment... and I agree with the Department's view that they need a definitive list, and I do not know why you could not have actually approached the Landlords Association and said to them, like you have done with some other charities, to say to them to provide a definitive list and provide it for yourself. The concern
1630 I have with the law element too, the £20,000, for which I have some amendments listed as well, is that if a tick boxing exercise fails and we have a person, a JP, a judge or a Deemster who makes a definitive decision in law which then gives a landlord something against his reputation for the future, it seems to me quite strange.

The other parts in the Bill... I just wonder whether the Minister is driving the Department of Social Care, which I am a Member of now, but I know my Minister had a pre-declared issue before he became a Member on that. In that particular Health and Social Care Department now there is enough in that team to address these particular issues without actually bringing this Bill forward. The local authorities themselves hold the registers and have done for some years. Where the Minister was indicating... I think he meant the UK actually bringing improvements
1640 there. I have looked at the registers on a number of local authorities. I have yet to see the register, which you are entitled to see. The Minister says, 'Well, if I become a tenant, I can see the register that is held by Douglas Corporation.' You cannot see that register now, because it is not in book form anymore, because the law of the land says that, because they put it in an electronic version, you cannot see it under the Data Protection Act. Well, that is a bit strange,
1645 isn't it? But the law says if you have kept it in a book form, which they have done in other local authorities, then I can examine it. I could take copies of it.

Mr Henderson: A data request –

1650 **Mr Quirk:** So there are strange things in this particular Bill, and I still think that, to put good legislation together for the benefit of the two parties here – which are the landlords and the tenants, and the Isle of Man as a whole and our reputation – maybe we should be taking that step back and examining it a little bit more. I would plead with the Minister to use the committee to do that. I know there may be some concern with the Minister regarding the
1655 sending to a committee, but by including a date in it, by even saying that the committee reports by October 2014, it does not cost you a lot of time, but what it does do for the Isle of Man residents is it brings a Bill forward that is sound and has engagement from both parties on the Island.

1660 **A Member:** Hear, hear.

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

Mr Thomas: Thank you, Mr Speaker.

1665 If the Second Reading is successful, I will be moving that this Bill is referred to a committee, and so I will reserve my remarks to making that motion later. But at this point, I just wanted to say that I will be voting for the Second Reading and explain why, and in that context explain why I think it should go to a second committee, very briefly.

1670 The first point is that the aim of the Bill is to protect the legitimate interests of both landlords and tenants, and who could disagree with that? That is why I will be supporting the Second Reading, but it has got to be a balanced and fair approach to both and as we have heard today, we need a committee to investigate whether that is the case.

1675 The second objective for the Bill is to ensure there is clarity of the rights and responsibilities of both parties, and who could disagree with that? That is why I will be supporting the Second Reading.

1680 But this law could muddy the waters. I believe it has the potential to do so and that is why we need a committee. Any Bill with 69 clauses and two schedules – the second of which changes quite a lot of existing legislation – needs a committee to look at it, a legislative committee, in the same way that in 2010 the Criminal Justice (Miscellaneous Provisions) Bill needed a legislative committee.

1685 **The Speaker:** Hon. Member, just to be absolutely clear, we are not debating the merits of the committee at this stage. We are very much in the second stage reading of the Bill itself and its content. I appreciate, when you indicated you were reserving your remarks, I think what you meant was that you would elaborate further on the case for a committee, should that be moved; but at the present moment we are discussing the Bill itself.

Mr Thomas: Thank you, Mr Speaker.

1690 I agree entirely with your understanding of the way I am going to make my presentation and make no remarks.

1695 So at this stage, completely independently of the need for a committee, I just wanted to say as well that if there is a need for extra education around the responsibilities of landlords, something that has not come up, we should bear in mind that there are other approaches that could be taken and I wanted to put on record in this debate. For instance, under the Housing Rent Control Act 1948, we have the ability to refer rent matters to the commissioners, although there have only been eight such referrals in total in the five-year period from 2007-11, and that is something we should be looking at.

1700 Also, in the presentation that we had, it is very clear that £4 million is paid annually to provide support in relation to housing costs, and if that is the case, why can't the Department of Social Care look more closely at how it pays its money without actually having this big scheme?

So, in essence, in this first part I wanted just to say that my basic belief is that enforcing current landlord and housing regulations equally between the private and public sectors around the Island and informing the public better, whether they be landlords or tenants, is the primary thing and I hope that we can actually... I will be supporting the Second Reading. This Bill can contribute, but only to an extent.

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

Mr Robertshaw: Thank you, Mr Speaker.

Turning, first of all, to Mr Houghton's comments, he spoke of tighter targeting towards specific landlords. I think I have to say to that that every jurisdiction that has faced this challenge has and is effectively moving to the same conclusion that broad-based registration is necessary. It simply is not possible to necessarily isolate bad landlords and treat them separately. One has got to know who they are and one has got to remember – and I have repeated this a number of times – that a vulnerable tenant is the quietest of all.

Today, we have significant support from landlords in the public gallery, and it is good to see; but a landlord, in broad terms, is a competent, articulate person who can let their views be known, and I think all Members have been recipients of that, but there is a silence from the vulnerable. **(Mr Henderson: Hear, hear.) (Interjection)** Hon. Members do not hear the vulnerable, and if we have one duty above all else – and it is one of the three main colours of this administration – it is to protect the vulnerable. Hon. Members, we have to listen to the silence; we have to know where that vulnerability is. Broad-based registration helps us in that extremely important task.

Mr Houghton also used the phrase 'hitting the good guy'. I do not accept that at all. I have tried to... and thank you, Mr Speaker, for the House bearing with me in what was quite a long reading on my part. I did want to get through a lot of issues because there has been a significant amount of smoke and mirrors, and myths developed around this Bill – sometimes, I would argue, to distort the facts, and I find that very unfortunate; but talking about hitting the good guy is not right.

As has been articulated by a number of Members, there are quite a few landlords with a single property or a couple of properties. They come into that new. They have never had to engage in anything like this in the past. I am absolutely convinced that the process that we are asking them to go through in registration will be enormously helpful to them in that process and inhibit the possibility of them getting it wrong. This is not about hitting the good guy, and I do not believe for one second that we are hitting them financially – I have indicated in my opening remarks that we are talking about pence per week – and it is not intrusive, and it is not bureaucratic.

I think Mr Houghton touched on a particularly important point about the courts. He spoke of perhaps landlords not getting a fair deal in the courts, and I have some sympathy for that view. But see it from the courts' point of view. If the courts could see that they were dealing with a registered, well-respected landlord who was complying with a range of criteria, then I would argue to Hon. Members, Mr Speaker, that this would allow the courts to see the landlord's position with a greater degree of empathy than has thus been the case, because I think the tendency towards being unsympathetic to landlords is borne out of not being able to see a regulated market. A regulated market will help the courts to provide greater degrees of understanding.

I am grateful for Mr Cretney's comments. He has shown a deep interest in this legislation. He did quite clearly articulate his concerns about public sector housing not being within this particular Bill. Others have argued about agricultural housing not being in it and others again about tourist sector accommodation not being in, so I would just like to go through those three areas.

1755 Why is public sector housing exempt? Firstly, public sector properties already have to meet all property condition standards, as set out in the existing legislation. Secondly, environmental health officers can and will continue to be able to take action against local authorities or the Department if public sector properties do not meet the existing standards. Environmental health officers enforce against the standards, regardless of the owners; they would not be fulfilling their duties if they did not. Thirdly, there are publicly accessible management arrangements in place for all public sector housing. These are overseen and audited by the Department and exceed those minimum management standards introduced in the Bill. Finally, public sector tenants have greater redress if they make complaints through formal complaints procedures, but also the political process; hence why a lot of Hon. Members are aware of the issues. Hon. Members are aware when things are not right in the public sector housing. How many of us truly understand the circumstances in some of these low-quality private sector rentals? The answer is we do not, and that is the issue here.

1765 There would also be a number of dangers in removing the exemption for public sector housing from the Bill. Firstly, it would cause conflict in relation to existing powers the Department has under the Local Government Act. Secondly, it would reduce the force of existing legislation provisions and the standards in place for public sector housing.

1770 Finally, I would note, Hon. Members, that the private and public rented sectors are very different markets. Provision of public sector housing is not a light-touch process; it is prescriptive and subject to much greater control – for example, DHSC has the ability to set rents for the sector. The aim of the Landlord and Tenant Bill is about light-touch regulation, ensuring compliance with minimum standards through a simple registration process.

1775 Turning to the issue about agricultural holdings and farm business premises and why they are exempt, again these properties already have to meet all property condition standards as set out in the existing legislation, and environmental health officers have and will continue to be able to take action against landlords for properties that do not meet these existing standards. But tenancy arrangements for those properties are very different and are contained in legislative provisions under the Agricultural Holdings Act 1969 and Agricultural Tenancies Act 2008. These provide unique conditions and rights of redress for the tenants of those properties – for example, notice to quit periods, a tenant’s right to remove fixtures and fittings, rent reviews and compensation for improvements. Their inclusion in this Bill would therefore not be appropriate.

1785 Elsewhere... I think it was the Hon. Member for Ramsey, Mr Singer, who started discussing tourist premises. I will not dwell long on that because I think there is a pretty good understanding effectively that tourist premises are highly regulated and inspected as a matter of routine. He touched on, and I think other Members did as well, the concept of winter rentals. That does not in any way diminish the likelihood – or the certainty, in fact – of those premises being inspected for each of the following summers. So we are talking here chalk and cheese: the tourist premise gets inspected regularly; in this Bill, private sector rental properties will perhaps be inspected on information.

1790 I would also say to Mr Cretney, and he is perfectly right, that he did outline a number of concerns, but in his discussions with the Department we did outline to him, and he accepted the point, that this Bill – and I would make this point to a number of Members who spoke – is a specific determination to deal with a specific set of issues, and it is part of a suite of work that is being done by the Department as an outcome of the Housing Policy Review.

1795 There have been a number of occasions where people have tried to diminish this Bill by referring to issues outside of it. That is a mistake, because this deals with a particular area and other initiatives and actions taken by the Department will deal with other areas. It would be wrong to try to accept this particular Bill to be capable and able to capture all the other myriad of issues that exist. But I come back to the point, Mr Speaker: I think that Hon. Members must agree that the vulnerable have suffered now long enough with regard to poor-quality properties in part.

I did not quite grasp Mrs Cannell's point, the Hon. Member for Douglas East. She went on a fairly meandering journey around a number of areas –

1805

A Member: Eighteen years.

Mrs Cannell: Twenty one.

1810

Mr Robertshaw: – and I could not quite capture where she was. Was she supportive of the principle of this Bill that we need to protect vulnerable tenants?

Mrs Cannell: It doesn't do that.

1815

Mr Robertshaw: The Hon. Member knows better than anybody else, as the fellow Member for Douglas East, that we have a fundamental problem; and of all people, *all people* in this House, I would have expected support from my fellow Member for Douglas East (*Interjection by Mr Quirk*) – clear, explicit support – and I am very sorry that I have not had it today.

1820

Mrs Cannell: Well, do it right and you might get it in future.

Mr Quirk: Hear, hear. (*Interjections*)

1825

Mr Robertshaw: I will pick a couple of points out as best I can. She spoke about unspent convictions. The concept of unspent convictions relates to issues which would be seen to have impact upon the ability of a person to conduct themselves properly as a landlord. The Hon. Member, my fellow Member for Douglas East, seems to indicate that actually that sort of thing does not matter. Yes, it does; but what the Bill says is that we are not inhibiting that owner with an unspent conviction from continuing to own and let the property, but they have to do it through a third party. I think that is perfectly reasonable. I think the Hon. Member is just grasping at straws to create smoke and mirrors.

1830

Mrs Cannell: You do that by yourself.

1835

A Member: You're a great team!

1840

Mr Robertshaw: Mrs Cannell also dragged in the issue from out the ionosphere that homeless legislation is somehow relevant to this: no, it is not. Homeless legislation does not provide homes; but this Bill, by its provision, helps to ensure a higher quality of accommodation, and that will help all.

I am not at all surprised, I think, that I found criticism from Mr Quirk, the Hon. Member for Onchan, who has constantly been against this process. His position has moved from place to place over time. Again, I am sorry that he does not seem to have the necessary empathy with the people who need our support today. (*Interjections*)

1845

He criticised the Department for lack of involvement with the Landlords Association. Nobody is trying harder to encourage the Landlords Association to come into being. When I first met with them, as a direct result of that meeting I extended the consultation for a further six weeks. I have encouraged them throughout. They had a presentation soon after Hon. Members had a presentation, there is a meeting on Wednesday, officers have met them consistently; and despite what Members are being told, there is a growing general understanding that this legislation is necessary. There is discomfort in parts because the landlords feel there is a sense of imbalance between the legislation as it relates to them and how it relates to the tenant, and a certain amount of alarm and despondency has come out of that.

1850

If Members would genuinely engage with this Bill, they would see, I am sure, that there is a variety of different reasons why landlords should effectively engage with this Bill constructively. What does it do for the landlord? It does a number of things.

1855

In our consultation with the landlords, we agreed as part of the Bill that the tenant would have to have a minimum of occupiers' negligence and liability insurance – that was again on the part of the landlords out of the consultation process.

1860 The registration form is a guide to good practice. It *helps* landlords. Do not be fooled by the concept of regulation and registration. A regulated market will open itself up to greater external investment. We have found that process has been inhibited because a number of respectable investors will not come into an unregulated market. That is of help to the landlords in boosting the market. Landlords do not want to be undercut by substandard provision by landlords who
1865 are cutting corners – it is not in their interest. This is helpful to landlords and it gives the landlord a clear understanding of their rights and responsibilities, but it also gives a clear understanding as to the rights and responsibilities of the tenant.

I have said this to Hon. Members before, that I see significant parallels between this and employment legislation when it came in. There was a similar sort of resistance that we are
1870 seeing now in some quarters, through lack of understanding, about employment legislation. Small employers felt it was an imposition. Just like the landlords are saying, 'I am a good landlord,' employers were saying, 'I am a good employer; I don't need this legislation,' and yet the world changed when the employment legislation came in because employers saw it as a touchstone. It was something that they could share with their employees, and the employees
1875 better understood the responsibilities of their employers – and yes, *their* responsibilities as well.

I see *very* clear parallels between the two, and I am absolutely convinced, despite the current noise, that once this Bill is enacted it will be appreciated by landlords as helpful to them; quite contrary to this view that it imposes or bears down – no, it does not.

1880 I thank Mr Thomas for his support and look forward to his further comments when he puts forward his motion later.

In closing, I would like to thank the Hon. Member for Castletown for seconding the motion and beg to move, Mr Speaker.

The Speaker: Hon. Members, I put the motion that the Landlord and Tenant (Private Housing) Bill be read for the second time. Those in favour, please say aye; against, no. The ayes
1885 have it.

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

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

The Speaker: With 20 votes for and 3 votes against, the motion carries.

**Landlord and Tenant (Private Housing) Bill 2014 –
Referral to committee –
Amended motion carried –
Mr Cretney, Mr Singer and Mr Thomas elected**

Mr Thomas to move:

That the Landlord and Tenant (Private Housing) Bill 2014 be referred to a committee of three Members, with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, for consideration and to report.

The Speaker: I now call on the Hon. Member for Douglas West, Mr Thomas.

1890 **Mr Thomas:** Thank you, Mr Speaker.

I move that the Landlord and Tenant (Private Housing) Bill 2014 be referred to a committee of three Members, with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, for consideration and to report.

1895 This is legislation – 69 clauses, two schedules – that needs the most searching of scrutiny, something that has already been amplified by the debate to date.

Moving to a legislative committee has become not that frequent an occurrence – indeed it has become less frequent through recent years – but in 1988 the Landlord and Tenant Bill 1988 was referred to a legislative committee, as was the Estate Agents Bill 1998, and other Bills of this technical nature have been referred to legislative committees; so I cite precedent as my first reason.

1900 Moreover, there are other benefits to this referral. First of all, as has emerged in the debate today, it sounds like Mr Houghton has got amendments in three or four areas; Mrs Cannell has; Mr Singer has suggested some and he has not had the assurances that Mr Cretney has received; and I have got some which I will identify in a moment. So the first benefit is that already
1905 overstretched legislative drafters could have their time and their expertise better managed if we can consider the political aspects (**Mr Houghton:** Hear, hear.) of what we want to try to achieve in a committee before we actually get to the consolidated stage of amendments to actually debate in this Hon. House.

1910 The second point is that, as has become apparent during the debate, this Bill interacts with basic law, both in terms of documents of law and also statute and statutory law: the Public Health Act 1990; the Housing Act 1955, particularly as amended in 1976; the Housing Multi-occupancy Act, and so on and so on... the Landlord and Tenant Act 1954; Recovery of Rent Act, Tenancies (Implied Terms) Act; Building Control Act; and the Fire Services Act. So it interacts with a great deal of existing law – that is self-evident – and what I would like this committee to
1915 do, Mr Speaker and Hon. Members of this House, is actually have the chance to call the legislative drafter to find out what the political intention of the Bill is and how it serves that purpose in the Bill, and actually how the interaction with all these others Acts and the existing procedure and practice is actually handled in the process.

Another angle of that review is that a great number of potential conflicts with human rights
1920 issues – particularly article 8 and article 14 from clause 53 – have been identified as being possible, and I notice that the Tribunals Act procedures are varied, to my mind, in this proposed piece of legislation. So that is something else for the committee to consider.

The Minister has suggested that we are drawing on examples from the UK, but my perusal of examples in the UK is different, and that in itself is something that should be considered in a
1925 committee.

Also, some information has been provided to us about the fact that there is no information about the private rented sector for 10 years, but I am not sure that is true, because when I read the Housing Policy Review Progress Report of October 2010, there is some quite specific

1930 information about how the standard of houses had changed for uninhabitable houses and also
unfit houses. There is some information that I think it might be helpful for the committee to
actually review with the environmental health officers who compiled that report up to October
2010 – some of the figures and background; and also, perhaps going forward, because some
statements have been made, in particular by landlords' representative bodies, that the market
might be affected to the detriment, and that needs to be tested if we are bringing in some new
1935 legislation.

Some additional points I wanted to make to include in the scope of this committee's work, if
Hon. Members choose to set it up, are that, as I read the legislation, we will end up with the
same firms being licensed and regulated by *two* bodies after it. For instance, when they act as an
estate agent, they will be regulated by the OFT; but when they act as a letting agent, they will be
1940 regulated by the DSC. Does that make sense? (*Interjection*) That is something for the committee
to consider.

When I was at Douglas Council, we were actually asked to consider the first draft of this Bill
and the Housing Policy Review more generally, and we actually considered offering to
Government to set up a central register of all landlords – and surely that would make sense. If
1945 the Minister's objective is to collect data and to actually deal with everybody equally and fairly
and get the best for the tenant and the landlord, surely it makes sense to... what is already
there, with the central register in one place that is already doing it – Douglas Council perhaps as
agent for other bodies, other commissioners, or perhaps the Government could do it where
there is not an existing commissioner that does it.

1950 Likewise, many issues have been raised about the difficulties of enforcement. I can assure
this Hon. House that, in parallel situations with dilapidated property and unfit property, the
Council has had a great deal of difficulty getting behind the corporate veil and finding who
actually owns the houses, and that is experience that we can learn from, rather than reinventing
the wheel and creating a new bureaucracy to do something that is already being done.

1955 So, in summary, there are many benefits to considering this committee and I cannot actually
see any negatives. We are not kicking this into the long grass. We are merely having a
committee review it for some months to actually come back to us with a consolidated proposal.
This is not anti-anybody; it is just better. It is just looking to have better Government
(**Mr Houghton:** Hear, hear.) and better law for everybody. (*Interjections*)

1960 So I beg to move. It is an entirely positive move, in the same way that it was in 2010 when the
Criminal Justice (Miscellaneous Provisions) Bill was put into a committee. Mr Robertshaw, the
Minister in this case, served on that committee with Mrs Cannell and with the Hon. Member for
Douglas West. It produced good results and I can see no reason why a committee with a similar
composition this time could not produce similar good results.

1965

The Speaker: Mr Houghton.

Mr Houghton: I am very happy to second that.

1970 **The Speaker:** You wish to second. Thank you.
Mr Henderson.

Mr Henderson: Vainstyr Loayreyder, thank you.

1975 I wish to move an amendment to Mr Thomas's proposal. I am firmly in favour of the idea of a
committee, in one sense. I would first like to put on record that I am also firmly supportive of the
legislation, because I truly believe that the vulnerable in our society require protecting and there
are issues out there that need to be addressed. We have discussed that, and that is fine.

1980 Vainstyr Loayreyder, I just want to report to the House that I have had several micro-
meetings, if I can put it like that, this morning, both with the Secretary to yourself, the Clerk of
Tynwald, the Minister, and indeed Mr Thomas. I think if I were to put my amendment, which

1985 says at the end of Mr Thomas's proposal that we put 'to the end of October', that would be acceptable to all parties and we might actually find a way of moving this forward and calming things down by having an assessment with a timeframe put forward to work to, which I think has been the Department's fear. If we just give the impression of throwing something in the long grass, then of course when is it ever going to come back? (**A Member:** Exactly.) So, if we put a timeframe on it... I did ask for the amendment to be circulated. It was supposed to have been written, but I will move it on the hoof, Vainstyr Loayreyder, that we have the committee report back at the end of October –

1990 **A Member:** By the end of –

A Member: This year.

1995 **Mrs Cannell:** By the end of October.

Mr Henderson: – and leave it at that, with the timeframe on the end of it. Vainstyr Loayreyder, I think I have the agreement of all parties.

2000 **The Speaker:** Just for the guidance of the House, I do have the amendment in writing, and the amendment is:

After the word 'report', add 'by the end of October 2014'.

2005 That is the motion before the House.

Mr Robertshaw: Mr Speaker, I have pleasure in seconding the Hon. Member for North Douglas's amendment. I do consider this a profoundly important Bill, and yet I have to accept that, despite our best efforts, there is still some degree of misunderstanding and I think a period of reflection for everyone to review it will be helpful. But I consider it incredibly important that Mr Thomas's motion, the Member for Douglas West, is not seen to be kicking it – to repeat the comment – into the long grass. This is too important, and so I would be very pleased to see a thoughtful process through the summer and for it to come back for further consideration in October.

2010 Thank you, Mr Speaker.

2015 **The Speaker:** Hon. Members, may we go straight to a vote? (**Several Members:** Hear, hear.) (*Interjections*) If any one wishes to speak –

2020 **Mr Karran:** No, I want to speak. (*Interjection*)

The Speaker: That is why I asked the House. (*Laughter*)

A Member: That is why you said 'Vote'.

2025 **A Member:** We are voting for the committee –

The Speaker: Mrs Beecroft.

2030 **Mrs Beecroft:** Thank you, Mr Speaker. I am going to be very brief. I am not going to reiterate what others have said, but I think there are just a couple of points that I would like to make that have caused me some concern.

2035 I am very happy to support it going to a committee, because I think where there is such a diversity of opinion it is actually the right thing to do to take evidence and to come back and report. What has disturbed me today is the Minister implying that Members have not felt ready to support his Bill because of a lack of understanding. I find that quite patronising. I think we do understand, I think we understand the implications, and I think that is why we are going to vote, hopefully, for it to go to a committee so it can be looked at in more depth.

2040 **Mr Henderson:** Vote!

Mr Houghton: Vote!

The Speaker: Mr Karran.

2045 **Mr Henderson:** People will vote for it.

Mr Karran: Vainstyr Loayreyder, I think it is important today that... occasionally Government gets something right, and when they get something right we should support them.

2050 I am glad to see that the mover of this Bill is seconding this proposal, because the usual mantra that we get in this House (*Interjections*) as far as this situation is concerned...

2055 Mr Speaker, I think that one of the other things that needs to be looked at is how we could end up with a situation where we could have a Second Reading when there has not been the courtesy of a meeting... expecting the House to do a Second Reading before there has been the meeting with the Landlords Association. These are important facts and what we want is an accountable government. That is what this House is for.

As far as I am concerned, I am delighted to see the idea as far as coming back by the maximum by October as far as this legislation is concerned... that we supported this Bill at Second Reading stage. It is about getting a fair balance.

2060 There are other issues that I would like the committee maybe to consider: issues such as the management companies and leasehold companies that own the freehold of properties. I had to go to one of the mover of this Bill's constituents at half nine last night, where this particular individual is living in accommodation that would be illegal if she was a tenant in that accommodation, because she had been completely conned.

2065 I do feel it is important that we must congratulate the Government for actually doing the right thing as far as this issue is concerned, and let's have a proper parliamentary process, instead of things just being nodded through. I hope that with the reshuffle we are going to see that balanced a little bit more in this House until the next General Election.

2070 **Mrs Cannell:** Hear, hear. (*Interjections*)

The Speaker: Hon. Members, we have had six contributions, all of them speaking in favour of the committee. (**Mr Anderson:** Vote!) (**Mr Henderson:** Let's vote!)

Mr Quirk, do you wish to speak?

2075 **Mr Quirk:** Thank you, Mr Speaker.

I will be brief, Mr Henderson.

2080 I just wanted to correct... the Minister indicated that his organisation met with the Landlords Association: they did not. His organisation met with the *committee* of the Landlords Association. He missed out the vital part in this, which was the Landlords itself. That was the issue. But I am happy to put on record that I am glad the Minister is doing something, and I will avail myself... if he needs any help, I am here to help him. (*Laughter*)

The Speaker: Mr Ronan, do you wish to speak?

Mr Ronan: Just briefly, Mr Speaker.

2085 Personally, today I would have moved on with no amendments, but I am also happy with Mr Henderson's amendment, simply as it has a timeframe and Mr Thomas's does not.

I believe your amendment, Mr Thomas, may have dragged on too long: this is too important a Bill and we need to get on with it.

2090 The landlords, I totally agree, have absolutely nothing to fear from this. This is about the vulnerable and about creating a central registry which is fit for all.

Thank you, sir.

The Speaker: Thank you, Hon. Members.

2095 I put first of all the amendment in the name of Mr Henderson. Those in favour of the amendment, please say aye, against, no. The ayes have it.

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

FOR

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

AGAINST

None

The Speaker: Unanimous: 23 votes for and no votes against the amendment.

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

Thank you, Hon. Members.

2100 We now turn to Item 4, Bill for –

Several Members: The committee. *(Interjections)*

The Speaker: A committee of three Members. I will accept nominations.

2105 Mr Quirk.

Mr Quirk: Can I propose Mrs Beecroft from South Douglas?

The Speaker: Mr Cretney.

2110

Mr Cretney: Could I propose the Hon. Member for West Douglas, Mr Thomas.

Mr Houghton: I second Mr Thomas.

2115

Mr Shimmin: I propose Mr Cretney, Member for South Douglas.

Mr Anderson: I second Mr Cretney for South Douglas.

Mrs Cannell: Mr Speaker, could I propose Mr Singer, please?

2120

The Speaker: Mr Thomas.

Mr Thomas: I second Mrs Beecroft.

2125

The Speaker: Mrs Beecroft... *[Inaudible]* Mr Singer has been proposed.

Mrs Beecroft: I second Mr Singer.

The Speaker: Mr Singer has been seconded.

2130

Mr Houghton: Nominations closed.

The Speaker: Any further nominations?

Mr Karran.

2135

Mr Karran: I was meant to propose the Hon. Member for Rushen, Mr Skelly.

Mr Quirk: To get revenge? I second Mr Skelly.

Mrs Cannell: Mr Speaker, I would like to propose Mr Henderson.

2140

Mr Henderson: On Treasury.

Mr Anderson: No, that's alright.

2145

Mr Quirk: No, it is a parliamentary –

Mrs Cannell: You can still sit on... *[Inaudible]*

Mr Houghton: Nominations closed.

2150

Mrs Beecroft: I would like to propose Mr Quirk, Mr Speaker.

The Speaker: Is there a seconder for Mr Quirk? *(Interjection)*

2155

Mr Quirk: No, nobody likes me now.

The Speaker: In that case, I will ask the Secretary to read out the names of the candidates.

2160

The Secretary: The following Members have been nominated and seconded: Mrs Beecroft, Mr Cretney, Mr Henderson, Mr Singer, Mr Skelly and Mr Thomas.

Mrs Cannell: Mr Quirk?

2165 **The Secretary:** No, he was not seconded.

Mr Anderson: No, he was not seconded, sadly, on this occasion.

The Speaker: Mr Quirk was not seconded.

2170 **Mr Quirk:** I'll have lunch on my own!

The Speaker: So there are six candidates for three places.

A ballot took place and electronic voting resulted as follows:

Vote Results

Mr Cretney	19
Mr Singer	13
Mr Thomas	13
Mrs Beecroft	12
Mr Henderson	9
Mr Skelly	3

2175 **The Speaker:** The result of the voting is: Mr Cretney, 19 votes; Mr Singer, 13 votes; Mr Thomas, 13 votes; Mrs Beecroft, 12 votes; Mr Henderson, 9 votes; and Mr Skelly, 3 votes.

Mr Quirk: Not very popular!

2180 **The Speaker:** Therefore, Mr Cretney, Mr Singer and Mr Thomas are duly elected to the Committee of the House.

Thank you, Hon. Members.

4. BILLS FOR CONSIDERATION OF CLAUSES

4.1 Cabinet Office (Legislative Amendments) Bill 2014 – Clauses considered

The Speaker: Thank you, Hon. Members.

2185 Now we turn to Item 4, Bills for consideration of clauses. The first of those is the Cabinet Office (Legislative Amendments) Bill 2014. I call on the mover, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

2190 The Cabinet Office (Legislative Amendments) Bill 2014 is a short technical Bill resulting from the Modernising Ministerial Government proposals approved at the January sitting of Tynwald. The Bill is the result of one of the report's recommendations relating to the creation of a Cabinet Office consisting of the current Chief Secretary's Office, Economic Affairs Division of Treasury, Information Systems Division of the Department of Economic Development, and the Office of Human Resources.

2195 The Bill is only concerned with references to the Chief Secretary's Office in Manx enactments which require primary legislation to amend. The Bill therefore amends other enactments to substitute references to the Chief Secretary's Office for references to the Cabinet Office. The Bill also deals with references, where applicable, to the Chief Secretary's Office in other legislation – for example, secondary legislation and UK legislation applied to the Island. Any such references are to be read as a reference to the Cabinet Office.

2200 Should the branches of Tynwald support this, it will come into operation on the day that Royal Assent is announced in Tynwald.

Turning then, Mr Speaker, to the seven clauses within the Bill, clause 1 gives the Act resulting from the Bill its short title.

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

2205

The Speaker: Mr Shimmin.

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

2210

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

Clause 2, please.

Mr Robertshaw: Thank you, Mr Speaker.

2215

Clause 2 amends part I of schedule 1 to the Jury Act 1980 (persons ineligible for jury service), in group C (others concerned with the administration of justice).

Mr Speaker, I beg to move.

The Speaker: Mr Shimmin.

2220

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

The Speaker: Mr Karran.

2225

Mr Karran: Just asking a question about the issue of eligibility as far as Jury service. Over the last hundred years, it has gone from one extreme to the other – from one time when you virtually had to be the landed gentry to get on it, and now anybody in a position of power and privilege is immune from it. I would just be interested in the justification.

2230

I can understand when you are involved in the justice system, but the likes of the Cabinet Office being given an exemption concerns me, particularly when you think that private enterprise and private business have got to release employees as far as their jury service is concerned and they have got no immunity. I just wondered, as the mover of the Bill talks about business and about fairness and balance, just why he feels that the periphery of the new Cabinet office that is not involved in the justice system... why there should be this automatic exemption as far as this clause is concerned.

2235

The Speaker: The mover to reply. Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

2240

The Hon. Member for Onchan was kind enough at an earlier stage of this Bill to indicate his concerns in this area to give me the chance to look at the matter in further detail.

Schedule 1 to the Jury Act 1980 provides for certain people or categories of people to be exempt from jury service. One of the categories in group C refers to, and I quote:

'The Chief Secretary, and those members of the staff of the Chief Secretary's Office whose work is concerned with the administration of justice and who have been designated as such, in writing, by the Chief Secretary.'

2245

People, incidentally, who fall under group C are exempt for 10 years after they no longer qualify to be exempt. So it does, Mr Speaker, keep the group particular tight and focused. I hope that allays the Hon. Member's fears.

Thank you, Mr Speaker.

2250 **The Speaker:** Hon. Members, I put the motion that clause 2 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 3, sir.

Mr Robertshaw: Thank you, Mr Speaker.
2255 Clause 3 amends paragraph 8 in the schedule to the Regulation of Surveillance etc Act 2006 (public authorities).
Mr Speaker, I beg to move.

The Speaker: Mr Shimmin.

2260 **Mr Shimmin:** I beg to second and reserve my remarks.

The Speaker: I put the motion that clause 3 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
2265 Clause 4.

Mr Robertshaw: Thank you, Mr Speaker.
Clause 4 amends section 3(2)(g) of the Personal Liability (Ministers, Members and Officers) Act 2007 (liability of designated persons).
2270 Mr Speaker, I beg to move that clause 4 do stand part of the Bill.

The Speaker: Mr Shimmin.

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

2275 **The Speaker:** Mr Karran.

Mr Karran: Vainstyr Loayreyder, I have not got a problem with this clause, but what I have got a problem with is the complete imbalance of the situation, that as far as the Cabinet Office is concerned they have the protection of immunity, but the situation just highlights the imbalance as far as the executive Government and the parliamentary system, where there is not the same sort of protection as far as immunity is concerned.
2280

Obviously, some of us are used to threats of litigation on a regular basis, but I do feel that it is somehow unfair. Whilst I would not want to weaken the position of executive Government from having to put up with the horrors of being threatened to be sued on a regular basis, maybe not with the viciousness as has happened in the past... But the issue is that I do feel that executive Government needs to take on board...
2285

Whilst I support this, I think it is a crazy situation when people doing their duties as MHKS have not the same sort of protection or insurance cover. And I am not talking about myself. I remember doing the same when we were talking about protecting married people when redundancy pay... I am talking about other Members who have had to withdraw what they say simply because they cannot afford the insurance... They cannot afford the litigation insurance in the first place. As the only person in here who has ever had it and cannot keep it, I do feel that this needs to be highlighted – that this privilege that they have in this situation needs to be extended to the operations of the legislature Members as far as their protection as well.
2290

2295 **The Speaker:** Reply, sir.

Mr Robertshaw: Thank you, Mr Speaker.
I am grateful for the Hon. Member for Onchan's support for this particular clause. I hear what he is saying, but I think we need to limit our considerations to the essence of this Bill, and he is
2300

trying – and I understand perhaps why – to express views outwith the constraints of the Bill. I nonetheless note his points.

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

2305 **The Speaker:** I put the question. Clause 4: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 5.

2310 **Mr Robertshaw:** Thank you, Mr Speaker.
Clause 5 amends paragraph 1(j) of schedule 2 to the Tynwald Commissioner for Administration Act 2011 (listed authorities).
Mr Speaker, I beg to move that clause 5 do stand part of this Bill.

2315 **The Speaker:** Mr Shimmin.

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

The Speaker: Mr Karran.

2320 **Mr Karran:** Maybe the mover would like to tell this House whether there is any timescale as far as actually getting a Tynwald Commissioner: has anybody said anything about it? Now it is going to a Cabinet Office, is there a time period as far as this becoming a reality for the people of the Isle of Man?

2325 **The Speaker:** Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.
Again, interesting comments from the Hon. Member for Onchan, but again outwith the limited constraints of the Bill. I am happy to talk to him outside the House on that matter.
2330 Mr Speaker, I beg to move that clause 5 do stand part of this Bill.

The Speaker: I put the question. Clause 5: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 6.

2335 **Mr Robertshaw:** Thank you, Mr Speaker.
Clause 6 deals with references, where applicable, to the Chief Secretary's Office in other legislation – for example, secondary legislation and UK legislation applied to the Island. Any such references are to be read as references to the Cabinet Office.
2340 Mr Speaker, I beg to move that clause 6 do stand part of this Bill.

The Speaker: Mr Shimmin.

2345 **Mr Shimmin:** I beg to second and reserve my remarks.

The Speaker: Clause 6: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 7.

2350 **Mr Robertshaw:** Thank you, Mr Speaker.

Clause 7 provides for the automatic repeal of sections 2 to 5 of the Act following the promulgation of the Act. This will not affect the amendments made by those sections.

2355 I would like to thank the Hon. House for its support this morning, and my seconder in this Bill.
Mr Speaker, I beg to move that clause 7 do stand part of this Bill.

The Speaker: Mr Shimmin.

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

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.
That concludes the clauses stage of the Cabinet Office Bill.

4.2. Trusts (Amendment) Bill 2014 – Clauses considered

2365 **The Speaker:** We turn now to the Trusts (Amendment) Bill. I call on the mover,
Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Hon. Members will remember from the previous reading that the purpose of this Bill was to address three small areas of trust law.

2370 Trusts originated in the Middle Ages, dating to the time of the Crusades. They are a common law concept that, not surprisingly, relies on trust. A trust is created when one party disposes of property, transferring it to the care or possession of another. This person is known as ‘the settlor’. The property is transferred on the understanding that it will be available for and put to the use for which it was intended. It is not an outright gift. The person to whom the property has
2375 been transferred is the trustee and has legal title to the property. The rights to use the property lie with the beneficiaries of the trust.

Relatively recently, in this context at least, some matters have been addressed by legislation. This Bill seeks to make amendments to three small areas of the Island’s trust law. These three small areas will have a big impact. They will bring the Island’s legislation in line with that of its
2380 near neighbours and competitors. The Bill will ensure that the Isle of Man remains competitive. It should be noted that great care has been taken to ensure that this is not at the expense of good practice and the Island’s good reputation.

The three areas that are considered by the Bill are the abolition of the two trustees rule, the abolition of the perpetuity period in respect of future dispositions of trusts, and the matter of...
2385 *[Inaudible]* governing law when a trust is settled subject to the law of the Isle of Man. I will provide a brief explanation of what each of these is intended to achieve.

The first amendment is to the two trustees rule, which requires, at 3, that there must be two individual corporate trustees or a trust corporation in place to give valid receipt for capital
2390 money and the sale of settled land. Current law already makes provision for one individual trustee to act in these circumstances where the trust instrument permits this; therefore, there appears to be no reason not to change this in all cases. Current law sits across several Acts. In order to abolish the two trustees rule, two Acts will need to be amended; these are the Settled Land Act 1891 and the Trustee Act 1961.

2395 The second area to be amended considers the abolition of the perpetuity period in respect of future dispositions of trusts. The courts developed what is known as the rule against perpetuities during the 17th century. This common law rule restricts the person’s power to

control the ownership and possession of his or her property in perpetuity. When trusts are created, it is likely that the settlor wishes the trust to last indefinitely. The reality is that the trust will survive into a second and possibly third generation, often not past then. Beneficiaries have their own reasons for... [*Inaudible*] that a trust vests.

2400

This Bill contains seven clauses. Should the branches of Tynwald support this Bill, the Bill will come into operation by order made by the Treasury.

Vainstyr Loayreyder, turning to the Bill, clause 1 provides the short title of the Bill. I beg to move that this clause stand part of the Bill.

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The Speaker: Mr Teare.

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

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The Speaker: I put the question. Clause 1: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2.

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Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 2 provides for the Bill to come into operation on one or more days appointed by the Treasury. Provision is made to allow the Treasury to make saving and transitional provisions by order.

I beg to move, sir, that clause 2 stand part of the Bill.

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The Speaker: Mr Teare.

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

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The Speaker: I put the question. Clause 2: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

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Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Clause 3 amends the Settled Land Act 1891. In this clause, new sections 34 and 34A replace the existing section 34 of the Settled Land Act 1891.

New section 34 expressly considers that any reference to the trustees of a settlement will include the remaining trustee or trustees. The effect of this is that any references to trustees in the plural can be read as applying equally to the sole trustee.

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New section 34A considers the subject of the payment of capital money to trustees. The current law ordinarily requires that there are two trustees in place to give valid receipt for capital money on sale of settled land. The exception to this rule is where the trustee is a trust corporation or the trust instrument expressly authorises a sole trustee to act. The effect of this new section will be to widen the scope of application of the definition of trustees of the settlement to include sole trustees.

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I would remind Hon. Members that the provision of trustee services by way of business is an activity that is licensable by the Financial Supervision Commission. Those licensed by the Financial Supervision Commission who act as trustees may, in most instances, and despite their licence, not act as sole trustees. The effect of this clause will be to address this anomaly. This anomaly sees the trust corporations and trust service providers, both being holders of class 5 licences, not being afforded equal treatment under the law.

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2450 Clause 3(3) repeals section 40(2) of the Settled Land Act 1891. The effect of this is to remove a further reference to a requirement that there are either two trustees in place or a trust corporation, unless the trust instrument expressly provides for a sole trustee.
Vainstyr Loayreyder, I beg to move clause 3 stand part of the Bill.

The Speaker: Mr Teare.

2455 **Mr Teare:** Thank you, Mr Speaker.
I beg to second and to reserve my remarks, sir.

The Speaker: I put the question. Clause 3: those in favour, say aye; against, no. The ayes have it. The ayes have it.
2460 Clause 4.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
Clause 4 amends the Trustee Act 1961.

2465 Clause 4(2) repeals existing section 12(2) of the Trustee Act 1961. This removes an additional reference to a sole trustee other than a trust corporation being unable to give valid receipts for capital money under the Settled Land Act. Hon. Members will remember that the previous clause dealt with two trustees under the Settled Land Act.

2470 Clause 4(3) amends section 36 of the Trustee Act 1961. A new subsection (1)(c) makes express provision for a sole trustee to act. It also removes the requirement to replace trustees that are no longer in office for any reason. Finally, it expressly permits a sole trustee to act alone in circumstances which previously would not have been permitted. New subsection (2) proposes that subsection (1) will not apply if the terms of the trust instrument required two trustees to be in place.

2475 Clause 4(4) amends subsection (1) of section 38. The reference to two trustees of a trust corporation are removed. The amendments reflect the changes to consider that there may indeed be a sole trustee in place. Hon. Members, this introduces an element of flexibility and choice.

Vainstyr Loayreyder, I beg to move that clause 4 stand part of the Bill.

2480 **The Speaker:** Mr Teare.

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

2485 **The Speaker:** I put the question. Clause 4: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 5.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2490 Clause 5 amends the Perpetuities and Accumulations Act 1968.

Subsection (2) of clause 5 makes consequential amendments that will be needed after the insertion of new section 1A.

2495 New section 1A is inserted by subsection (3) of clause 5. This abolishes the rule against perpetuities for future dispositions. I would remind Hon. Members that at the previous reading of the Bill I gave an explanation of what the perpetuity period is and you will be pleased to note that I will only read briefly here. (**A Member:** Hear, hear.)

The perpetuity period is the maximum amount of time for which assets can be owned and held in trust. On expiry of this period, the trust and trust property must be distributed. The rule was put in place to prevent property, particularly settled land, being held in trust in perpetuity.

2500 This rule is the common law rule against perpetuities. Perpetuity periods used to be set for the period of life in being. This is roughly 80 years. More recently, perpetuity periods have been enshrined in statute and have been lengthened. This is currently set at 150 years in the Isle of Man. The abolition of this rule does create the potential for land to be held in trust indefinitely. However, there is good evidence to suggest that trusts which are settled with the intention of
2505 lasting are usually broken up by the second or third generations of beneficiaries. The realities of life today are different to those in the 17th century (**Mr Anderson:** Hear, hear.) when this rule was created.

This clause makes it clear that property that does not belong to the settlor, and is therefore not his to settle into trust, will remain so. In other words, if certain property is not his to put into
2510 trust, this amendment will not change the position. No change has been made to anything other than the potential maximum time for which property can be held in trust.

Members should also note that perpetuity periods in respect of existing trusts will be unaffected by this amendment. It is only new dispositions of property that can be put in trust for an indefinite period. This may well result in some property in trust being subject to a perpetuity
2515 period and other property not.

Hon. Members may have noted that I said 'can' and not 'must' be put in trust for an indefinite period. This is because subsection (7) of new section 1A considers that a trust may still be settled subject to a defined perpetuity period. The effect of this is to build flexibility into the legislation. There is a choice of whether to apply the new provision or not.

2520 Vainstyr Loayreyder, I beg to move that clause 5 stand part of the Bill.

The Speaker: Mr Teare.

Mr Teare: Thank you, Mr Speaker.

2525 I beg to second and reserve my remarks, sir.

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.

Clause 6.

2530 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

Clause 6. The Trusts Act 1995 contains what are known as the firewall provisions. These provisions shield trusts that are validly settled under Isle of Man trust law from attack or the impact of foreign laws and judgments. The changes proposed are relatively modest and have
2535 been undertaken to ensure that the Island's law contains provisions equivalent to those in competitive jurisdictions. In keeping with our inherently conservative approach to matters that engage with the laws of other jurisdictions, it is not proposed that the law goes as far as it does in some other places.

Clause 6(2) amends section 5 of the 1995 Act. It does this by making a logical extension to the protections under Manx law. Section 5 provides that a validly constituted trust must be recognised, even if the law of another jurisdiction does not recognise trusts. In a nutshell, a jurisdiction that does not recognise trusts will not be able to regard a properly created Manx trust as invalid, regardless of what is in that jurisdiction's legislation. For these purposes, it is what is in *our* legislation that is important. The foreign jurisdiction will have to knock on the door
2540 of the Isle of Man courts and wait to be invited to enter the Isle of Man.

Section 5 currently only expressly protects the settlor from attack on grounds that a validly settled trust is not recognised by the law of his jurisdiction. This overlooks the other parties to trusts. These are the trustees, beneficiaries and protectors of trusts. The amendment in new subsection (1) of section 5 extends the protections to these parties.

2550 New subsection (2) of section 5 deals with the perceived problem of the automatic application of foreign court orders to trusts that are governed by Manx law. The amendment

expressly requires that, in order for a foreign court judgment to be recognised in the Isle of Man, application must be made to the High Court of the Isle of Man. This does not enable parties to shirk their responsibilities by hiding behind the trust. It does, however, mean that parties to a validly constituted trust will have the certainty that the trust is recognised and protected by Manx law.

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

The Speaker: Mr Teare.

Mr Teare: Thank you, Mr Speaker.

I beg to second and to reserve my remarks, sir.

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

Clause 7.

The Speaker: Gura mie eu, Vainstyr Loayreyder.

Clause 7 makes provision for the automatic expiry of the resultant Act on either the day following its day of promulgation or the day after the last of the amendments have taken effect. This will not affect any amendments that have been made by the Bill. This is simply a matter of housekeeping.

Vainstyr Loayreyder and Hon. Members, this Bill of modest size will ensure that the Island's trust practitioners are given the tools that they require to permit them to compete on a level playing field.

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

The Speaker: Mr Teare.

Mr Teare: Thank you, Mr Speaker.

I beg to second, sir.

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.

Thank you, Hon. Members. That concludes the Trusts (Amendment) Bill clauses stage.

5. House of Keys Standing Orders Committee – Report received and recommendation approved

The Hon. Member for Michael (Mr Cannan) to move:

That the First Report of the Standing Orders Committee for the Session 2013-14 [PP 2014/0054] be received and that the following recommendation for amending Standing Orders be approved:

To insert a new Standing Order 4.7(4A): 'Notwithstanding the provisions relating to notice in Standing Orders 2.2, 4.7(3) and 4.7(4), a Member may, with the leave of the House, move without notice an amendment to any amendment that stands on the Order Paper.'

The Speaker: Finally, Item 5, the House of Keys Standing Orders Committee First Report for the session 2013-14. I call on the Hon. Member for Michael, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker.

2590 I am pleased to move the motion that is printed on the Order Paper, which I think is fairly self-explanatory.

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

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

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The Speaker: I put the question that the motion as set out on the Order Paper under Item 5 in respect of the House of Keys Standing Orders Committee... *[Inaudible]* Those in favour of the motion, please say aye; against, no. The ayes have it. The ayes have it.

2600 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 6th May in this Chamber.

The House adjourned at 12.48 p.m.