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Present:

The Speaker (Hon. J P Watterson) (Rushen);
The Chief Minister (Hon. R H Quayle) (Middle);
Mr J R Moorhouse and Hon. G D Cregeen (Arbory, Castletown and Malew);
Hon. A L Cannan and Mr T S Baker (Ayre and Michael);
Hon. C C Thomas and Mrs C A Corlett (Douglas Central);
Mrs C L Barber and Mr C R Robertshaw (Douglas East);
Hon. D J Ashford and Mr G R Peake (Douglas North);
Miss K J Costain (Douglas South);
Mr M J Perkins and Mrs D H P Caine (Garff);
Hon. R K Harmer and Hon. G G Boot (Glenfaba and Peel);
Mr W C Shimmins (Middle);
Mr R E Callister and Ms J M Edge (Onchan);
Dr A J Allinson and Mr L L Hooper (Ramsey);
Hon. L D Skelly (Rushen);
with Mr R I S Phillips, Secretary of the House.
Business transacted

1. Standing Orders suspended to take the sitting virtually…………………………………………………………..751

2. Questions for Oral Answer……………………………………………………………………………………………..752

2.1. Independent review of DESC – Who appointed to undertake……………………………………………………752

2.2. Collection of benefits via non-face-to-face methods –

Encouragement in light of COVID-19 ……………………………………………………………………………………753

2.3. Procurement hub – Timely advertising of Government work ………………………………………………………755

2.4. Hub schools – When informed of TT holiday closure ………………………………………………………………757

2.5. Breaches of Emergency Powers Regulations 2020 – Number of people arrested, on remand, fined or sentenced to prison ………………………………………………………………………………………………………759

2.6. Breaches of Emergency Powers Regulations 2020 – Any maltreatment of those sentenced to prison …………..760

2.7. Breaches of Emergency Powers Regulations 2020 – Any 14-day isolation period for those sentenced to prison……………………………………………………………………………………………………762

2.8. Breaches of Emergency Powers Regulations 2020 – Any denial of access to facilities and family contact for those sentenced to prison………………………………………………………………………………………763

2.9. Affordable housing strategy – Date for debate in Tynwald ………………………………………………………765

2.10. Minor capital works – Steps to accelerate……………………………………………………………………………768

3. Questions for Written Answer ........................................................................................................................770

3.1. Public Debtors’ Register – Statement on progress …………………………………………………………………770

3.2. Debt Recovery and Enforcement Act 2012 – When to bring forward legislation…………………………………770

3.3. Student Award regulations – Plans to revise ……………………………………………………………………………771

3.4. Airport cleaning in-house contract – Net cost to Government ………………………………………………………771

3.5. Outsourcing and bringing projects in house – DoI policy ……………………………………………………………771

3.6. Hire of cones, health and safety signage, and Heras fencing – Three-year spend and comparable purchase and storage costs ……………………………………………………………………………………………772

3.7. Park Road School – Temporary use as a builder’s and storage yard ……………………………………………..772

3.8. Park Road School site – Income receipts for various uses …………………………………………………………773

Order of the Day ................................................................................................................................................774

4. Bills for Second Reading.................................................................................................................................774

4.1. Divorce, Dissolution and Separation (Isle of Man) Bill 2020 – Second Reading approved ……………………774

4.2. Elections (Keys and Local Authorities) Bill 2020 – Second Reading approved ……………………………….782

4.3. Road Traffic Legislation (Amendment) Bill 2020 – Second Reading approved ……………………………….787

5. Consideration of Council Amendments ………………………………………………………………………………792

5.1. Domestic Abuse Bill 2019 – Conference with the Council regarding amendments – Motion carried …………..792

6. Consideration of Clauses…………………………………………………………………………………………………794
6.1. Bank (Recovery and Resolution) Bill 2020 – Clauses considered ........................................ 794
Bank (Recovery and Resolution) Bill 2020 – Standing Orders suspended to permit
Third Reading.................................................................................................................. 807
Bank (Recovery and Resolution) Bill 2020 – Third Reading approved ......................... 809
6.2. Registration of Electors Bill 2020 – Clauses considered .............................................. 810
Registration of Electors Bill 2020 – Standing Orders suspended to allow Third Reading .... 822
Registration of Electors Bill 2020 – Third Reading approved ........................................... 823

The House adjourned at 6.18 p.m. ...................................................................................... 824
House of Keys

The House met virtually at 2.30 p.m.
Proceedings were conducted and broadcast live
from the Legislative Council Chamber.

[MR SPEAKER in the Chair]

The Secretary: Mr Speaker is in the Chamber.

The Speaker: Fastyr mie, Hon. Members.
I call on the Chaplain to lead us in prayer.

PRAYERS
The Chaplain

1. Standing Orders suspended
to take the sitting virtually

Mr Deputy Speaker to move:

That Standing Orders be suspended to the extent necessary to take this sitting virtually.

The Speaker: Thank you very much to the Chaplain.
We have no leaves of absence today. We therefore move to Item 1, Suspension of Standing Orders, and I call the Deputy Speaker to move.

The Deputy Speaker: Thank you, Mr Speaker.
I move that Standing Orders be suspended to the extent necessary to take this sitting virtually.

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

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

The Speaker: Hon. Members, I will assume that the motion is carried unless anyone registers dissent, in which case they should do so now. In which case, the motion therefore carries.
2. Questions for Oral Answer

CHIEF MINISTER

2.1. Independent review of DESC – Who appointed to undertake

The Hon. Member for Onchan (Ms Edge) to ask the Chief Minister:

*Pursuant to his Answer of 4th February 2020, who has been appointed to undertake the independent review into the Department of Education, Sport and Culture?*

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**The Speaker:** We turn to Item 2, Questions for Oral Answer. Question 1, I call on the Hon. Member for Onchan, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

I would like to ask the Chief Minister, pursuant of his Answer of 4th February 2020, who has been appointed to undertake the independent review into the Department of Education, Sport and Culture?

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**The Speaker:** I call on the Chief Minister to reply. And if I could just ask, Chief Minister, you need to turn your video off, please.

**The Chief Minister (Mr Quayle):** Thank you very much, Mr Speaker.

Unfortunately, like a number of important areas of work, this has been on hold as we have responded to the COVID-19 pandemic, which has involved widespread and significant redeployment of public sector resources.

There are also practical considerations about whether the effectiveness of the review would be impeded by the restrictions currently in place in respect of movements and meetings, as well as the current demands on our public servants who would be expected to contribute evidence and information.

I have made a commitment that this review will take place and we will honour that. However, I think it is important that we conduct it at a time when we can be sure it will be full, thorough and effective.

Thank you, Mr Speaker.

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**The Speaker:** Thank you. I will give a few seconds just in case anyone indicates they wish to ask a supplementary.

**Ms Edge:** Thank you, Mr Speaker; and I thank the Chief Minister.

Whilst I totally agree we are in different times than we were on 4th February we certainly had, between 4th February until I think it was 16th March, the initial indication that we were going into a different crisis on the Island. I would like to ask the Chief Minister: had no work been done?

Also, bearing in mind the difficulties that are clearly still being experienced within the Department of Education around communication, and the governance around decision making, can the Chief Minister confirm what priority it will take?

**The Speaker:** Chief Minister.
The Chief Minister: Thank you very much, Mr Speaker. I can confirm to the Hon. Member, Ms Edge, Member for Onchan, that we have had preliminary discussions with an independent body to conduct this review but as yet their appointment is not confirmed. That being so I am unable, at present, to identify who they are; however, I will do so once an appointment is confirmed. Obviously we are doing our best to move forward as much as possible our normal day-to-day business, as is evidenced by our sitting today, Mr Speaker.

The Speaker: A further supplementary, Ms Edge.

Ms Edge: Thank you, Mr Speaker; and I thank the Chief Minister for that confirmation. With regard to the scope of the independent report into this, you did state that you would circulate that to Members. If you have been speaking to an independent body that scope must be available. Can you please circulate that to Members?

The Speaker: Chief Minister.

The Chief Minister: Yes, Mr Speaker. I was under the impression we had. If we have not, I can only apologise. Again, events have taken over and I will get the scope circulated to all Hon. Members.

The Speaker: Thank you.

TREASURY

2.2. Collection of benefits via non-face-to-face methods – Encouragement in light of COVID-19

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for the Treasury:

Whether, in light of the COVID-19 emergency, any work is underway to increase the percentage of people collecting benefits via bank accounts or other non-face-to-face methods?

The Speaker: We move to Question 2 and I call on the Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker. I would like to ask the Minister for the Treasury whether, in light of the COVID-19 emergency, any work is underway to increase the percentage of people collecting benefits via bank accounts or other non-face-to-face methods?

The Speaker: I call on the Treasury Minister to reply.

The Minister for the Treasury (Mr Cannan): Mr Speaker, on 25th March this year, in response to the outbreak of the coronavirus in the Island and consequent restrictions on movement, Treasury issued a press release reminding people who receive state pensions or benefits at a post office using MiCard that they can opt to have their pension or benefit paid directly into their bank account instead. That press release made it clear that this option had been extended to all benefit types.
Since that press release around 1,200 individuals, who had been collecting their state pensions and benefits at post offices immediately before the crisis, have opted to have direct payments into their bank account instead. This equates to around one fifth of the total number of people who were collecting pensions and benefits at post offices before the outbreak of the virus in the Island. This option continues to be available and applications to transfer from cash collections at a post office to direct payments into bank accounts continue to be received and processed on a daily basis.

For further information, it is worth noting that with the exception of just one customer, all payments of the new Manx Earnings Replacement Allowance, MERA, are being made direct to customers’ bank accounts. A total of 2,051 people have been awarded MERA since it became available on 6th April this year.

Thank you, Mr Speaker.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker; and I would like to thank the Treasury Minister very much for that quite comprehensive Answer.

Before this crisis kicked off, we were talking very briefly in this Hon. House about a potential delivery of cash benefits to people. I wonder if the Treasury Minister has made any progress or if he could comment on that?

Secondly, a number of shops, as they are starting to reopen now, are reopening in a cashless manner. I am just wondering if the Treasury Minister thinks it might be a sensible time to make another push out there to remind people there are alternative ways of acquiring some of the support that is available, in case they are needing to switch away from cash and move into this more cashless situation we seem to be approaching?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

We have not formally issued any public direction since that press release on 25th March, but I am happy to reconfirm to members of the public – and I will seek to issue a further press release – that they can obtain their benefits and pensions directly into their bank account.

In terms of the cash delivery aspect, there was some element of query around that at the beginning of this crisis, but frankly there was really no proper solution available and we continue to promote the direct payment, or at least leave the option for direct payment available and open to everybody.

Thank you.

The Speaker: Supplementary question, Mr Baker.

Mr Baker: Thank you, Mr Speaker.

The Treasury Minister stated that around a fifth of the activity had been redirected from the post offices to other methods as a result of this action. Is he concerned that this will undermine further the viability of the post office network which is playing such a key part in our community across the Island, particularly at this time of coronavirus; and does he consider that we need to look at the long-term sustainability of that post office network?

The Speaker: Minister to reply.

The Minister: Clearly, Mr Speaker, our main concern has been public health and allowing those individuals who are collecting pensions and benefits to have options available to them. We think it was right and appropriate to do so.
At the beginning of March 2020, 6,471 customers were collecting state pensions at post offices. Of the 1,200 who have switched to direct payments to their bank accounts, almost 500 are pensioners and a further 500 receive sickness or disability benefits; the other 200 individuals are predominately recipients of child benefit and Jobseeker’s Allowance.

I think I have already made clear, Mr Speaker, that we are intending to bring forward potential alternatives to MiCard in 2021, for Tynwald to have that discussion.

Clearly I appreciate that the subject of post offices and sub-post offices will still probably be on Tynwald’s mind, but there has certainly not been any understanding or interaction in terms of the situation that we are currently in with the future of our post offices.

2.3. Procurement hub –
Timely advertising of Government work

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for the Treasury:

What steps are being taken to ensure Government work is being advertised on the procurement hub in a timely manner?

The Speaker: I turn to Question 3, and I call on the Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you again, Mr Speaker.

I would like to ask the Minister for the Treasury what steps are being taken to ensure Government work is being advertised on the procurement hub in a timely manner?

The Speaker: Again, I call on the Treasury Minister to reply.

The Minister for The Treasury (Mr Cannan): Mr Speaker, in accordance with financial regulations the opportunities for procurement of goods and services by the Government, both for ‘Quick Quote’ matters between £10,000 to £100,000 and full tenders over £100,000, must be advertised on the Government’s procurement portal that is managed by the Attorney General’s Chambers.

The Attorney General’s Chambers has an administrative officer who is supervised by a senior procurement officer that manages the portal. When documentation is received from Government Departments and entities that are required to be uploaded on the portal, this is done in a timely manner so that opportunities are advertised as quickly as possible.

In the current COVID-19 emergency any matters that are required to be uploaded to the portal for Government Departments are being uploaded by the Attorney General’s Chambers upon receipt.

The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I wonder would the Treasury Minister commit to how many have been uploaded during the COVID crisis. I noticed that he emphasised the word uploaded upon ‘receipt’. Obviously that cannot happen retrospectively, so is Treasury going to look into any situations that may have occurred around that?

The Speaker: Minister to reply.
The Minister: I am happy to establish for Members how many requirements have been uploaded on to the portal during the last 10 weeks. I am not aware of any issues at present, Mr Speaker.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker. The reason for me asking this Question is that I am hearing a number of concerns and worries from the wider construction sector that Government work seems to have stalled, and that there is not as much work appearing on the procurement site as perhaps we would have expected. That was the rationale for asking the Treasury Minister this Question.

So he is telling us that work is being uploaded to the procurement hub when it is received. I wonder if he would perhaps go away and just try to enquire and maybe remind Departments that they need to be doing if they have important or essential works that need to be ongoing, is that they actually get that process going as quickly as they can.

The Speaker: Minister to reply.

The Minister: Yes, I think the Hon. Member makes a valid point. I think we are all aware that the Government needs to be acting in a speedy and timely manner to ensure that as much economic opportunity is provided to the economy as possible. It is not surprising to hear that perhaps there has not been as much work uploaded over the last period of time as there was previously, but I am sure that as we move forward that situation will rectify itself.

But I am certainly happy to take on board the key point that has just been made there.

The Speaker: Thank you.

Mr Baker: Thank you, Mr Speaker. The Treasury Minister there said that he recognises the need for the Government to deploy procurement in as speedy a manner as possible to get the economy going. I think that is a statement that we would all agree with as we come out of this coronavirus emergency.

Is the Minister confident that the procurement process and the associated procedures around it are sufficiently slick to facilitate that? Or does he think it may be worth a review of the overall process, so that we do achieve that direct injection into the economy that Treasury, I believe, is intending to achieve?

Thank you.

The Speaker: Minister to reply.

The Minister: I think I would remind Hon. Members that one of the first things we did when this new Government came in was to produce a new procurement policy to try and make sure that we were as streamlined as possible. That meant extending the limits for Departments to be able to authorise spending, and setting the whole context in what we thought was a reasonable framework in terms of the expenditure levels.

I think it is always worth checking these matters and making sure that things are moving smoothly. I think the Hon. Member’s very relevant point extends across a number of matters, and I think that we do need to make sure that we are moving forward and that bureaucracy and red tape is kept to a minimum. But by the same token all Hon. Members, I am sure, would want to ensure that we are still acting in a transparent and, most importantly, a fair manner when it comes to the award of Government contracts.
2.4. Hub schools —
When informed of TT holiday closure

The Hon. Member for Onchan (Ms Edge) to ask the Minister for Education, Sport and Culture:

When the hub schools were informed of the closure period he described as TT holiday?

The Speaker: Question 4 and I call on the Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I would like to ask the Minister for Education, Sport and Culture when the hub schools were informed of the closure period which he described as ‘TT holiday’?

The Speaker: I call on the Minister for Education, Sport and Culture to reply.

The Minister for Education, Sport and Culture (Dr Allinson): Mr Speaker, the school holiday dates, including the TT half-term, are published at least two years ahead of the first day in the academic calendar. The dates for this year were published and circulated on 1st September 2017.

During the current health emergency teachers, school staff, pupils and their parents have all shown exceptional flexibility in dealing with a rapidly changing environment on the Island. Following the closure of most schools on 23rd March, nine primary schools and all five secondary schools kept their doors open as hubs to cater for vulnerable children and those of key workers.

Due to the increased demand on frontline services, teachers and other members of staff volunteered to keep these hubs open during the Easter holidays and all the bank holidays, and I think all Hon. Members would join me in thanking them for their professionalism and dedication. But as we progress through this difficult time for our Island, the safety and well-being of our children and staff has to be a key priority for my Department.

The senior leadership team had a discussion about whether there might be an expectation that schools would remain open over the half-term period. This issue was discussed by chief officers of the various Government Departments during the week beginning 27th April. It was also discussed with all the teaching unions at a weekly JNC meeting on Friday 1st May.

In response to suggestions from all interested parties I made the decision not to cancel the school holiday, and the details of this decision were included in a daily update to all primary and secondary head teachers that afternoon. There appears to have been a technical problem and delay with the email which did not arrive in some colleagues’ inboxes until 11 o’clock the next morning, which I apologise for.

I made a public announcement that the half-term holiday would continue as planned at the press briefing on Saturday 2nd May, which started at 12 o’clock.

Thank you, Mr Speaker.

The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker; and I thank the Minister for that response.

The Minister confirms that teachers and support staff, etc., volunteered to keep schools open during the COVID crisis and he then said that the senior leadership team looked into the matter. The big concern here is the total lack of communication with head teachers and individuals within the hub schools.
Can the Minister confirm going forward, and with regard to re-opening after the holidays, that communication will be improved; and that the excuse there were technical difficulties is not adequate for such a valuable service that is being provided?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

I thank the Hon. Member for her question, but I would also like to ask her perhaps for some clarification on why she thinks there has been a total communication breakdown. I do not think that is the reality at all. I think all of us are communicating in different ways during the health emergency, and obviously there have been previous problems with the Department communicating with teachers and their representatives.

However, as Minister for the Department of Education, Sport and Culture, I am very keen on communicating with everyone involved, and if she has any particular instances where she thinks my performance has not been up to standard I would be very grateful if she could send those to me and I shall reflect on those and try to do better.

Thank you, Mr Speaker.

The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I did not realise the Minister was totally responsible for all communications but now that I am, that is appreciated; and obviously I can make sure that anything is directed to him directly on a communications issue.

But with regard to, certainly the unions, there are clearly still issues and I think the fact that now he is including all of the unions, can the Minister confirm going forward that before a press briefing everybody will be aware within the union meetings – including the employees within these schools that perhaps would have had to make other arrangements, and who are not necessarily teachers or involved in that decision process?

Thank you, Mr Speaker.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

I can absolutely confirm to the Hon. Member that before there are any major changes we will try to communicate those changes with all members of staff and whichever union they are a member of, or indeed if they are not a member of any union.

As I said, with the TT half term, this was communicated a month before it was due to happen, which was planned.

Thank you, Mr Speaker.
HOME AFFAIRS

2.5. Breaches of Emergency Powers Regulations 2020 –
Number of people arrested, on remand, fined or sentenced to prison

The Hon. Member for Douglas South (Miss Costain) to ask the Minister for Home Affairs:

*How many people have been arrested for a breach of any of the Emergency Powers Regulations 2020, including the Prohibitions on Movement Regulations and Events and Gatherings Regulations; how many (a) are remanded in custody awaiting sentence; (b) have received Fixed Penalty Notices; and (c) have been sentenced to a term of imprisonment?*

**The Speaker:** I turn to Question 5, and I call on the Hon. Member for Douglas South, Miss Costain.

**Miss Costain:** Thank you, Mr Speaker.
I would like to ask the Minister for Home Affairs how many people have been arrested for a breach of any of the Emergency Powers Regulations 2020, including the Prohibitions on Movement Regulations and Events and Gatherings Regulations; how many (a) are remanded in custody awaiting sentence; (b) have received Fixed Penalty Notices; and (c) have been sentenced to a term of imprisonment?
Thank you.

**The Speaker:** I call on the Minister for Home Affairs to reply.

**The Minister for Home Affairs (Mr Cregeen):** Thank you, Mr Speaker.
As of 12th May 2020, 84 people had been arrested for breaches of emergency powers regulations. In answer to part (a), a total of 24 people have been on remand for breaches of emergency powers regulations, and the figure as of 12th May was eight on remand.
Part (b), four fixed penalty notices have been issued.
Part (c), 15 people have so far been convicted of offences, of whom 13 have been sentenced to terms of imprisonment.
Thank you, Mr Speaker.

**The Speaker:** Supplementary question, Miss Costain?

**Miss Costain:** Yes please, Mr Speaker, thank you very much; I was having a bit of a problem there getting back and forward between the screens.
Could I ask the Minister if he is satisfied that due process consistent with judicial norms is being adopted and followed by the courts in the treatment of defendants appearing before the court in respect of the COVID-19 offences, who are clearly given the sentencing policy adopted by the summary courts facing immediate custodial sentences?
Thank you.

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.
The courts’ procedures are not a remit of my Department.
2.6. Breaches of Emergency Powers Regulations 2020 – Any maltreatment of those sentenced to prison

The Hon. Member for Douglas South (Miss Costain) to ask the Minister for Home Affairs:

Whether any of those sentenced to a term of imprisonment for a breach of any of the Emergency Powers Regulations 2020 have been subject to inhuman and degrading treatment contrary to Article 3 of the European Convention of Human Rights?

The Speaker: We turn then to Question 6, and I call again on the Hon. Member for Douglas South, Miss Costain.

Miss Costain: Thank you, Mr Speaker. Again, could I ask the Minister for Home Affairs whether any of those sentenced to a term of imprisonment for a breach of any of the Emergency Powers Regulations 2020 have been subject to inhuman and degrading treatment contrary to Article 3 of the European Convention on Human Rights?

The Speaker: I call on the Minister to reply.

The Minister for Home Affairs (Mr Cregeen): Thank you, Mr Speaker.

No detainee, irrespective of their offence, has been subject to degrading or inhumane treatment contrary to Article 3 of the European Convention on Human Rights in the Isle of Man Prison, either prior to or during the current emergency.

I would remind the Hon. Member for Douglas South that the Custody Act 1995 and the custody rules under the Act make provision for the Independent Monitoring Board (IMB); and the purpose of the board is, amongst other things, to satisfy themselves about the treatment of detainees. To date, I can confirm no issues have been raised in this area with the IMB.

The Speaker: Supplementary question, Miss Costain.

Miss Costain: Thank you, Mr Speaker. Could I ask the Minister if he would undertake to ensure that any such allegations of failure by the Isle of Man authorities to comply with their international human rights obligations will be independently and fearlessly investigated to ensure that any non-compliance will be addressed accordingly?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

Currently I have not received any prisoner complaints. We are aware of the complaint, the letter from one advocate, but currently we have nothing from the prisoners on this issue.

The Speaker: Supplementary question, Mrs Caine.

Mrs Caine: Thank you, Mr Speaker. I would just like to query with the Minister: he said that there had been no issues raised by the Independent Monitoring Board. Can he confirm, during the period of the health emergency, whether any visits of the IMB have taken place to the prison? Or, if not, how they are communicating with prisoners during this time?

Thank you.
The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker

The IMB does have access to the prison at this time.

The Speaker: Supplementary question, Miss Costain.

Miss Costain: Thank you, Mr Speaker.

Could the Minister confirm, I think he said that he had received no allegations of failures from the prisoners but only from one of their advocates? Would he not undertake that wherever a complaint came from, particularly a prisoner’s advocate, surely you would act on that.

Could you just clarify the position on that please?

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

The Department is dealing with this issue and, as it is a live issue, I cannot discuss it any further.

The Speaker: Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Is the Minister aware of the allegations made by Amnesty International and also the Isle of Man Law Society regarding treatment of prisoners? Does he take these seriously; and will he be issuing a full public response?

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

Yes, I am aware of both of these and the Department is dealing with these matters.

The Speaker: Supplementary question, Miss Costain.

Miss Costain: Thank you, Mr Speaker.

Could I just confirm to the Minister that I was not asking about a specific case, I never mentioned a specific case, I was asking about the principle of it. So I would ask him again, as a matter of principle will he undertake to ensure that any such allegations of failure will be investigated properly by an independent body?

Could he answer that please as a matter of principle?

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

The Department, when they receive a complaint will be dealing with these in accordance with its procedures. Currently I am not aware of any formal complaints from prisoners regarding this matter. There is that general letter that has gone out, which is getting dealt with as I indicated earlier.

The Speaker: Supplementary, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
I am slightly concerned with the Minister’s responses in terms of ‘this matter is getting dealt with’. Actually Amnesty International and the Isle of Man Law Society are quite respected bodies. Will he give a commitment that he will publish a full public response to the issues that they are raising?

The Minister: Minister to reply.

The Minister: Thank you, Mr Speaker.

Officers have been in discussions with the Law Society and we will be responding to those issues; and, where appropriate, we will make those answers public.

Any 14-day isolation period for those sentenced to prison

The Hon. Member for Douglas South (Miss Costain) to ask the Minister for Home Affairs:

Whether all of those sentenced to a term of imprisonment for a breach of any of the Emergency Powers Regulations 2020 have been isolated for a period of 14 days?

The Speaker: We turn to Question 7, and I call on the Member for Douglas South, Miss Costain.

Miss Costain: Thank you, Mr Speaker.

Could I ask the Minister for Home Affairs whether all of those sentenced to a term of imprisonment for a breach of any of the Emergency Powers Regulations 2020 have been isolated for a period of 14 days?

The Speaker: I call on the Minister for Home Affairs to reply.

The Minister for Home Affairs (Mr Cregeen): Thank you, Mr Speaker.

All new reception detainees are isolated for a period of 14 days during the emergency, irrespective of their offence. This is in line with the advice provided by Public Health to the medical professionals in the prison in order to limit the possibility of the introduction of the COVID-19 virus into the main jail, and the danger to the life and health of both detainees and staff.

Miss Costain: Thank you, Mr Speaker.

Could I ask the Minister if he is satisfied that the policing policy adopted by the Isle of Man Constabulary is consistent with best practice when compared to the rest of the British Isles? Is it not considered heavy handed?

Is this leading to any disaffection and mistrust amongst Isle of Man residents?

The Speaker: We are talking about isolation for prisoners sentenced to a term of imprisonment. I think that is beyond the scope of the Question.

Would you care to try again, Miss Costain?

Miss Costain: Okay, could I ask the Minister, then, is this in line with the treatment of the isolation of all prisoners at 14 days? Is this in line with the rest of the British Isles?
The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker. I am not sure about all the different jurisdictions and how they are dealing with it, but I will circulate the answer to the Member.

Thank you.

2.8. Breaches of Emergency Powers Regulations 2020 – Any denial of access to facilities and family contact for those sentenced to prison

The Hon. Member for Douglas South (Miss Costain) to ask the Minister for Home Affairs:

_Whether any of those sentenced to a term of imprisonment for a breach of any of the Emergency Powers Regulations 2020 have been denied access to showers, exercise facilities, proper drinking water and the means of making contact with their families?_

The Speaker: Thank you. Question 8, and I call on the Hon. Member for Douglas South again, Miss Costain.

Miss Costain: Thank you, Mr Speaker. Again, could I ask the Minister for Home Affairs whether any of those sentenced to a term of imprisonment for a breach of any of the Emergency Powers Regulations 2020 have been denied access to showers, exercise facilities, proper drinking water and the means of making contact with their families?

Thank you.

The Speaker: I call on the Minister to reply.

The Minister for Home Affairs (Mr Cregeen): Thank you, Mr Speaker.

All new reception prisoners, including those in prison for breaching the Emergency Powers Regulations 2020, have been treated the same if received at the prison at the same date. That is to mitigate the risk of coronavirus spread inside the prison. They have been subject to a mandatory isolation regime for 14 days. The isolation regime is under constant review and therefore been adapted during the period; and there have been, in effect, three different regimes as the risk to detainees and staff has altered dependent on the detainee’s COVID status on entering the prison, and the current prison resourcing levels.

The first regime at the outset of coronavirus-19 on the Isle of Man was as follows: showers, two per week plus one on reception; exercise twice per week after showers; drinking water available in cell; access to contact their advocate via access to landing phone and video link; access to facilities to contact families by access to landing phone.

The second and most restrictive regime was put in place with the guidance from health care professionals as a result of the COVID-positive detainee being in prison. This regime was in place for only 14 days until the health professionals advised extreme danger of spread of the COVID had been reduced to normal levels, and was as follows: showers, one on reception and items provided to allow washing from the sink in the cell; no exercise available but an in-cell exercise pack provided; drinking water available in cell; access to contact with their advocate, mobile phone provided on request; access to facilities to contact families, messages passed to families and letter writing available.

The third and current regime was a relaxation of the previous regime on the advice of health professionals when the prison no longer had a COVID-positive detainee, and the threat level was
reduced as follows: showers, two per week plus one on reception; exercise available twice per week after showers including an in-cell exercise pack provided; drinking water available in cell; access to contact their advocate via access on landing phone and video link; access to facilities to contact families by access to landing phone.

Thank you, Mr Speaker.

The Speaker: Supplementary question, Miss Costain.

Miss Costain: Thank you, Mr Speaker; and I thank the Minister for that extensive response. But could he just clarify that medical advice is for two showers a week and two lots of exercise per week? That is the medical advice? Could he just clarify that for me?

Could he also clarify, the question says ‘proper drinking water’. What drinking water was provided?

If he could clarify those two questions for me to start with, please? Thank you.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

The second part first. Drinking water is available in cells from a sink. On the first part, it was subject to a COVID-positive prisoner being in place and the risk to both prisoners and staff.

Thank you, Mr Speaker.

The Speaker: Supplementary question, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.

Can I ask what is contained in the exercise pack, please?

The Speaker: Minister to reply. And not whether they are for sale!

Mr Moorhouse: For free!

The Minister: Thank you, Mr Speaker.

I know the Hon. Member is very keen gym member, so I do not think these will be available to him.

Mr Speaker, I shall circulate that to Hon. Members – not the pack, but the information.

The Speaker: Supplementary question, Miss Costain.

Miss Costain: Yes, thank you, Mr Speaker.

The Minister said that the two showers per week and two sessions of exercise per week were because of a COVID-positive prisoner. Considering that everybody was kept in 14-day isolation, how would this affect the ability of allowing other prisoners to be able to have showers on a regular basis and exercise on a regular basis?

And, particularly if they are in isolation, does he consider that two showers per week and two lots of exercise per week are good either for their physical health or their mental health?

The Speaker: Minister to reply.

The Minister: Mr Speaker, the measures were put in place to protect both the prisoners and the staff. The advice from the Prison Governor and the staff is that this was a way of dealing with the possible threat of spread of COVID across the prison.
The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

Given that they identified the risk of bringing a COVID-positive individual inside the prison and the obvious impact that would have on the rest of the prison population, including the additional measures that have had to be taken, can the Minister advise if steps were taken on the Isle of Man similar to being taken elsewhere, where guidance was issued to the courts to consider applying some of the other penalties that Tynwald and the House of Keys made available under the law and under the emergency regulations, instead of imposing custodial sentences on individuals in these cases?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

It is the courts that have carried out the sentencing of the individuals. A number of the individuals who have been imprisoned for the 14 days have been recidivist and have been known to the penal system on the Isle of Man. I think the courts have taken that into account.

The Speaker: The final supplementary on this question, Miss Costain.

Miss Costain: Thank you, Mr Speaker.

Could the Minister confirm whether the prisoner who was COVID-positive was COVID-positive on arrival? Was he a known COVID-positive on arrival? If he was, what medical advice was sought and what medical advice was given; and was it considered satisfactory to be bringing somebody with a positive COVID test into the prison in the first place?

Thank you.

The Speaker: Minister for Home Affairs to reply.

The Minister: Thank you, Mr Speaker.

The prison will deal with whichever prisoners the courts send to prison. They do have the wing where they have been able to isolate the individuals. So the prison has carried out its duty there.

If the Hon. Member could just give me the other part of the question again, please?

The Speaker: It was what medical advice was sought and what medical advice was given?

The Minister: Thank you, Mr Speaker.

All I have is that medical advice was provided. I shall make some further enquiries and I shall circulate it with the other answers.

INFRASTRUCTURE

2.9. Affordable housing strategy – Date for debate in Tynwald

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Infrastructure:

When the Department will table its affordable housing strategy for debate in Tynwald?
The Speaker: We turn then to Question 9 and I call on the Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I would like to ask the Minister for Infrastructure whether his Department will table its Affordable Housing Strategy for debate in Tynwald?

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

The Minister for Infrastructure (Mr Harmer): Thank you, Mr Speaker; and I thank the Hon. Member for his Question.

The Affordable Housing Strategy was laid before Tynwald in March. Since that time the world has changed due to the outbreak of coronavirus, and priorities have been refocused.

The plan appended to the strategy indicates that there are to be engagement workshops arranged in the initial six months of the strategy. Unfortunately due to the COVID-19 outbreak these have been delayed. Now that there is some return to business as usual Hon. Members may have time to consider this matter.

My Department is keen to commence early engagement and is preparing to contact national and local political Members, together with engagement with local authorities, the third sector and other Government agencies, seeking their feedback and input into each of the policy principles to structure the priorities and discussions.

I understand the Hon. Member will want a new date and I completely understand that. Rather than give a date based on assumptions about what the consultation process will tell us, I am happy to commit to making progress as quickly as I can and providing him with a written update every quarter.

Thank you, Mr Speaker.

The Speaker: Thank you.

Mr Hooper, supplementary?

Mr Hooper: Yes, thank you very much, Mr Speaker; and I would like to thank the Minister for that Answer.

I did specifically ask him when he will be tabling it for debate in Tynwald, not when his consultation exercise would be undertaken, so really I would still like an answer to that question.

Would the Minister not agree that this crisis has shown, and has demonstrated to us all, that there is a real need on the Isle of Man to get affordable housing sorted? I know the Minister is very keen on very specific cases when debating and being questioned on these things. He is aware of a case I have brought to his attention earlier this week, of a genuine instance of individuals who are being seriously disadvantaged by the inflexibility of the current public sector housing system.

I would appreciate if the Minister could really accept that this is an urgent matter that urgently needs review.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

I am very happy to agree with the Member that this is an urgent matter and we will be putting in all the resources we can to tackle this and other issues around housing.

Thank you, Mr Speaker.

The Speaker: Mr Hooper, further supplementary.
Mr Hooper: Yes, thank you very much, Mr Speaker.

I thank the Minister for agreeing with me, but again I still really would like an indication of when he intends to bring this strategy back for a debate in Tynwald. Are we talking about weeks, after this crisis starts to ease off? Are we talking about months? Are we talking about the next administration?

I think the Minister needs to be absolutely clear here. He has agreed this is urgent. We all know that homeworking is putting a lot of stress and a lot of strain on people who have adequate housing facilities, and I cannot even begin to imagine the difficulties being faced by people living in inappropriate housing facilities. So the Minister needs to get a grip on this.

I think I would very much appreciate some understanding from the Minister that this is absolutely urgent and needs to be moved forward as quickly as possible.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

As I outlined in my Answer, our first priority is to engage with national and obviously local suppliers of housing. We will do that urgently.

As I said, I know the Hon. Member would like me to give a date right here, right now, but that will very much depend on the outcome and the work into that consultation, which we will be pushing as vigorously as possible. I have made that commitment and I have also made a commitment to keep the Hon. Member and this House updated with that as we try to move this forward.

Obviously the sooner the better in my opinion, but I cannot totally prejudice how the engagement and the consultation will go particularly around COVID-19, and how that engagement works both virtually and obviously in other matters going forward. So I am committed to pursuing this as soon as possible and with the help of others, but unfortunately if I commit to a specific date right now I think that would be a bit disingenuous. But I am committed to pushing this as quickly as possible.

The Speaker: Supplementary question, Miss Costain.

Miss Costain: Thank you, Mr Speaker.

The Minister has said it is urgent and a lot of other similar comments but he has given no indication about how many other things are urgent, and whereabouts in the list of urgent things does this come?

Regardless of the results of the consultation, how long after that finishes would he anticipate there being able to be a debate in Tynwald? Does he guarantee it will actually be in this parliamentary session?

Thank you.

The Speaker: Minister to reply.

The Minister: Yes, I obviously want to get it much sooner than that but that is certainly my aim, certainly within this parliamentary session and as soon as possible. But as I say, a lot of this depends on working with other stakeholders, with local and national organisations on this issue, so that piece of work needs to happen first.

The Speaker: Final supplementary on this Question, Mr Callister.

Mr Callister: Thank you, Mr Speaker; and I thank the Minister for his responses.
But could I just ask the Minister, is he actually aware that there are a number of homeless people being accommodated at the moment at the Sefton Express? They will need some form of assessment for housing needs at the end of this crisis.

Can the Minister just confirm to me that he actually does have this as one of his top priorities; and that he will bring it back to either this House or to the other place as quickly as he physically can in order to ensure that we have affordable housing on the Island for everyone to access, as a matter of urgency?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

Specifically on the issue with respect to homelessness that is one I know that the Cabinet Office, the Minister for Policy and Reform, is also very keen on and it is something that we are working together on, and certainly we will both work towards that specific issue.

But, yes, that is something where I think we can actually draw some benefit from this terrible crisis and that we can improve matters going forward. It has definitely been recognised.

2.10. Minor capital works –
Steps to accelerate

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Infrastructure:

What steps are being taken to accelerate minor capital works?

The Speaker: Question 10 and I call on the Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you, Mr Speaker.

I would like to ask the Minister for Infrastructure what steps are being taken to accelerate minor capital works?

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

The Minister for Infrastructure (Mr Harmer): Mr Speaker, in the short term the Department has been concentrating its minor capital spend in line with Treasury’s primary objective to support the local economy. The Department continues to follow financial regulations in relation to procurement of all goods and services and is endeavouring to progress schemes that can provide immediate employment for local businesses.

As part of the Budget review that will be presented to Tynwald in July, the Department will work with Treasury to ensure that we maximise the local spend in our capital schemes, including minor capital, which supports the local economy while providing value for money for the taxpayer.

The Speaker: Mr Hooper, supplementary question.

Mr Hooper: Thank you very much, Mr Speaker.

I thank the Minister for that commitment. It is slightly concerning to me that he said he is waiting until July, actually, to present any kind of accelerated scheme alongside a budget.

I think the Minister needs to be aware that July may very well not be soon enough in some respects. I would urge him to try and accelerate this process of work as quickly as possible and
to work with other Departments to make sure that the minor capital works across the Government’s whole estate can be accelerated where that is possible.

The Speaker: Minister, if you can find a question in there.

The Minister: Yes, certainly, I can give that commitment. So far we have undertaken a number of schemes for Health, the Villa Marina/Gaiety Theatre, the Wildlife Park, public transport and other Government estate planned maintenance.

So, yes, I do take the sentiment and we will be following that through.

The Speaker: Thank you.

That concludes Questions for Oral Answer.

Item 3 is Questions for Written Answer and those, of course, will be circulated by the Table Office.
3. Questions for Written Answer

TREASURY

3.1. Public Debtors’ Register – Statement on progress

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

_Pursuant to his answer on 20th August 2019, if he will make a statement on progress with establishing a Public Debtors’ Register?_

_The Minister for the Treasury (Mr Cannan):_ A Judgments Register, often referred to as a register of debt, already exists in the Island by virtue of section 15 of the Administration of Justice Act 1981. The Treasury recognises that the range of civil debts included in the Register limits the effectiveness of the Register in providing a true representation of civil debts held in the Island.

The Treasury has been working towards introducing amending legislation as part of Phase I of the Civil Debt Recovery Project. The amending legislation will, amongst other things: increase the range of civil debts included in the Register and modernise access arrangements in respect of Register data.

Progress on delivering the draft amending legislation has been complex. Whilst the Treasury had hoped to be able to consult on a draft Bill in 2019, a number of substantial technical issues with the Bill have arisen that have required further detailed consideration and these matters have necessarily impacted delivery. In particular, GDPR implications regarding the publication of Treasury debts has necessitated significant further research and drafting consideration in order to ensure the proposed legislation is compatible with the new regulation.

Since March the Programme for Government has been suspended to enable the emergency pandemic response. Presently therefore, progress towards this legislation is paused.

3.2. Debt Recovery and Enforcement Act 2012 – When to bring forward legislation

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

_Pursuant to his Answer on 20th August 2019, when his Department will bring forward legislation to bring into force the provisions included in the Debt Recovery and Enforcement Act 2012 in a cost effective and efficient way?_

_The Minister for the Treasury (Mr Cannan):_ As advised in August 2019, the Debt Recovery and Enforcement Act 2012 was a Private Member’s Bill which sought to introduce the concept of private licensed debt collectors. When considering the implications of enacting the legislation, the Treasury was unable to find a cost effective and efficient solution for the underlying issues surrounding its implementation and interaction with the recommendations from previous reviews.

The Treasury therefore brought forward its own proposals in 2018 for Civil Debt Recovery Project, which will build upon the work already undertaken, but provide a more structured approach for reform.
EDUCATION, SPORT AND CULTURE

3.3. Student Award regulations – Plans to revise

The Hon. Member for Douglas East (Mrs Barber) to ask the Minister for Education, Sport and Culture:

What plans he has to revise the Student Award regulations?

The Minister for Education, Sport and Culture (Dr Allinson): The Department is not planning on revising the student award regulations for the next academic year 2020-21. They were extensively revised last year by increasing the income limits for eligibility for university fees to be paid by IOM Government, a major overhaul of the maintenance grants so that more students will be eligible for maintenance grants etc.

The regulations are flexible enough to accommodate any changes to contributors' financial status as they can elect to be assessed on current year incomes rather than prior year which would normally be used. This will allow any reduction in income earned by the contributors due to the coronavirus to be taken into account.

As this pandemic moves through its various phases it is difficult to predict how universities will be functioning at the start of the next academic year or how many students will be actually starting their degrees this year, but it is felt that the student award regulations will be able to meet the needs of returning and new university students.

INFRASTRUCTURE

3.4. Airport cleaning in-house contract – Net cost to Government

The Hon. Member for Douglas East (Mrs Barber) to ask the Minister for Infrastructure:

What the net cost to Government was of bringing the airport cleaning contract in-house?

The Minister for Infrastructure (Mr Harmer): The Department submitted a business case to Treasury in July 2019 detailing the expected benefits of bringing the airport cleaning contract in-house.

One of the anticipated benefits is an annual saving of £8,500 which includes all employment costs.

3.5. Outsourcing and bringing projects in house – DoI policy

The Hon. Member for Douglas East (Mrs Barber) to ask the Minister for Infrastructure:

What his Department’s policy is on outsourcing and bringing projects in house; and how business cases are designed to ensure the best outcomes for the public purse?
The Minister for Infrastructure (Mr Harmer): The Department does not have an individual policy on outsourcing and bringing projects in house. The Department works at all times to secure best value for the taxpayer. Where work is outsourced the Department follows the requirement of the Financial Regulations. Business Cases follow a structured format in line with Treasury guidelines.

3.6. Hire of cones, health and safety signage, and Heras fencing – Three-year spend and comparable purchase and storage costs

The Hon. Member for Douglas East (Mrs Barber) to ask the Minister for Infrastructure:

How much has been spent on (a) cone hire, (b) hire of health and safety signage, and (c) Heras fencing hire in each year for the past three years; how many such items have been hired; and what the comparable capital purchase price and associated storage costs would have been?

The Minister for the Treasury (Mr Cannan): The Department does not hire cones, health and safety signage or Heras Fencing as standalone equipment and cannot therefore provide information on items hired or equivalent capital costs. From time to time it does use traffic management service companies.

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Traffic management services can include the design, permits, equipment, installation, maintenance, monitoring, modifications and removal.

Where construction contracts are awarded to the private sector, it is the contractor’s responsibility to provide traffic management: some use third party firms.

Construction firms undertaking work for the private sector or utility providers will provide their own traffic management equipment or buy the service from a third party.

3.7. Park Road School – Temporary use as a builder’s and storage yard

The Hon. Member for Douglas East (Mrs Barber) to ask the Minister for Infrastructure:

Whether the temporary use of Park Road School as a builder’s and storage yard was approved via a planning process?

The Minister for Infrastructure (Mr Harmer): The Department did not receive planning approval for the use of the Park Road School site as a short term solution to store construction materials. The Department did however notify the Planning Division of DEFA that the site would be used on a temporary basis and that materials would be removed by the 31st March. The
Planning Division acknowledged that the arrangement was temporary and the date of removal of materials.

Materials started being removed from the site on 18th March; however the onset of the coronavirus and the subsequent lockdown of the construction industry meant that had to be stopped.

Now that the construction industry has restarted the remaining materials are being removed.

### 3.8. Park Road School site – Income receipts for various uses

The Hon. Member for Douglas East (Mrs Barber) to ask the Minister for Infrastructure:

> What the income receipts have been for the Park Road School site in its use as (a) a storage facility for Government capital schemes, (b) storage facility for private individuals, (c) use as an auction site, and (d) any other uses?

**The Minister for Infrastructure (Mr Harmer):** The Department can confirm income receipts for the use of the Park Road school site for the categories requested as follows:

- (a) A storage facility for Government capital schemes – nil.
- (b) Storage facility for private companies for agreed periods of time – income receipts of £10,800 were received.
- (c) Use as an auction site in 2018-19 – income receipts of £7,920 were received.
- (d) Sunday morning car parking for adjacent Church Hall and Manx Youth Band attendees – nil (This arrangement has been suspended due to the ongoing Covid-19 precautions).
Order of the Day

4. BILLS FOR SECOND READING

4.1. Divorce, Dissolution and Separation (Isle of Man) Bill 2020 – Second Reading approved

Mrs Caine to move:

That the Divorce, Dissolution and Separation (Isle of Man) Bill 2020 be read a second time.

The Speaker: We turn to Item 4, Bills for Second Reading, and I call on Mrs Caine to move the Divorce, Dissolution and Separation (Isle of Man) Bill 2020.

Mrs Caine: Thank you, Mr Speaker.

I am pleased to bring my Private Member’s Bill before this Hon. House today. The Divorce, Dissolution and Separation (Isle of Man) Bill is short in size but far-reaching. It represents modernisation of our 50-year-old divorce law and would bring about a significant change to our current process.

As I outlined when I sought Hon. Members’ support for leave to introduce this Bill, a working group of family court advocates spent more than a year researching alternative systems that would be better than the current process on the Island. I must place on record my particular thanks to Mrs Hazel Smith, who led the working group and who has continued to support me during the drafting of this Bill, in the interests of achieving a better divorce process for the Island.

We, like England and Wales, have a system that builds in conflict from the start of the process, one that encourages separating couples to cite a fault-based reason in order to complete a divorce, dissolution or separation more quickly. Couples who decide to separate amicably must wait two years to progress their divorce, or five years if one party objects. It is a system that encourages dishonesty, exaggeration and conflict in order to achieve a faster divorce. That goes against everything family law aims to achieve. It puts on the record forever one parent’s failings. Often, seeing the court papers and seeing the fault in black and white, an indelible legal record results in more upset, anxiety and conflict – more breakdown and more impact on the couple and any children. This is needless cruelty, unnecessary finger-pointing and fault-finding.

In Scotland, where there is the ability to file for no-fault divorce, fault-based divorces amount to only 6% of the total. The ratio is similar in France. In the Isle of Man, similar to England, fault-based divorces average around 60%. That is three out of every five separating couples that blame their divorce or dissolution on one partner’s bad behaviour, or adulterous behaviour. It seems medieval to me.

This Bill is seeking a better process, a happier, or at least a cleaner, more honest ending to marriage and civil partnership. It is not seeking to promote or to increase divorce. All the evidence is that separating couples think long and hard before taking the final step, before applying for a divorce.

The Bill before us today would enable couples to apply singly or jointly for a divorce or dissolution, without giving a reason, but simply by confirming the marriage had irretrievably broken down. Because if one party says the union is finished, it is over, and an honest, clean break is better for the couple and any children they may have. It may also see a reduction in legal costs for this first stage of the process. It is not attempting to fix the whole process; the Bill before us addresses the initial application process for divorce, dissolution and separation.
Modernising our family law to enable no-fault divorce or dissolution of civil partnership has wide public support. I am grateful to the 192 individuals who completed the public consultation on the proposed Bill – 94% supported the proposed reform to remove the need to cite a reason for obtaining a divorce, dissolution or separation.

The proposed legislation would enable couples to state simply that their marriage or civil partnership had irretrievably broken down. Couples applying on that basis would have no need to state the reason why.

The public feedback to the consultation was humbling in its honesty and support for reform. People shared their personal experiences of divorce, which was extremely edifying.

A couple of the supportive comments were, ‘It is important that no one person can force the other party to continue in the marriage when one party wishes to leave it’. Also, ‘Marriage/civil partnership begins as a partnership, it stands to reason that in some cases it can end in the same way too’.

Mr Speaker, approving this Bill, just eight clauses and one schedule, will change forever the process for obtaining a divorce in the Isle of Man. It removes the need to find fault, for one party to accept blame. It will enable one or both parties to apply for the divorce; after a period of reflection of 20 weeks they must individually or jointly then confirm if they wish a conditional divorce or dissolution order to be made final.

There was some comment that this was dangerous, that it could negatively impact cases where there was domestic abuse or other reasons for a speedier divorce. With the legislative drafter, Mr Howard Connell, I considered clauses that would enable Deemsters in the family court to permit a swifter divorce for exceptional reasons, such as domestic abuse or a deathbed divorce to remarry. The clauses before you today include an exceptional reasons clause, but it is wider. It states simply that the time periods that amount to six months in total before granting a divorce order can be reduced if a Deemster believes it is ‘just to do so’ on a case-by-case basis, and on evidence.

But for the vast majority of cases, the simple fact of divorcing could be achieved without legal advice, without legal aid and without court time, amicably and pragmatically. I must emphasise it is only one part of the process and does not improve the financial settlement or childcare arrangements. I wish it could! This simply removes the need to cite a fault and streamlines the process for every divorce or dissolution application. Potentially it could set a better tone.

Couples whose marriage or civil partnership has irretrievably broken down would be able to state simply that their marriage or civil partnership had irretrievably broken down. People shared their personal experiences of divorce, which was extremely edifying.

It is likely that the proposed reform would result in more couples doing it for themselves, divorce that is, with no need to obtain legal advice on how to present the fault-based reason that is currently necessary, to ensure the unreasonable behaviour is unreasonable enough. It is possible it will lead to a reduction in the legal aid budget on that point. But that is not its aim, its objective is to modernise the process, put in more fairness and honesty, and to remove the adversarial nature of the current process.

On the Isle of Man it is possible for two adults to arrange to marry eight days after they apply to the Central Registry. Is it right that a no-fault divorce takes two years minimum, and only if both parties agree? Hon. Members, I would suggest that this is outdated, even cruel. It builds in conflict where it is not necessary. It is well documented how that impacts negatively on the
couple, on future relationships and most particularly on any children. The most stoic spouse can later resent the statements given detailing his or her fault; it festers, and causes more anxiety, more anger and more conflict.

This Bill simply removes the need to find fault, enables a process that provides a reasonable time for reflection but one also that credits adults with the capability and good judgement to make the right decision for them.

Mr Speaker, I beg to move that the Divorce, Dissolution and Separation (Isle of Man) Bill 2020 be read a second time.

Thank you.

**The Speaker:** I call on the Hon. Member for Douglas East, Mrs Barber.

**Mrs Barber:** Thank you, Mr Speaker.

I would like to thank the Hon. Member for the valuable work she has undertaken with this Bill and for bringing a sensible and clear piece of legislation for us to consider today. Some may query the timing, have we not got more important things to be talking about? But the potential damage from divorce is important, and the pressures that self-isolation, shielding, no school and lockdown can have on a couple or family are obvious. I think the timing is very pertinent.

Divorce and breakdown of marriage are difficult times, not just for the couple, but for the wider family, friends and of course any children. It has often been felt that there is the need for all of these groups to ‘take a side’, but why is this necessary?

Countries that have introduced no-fault divorce have found it to be a commonly used reason for divorce, and I hope that the Isle of Man will be no different. Removing the apportionment of blame from divorce proceedings will benefit all parties, but children are likely to be one of the main beneficiaries of this change.

While children are a key beneficiary of the no-fault element of divorce it must also be remembered that, unless there is an immediate risk to them, a hurried situation can be as unhelpful as a protracted process. Children need time to adapt, reflect, and get used to their new normal.

Relate are the largest provider of relationship advice across the UK, and they support both no-fault divorce and the 26-week time frame from application to final order. They cite the time frame as allowing time for reflection, and accessing support services if requested.

I am certain I am not the only person in this Hon. Court to have told my children that after an argument it is better that we all sit down and seek to resolve things, but that where we cannot, just because they might decide they do not want to be friends with someone any more, they must always be nice and be kind. In fact, I often think I sound like a parrot on this topic. But it is no different for adults, and if through legislative change we can allow for divorce that removes hostility and blame, then I believe we should grab that opportunity with both hands.

I beg to second.

**The Speaker:** Thank you.

I call on the Hon. Member for Ramsey, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

Firstly, I would like to thank the Hon. Member for all of her work in bringing this Bill forward which I am absolutely fully supportive of.

I do just have one question for consideration though, and this is in respect of the 20-week period or the 26-week period that is being retained in the Bill. So both the mover and the seconder mentioned this is about giving a period of reflection, and I think it is a period of time to allow other aspects of divorce proceedings to be finalised. But my understanding of the Bill in front of us is that it does not make changes to any other aspects of divorce proceedings. So people will still need to have all of these other things in place irrespective of whatever timescale...
is set down in this Bill. So if there are children involved there will need to be custody-sharing arrangements; if there are financial assets involved they will need to be sorted. All of this needs to happen anyway, irrespective of whatever arbitrary time scale is placed in this Bill, and so it kind of feels to me that this 26-week restriction is somewhat irrelevant.

I would just like to get some clarity on what the actual purpose of this restriction is because, other than to add another barrier in and potentially more added cost and court time for those who are already ready and have already sorted out all of the other aspects of a divorce, I cannot really see that this 26 weeks in the Bill will have the effect as intended by the mover because all the other processes around divorce still exist and still have to go on. It is not a massive issue for me; I just think it is something that really should be considered, Mr Speaker.

Thank you.

**The Speaker:** Thank you.

I call on the Hon. Member for Ayre and Michael, Mr Baker.

**Mr Baker:** Thank you very much, Mr Speaker.

I find many things to commend in what the Hon. Member for Garff is bringing forward today: modernisation, better process, reduction of dishonesty, exaggeration and conflict. They are all clearly good things, as are potentially reduction in time and legal costs, and also less blame and fault. I think there is very little in that that any of us would disagree with.

I was also reassured by Mrs Caine’s comment that she is not seeking to promote divorce, and I think that is right. I think long-term relationships, if they can be made to work, are the best way for family life, and I think that is generally widely held.

I do have some concerns though and some of those have been allayed by comments by the mover and seconder, but some have actually been magnified. The reflection period of 20 weeks is not a particularly long period, particularly where relationships may have been built over tens of years even. We all know that relationships go through phases and some phases are better than others; and 20 weeks to have a view that there is no future in a relationship I think is not a particularly long period. Clearly, if the relationship is terminally damaged then that will prove to be the case but if it is not, and it may have recovered, then 20 weeks may result in some relationships being terminated that otherwise would have lasted.

I was also concerned about the comments that this would allow couples to do this potentially without legal advice. Now, in some respects that could be a good thing in terms of the process and certainly the cost of getting the marriage or long-term relationship dissolved. However, I do worry that one party, particularly the weaker party in the relationship, if there is one, may be disadvantaged by not having legal advice and not having that independence and that experienced person to guide them through the process. I do think that this could well end up with outcomes from divorces and separations being more onerous on some parties than would be desirable.

There is a temptation to save the cost and do it for yourselves. If one party is a little bit better advised or a little bit sharper this may well result in power being exercised and a poorer outcome for the other one. This is magnified by the fact that essentially, as I understand it, the proceedings can be instigated and achieved purely at the behest of one party and if the other party does not agree there seems to be very little that can be done to prevent the process concluding. I appreciate that that is partly the intent of the reform and it does potentially leave the weaker party in a relationship more exposed.

I was very pleased to hear Mrs Barber’s reference to the voice of the children. They tend to be, in my experience, the parties that suffer the most and have the most long-term damage from a relationship breakdown. It is reassuring to hear her belief that this process, and the view of Relate, is that this will help. We absolutely must ensure that their interests are protected to the maximum extent because they are the least able to speak up for themselves.
Finally, I am just concerned that this move, whilst it does reinforce the freedom of choice and gives people a way of conducting their personal lives as they see fit – and I have got absolutely no opposition whatsoever to that; however, it does tend to reinforce the disposable culture that we have lived in in modern times. I would come back to the statement that long-term relationships are the best form of family life. I think you have to work at relationships.

I would be very concerned that this change would result in a more disposable culture towards long-term relationships and, in that context, I wonder if there ought to be some reference to counselling arrangements being part of this Bill.

But with those caveats, I understand the rationale for why the hon. mover is bringing this forward and I certainly think that the objectives she is trying to achieve are laudable, but I do have some concerns about how this will work in practice.

Thank you, Mr Speaker.

The Speaker: Hon. Member for Ramsey, Dr Allinson.

Dr Allinson: Thank you, Mr Speaker.

I would like to thank the Hon. Member for Garff for bringing this quite important bit of legislation forward. As the seconder has already said, although this has been in the pipeline for some time actually now is a very opportune moment for it to come in because we have seen that legislation that deals with human relationships is very difficult to get right. And we have seen that some of the restrictions that have been necessary through the emergency powers have had a profound effect on some families.

I think what this piece of legislation does is really respect personal choice and the ability for individuals to negotiate their future, but to do that perhaps free of state control and free of the court process, which can often be adversarial and extremely costly and expensive.

I think we have also heard from Hon. Members that in one way 20 weeks is too long but in the other way 20 weeks is too short, and I think what the mover of the Bill has done is try to get a pragmatic compromise in terms of giving people enough time to make the arrangements they need. The reality is that very few people go into divorce proceedings on a whim. Most of them have been in a relationship which has become more unhappy over a long period of time, and that unhappiness often feels like a prison both for them and their extended family, including their children. So the 20-week compromise I think is a pragmatic response to this. In terms of my fellow Member for Ramsey and his comments on that, I think most people would be going into the process already having made some of the arrangements in terms of finance and child care.

The Hon. Member for Ayre and Michael talks about disparity between different parts of the relationship, but I have seen that already now that if you are in an unhappy relationship and one of the party refuses to divorce, the other party is kept in a prison, not of their own making, in an unhappy relationship unable to escape from it at all, and that can be used in terms of a power over those people who want to get on and create a better life for themselves.

So I think what this relatively short Bill does is actually inject the humanity back into relationships and allow those individuals to determine what is best for them, their families and their futures.

And with that, Mr Speaker, I will be very, very happy to support this Bill going forward.

Thank you.

The Speaker: I call on the Hon. Member for Douglas North, Mr Ashford.

Mr Ashford: Thank you, Mr Speaker.

I am fully supportive of the Bill, but my query is around a technical point within the Bill, and I apologise if I missed this in the mover’s introductory remarks. Throughout the Bill there are littered references to consultation with the Deemsters before certain things happen such as, for instance, even the commencement of the Act after it comes in, but it does not state what
consultation with the Deemsters is. Now, it might sound a picky point, but is that consultation with the First Deemster or all of the Deemsters?

I am just wondering what the thinking is behind having those provisions in because it is very rare, and going through the other Acts that are currently in place around matrimonial affairs there is no reference to having to consult with the Deemsters before say the appointed day order comes forward and I was wondering what the thinking behind that, in a technical way, was?

**The Speaker:** Thank you.

Next up I have Mr Shimmins, Hon. Member for Middle.

**Mr Shimmins:** Thank you, Mr Speaker.

I would also like to commend and thank the Member for Garff, Mrs Caine, for bringing forward this important Private Member’s Bill. For me, it is a modernising and progressive piece of proposed legislation.

I actually take a lot of comfort from the knowledge that many experienced Manx family law practitioners have worked on this Bill with Mrs Caine; and that, I think, will ensure that it is a pragmatic and workable piece of legislation, which I think is key in this particular instance and in other instances obviously as well.

I guess different people will sit at different points of the spectrum in terms of number of weeks. I am probably more leaning towards Mr Hooper’s point on that spectrum than Mr Baker’s. But for me, this is all about reducing pain and conflict in relationships where it is just not working and the love has gone.

In summary, I am very supportive and welcome Mrs Caine’s initiative in this matter.

**The Speaker:** I call on Mrs Caine, Hon. Member for Garff, to reply to the debate.

**Mrs Caine:** Thank you, Mr Speaker.

I would like to thank everybody who has contributed this afternoon. I think it is a very progressive and sensible piece of legislation and I am pleased with the responses from Members who have spoken today.

First of all, I would very much like to thank my seconder, Mrs Barber, and I agree. I mean, it has been highlighted today with the current emergency situation, and we are aware of many people who are under strain. I would say that there are organisations obviously who are able to support them. But in terms of Relate, yes, all the evidence from Relate and even from the Nuffield Foundation and the original, very extensive survey and assessment that they carried out a few years ago – all the evidence points to this kind of structure.

Moving on to Mr Hooper’s point, and also Mr Baker and Mr Shimmins, in terms of the 20-week period there are so many reasons for that. We could point to other jurisdictions where the six-month process is successful. One of the places that the family law advocates here looked at particularly was Sweden, where it is a success. But I think what we are saying is, it is a better compromise than currently. Currently in theory a divorcing couple can achieve a final separation and a final order in 12 to 15 weeks. But if one party obviously is alleging on that basis adultery or unreasonable behaviour against the other there is no certainty as to when the time is up, or when the conditional order will be issued and the six-month period is triggered for the certain legal matters to be then addressed.

So in fact I would say that the current law – where it can be anything from 12 weeks to years, if people have to wait – actually works against reconciliation. Those people who have decided – and let’s be clear, the longer the relationship they quite often think extremely long and hard before making this step and usually engaging a lawyer to assist them. But once a spouse makes allegations about the other spouse’s conduct, there is the conflict, and in fact people have resorted to an untrue system. There is no minimum in fact if you are prepared to overstate
unreasonable behaviour. If you are prepared to take the blame because the finances perhaps between a couple and the debt of one party moving out of the family home, or for a whole raft of other reasons – if it is just not workable, people are finding a way to do it more quickly and are even less likely to take some mediation or counselling on board.

Now, that actually was a subject that we looked at very closely; and it came out a lot in the public consultation that counselling was something that people really felt should be there. In fact one of my favourite comments from a wedding photographer who responded to the consultation, suggested that actually the fault was that there should be more counselling before people were married and then perhaps they could save some of the anxiety and fall-out in conflict later. Obviously that is undertaken by churches and other religious institutions, but it is probably not something that is available as standard from the Registry. But why should it be? I think that was that I feel it is the process does not take away a radiation was

So I would say that actually I think the 20 weeks, this whole-six month process, is probably longer than we have now. It is a genuine reflection, reconsideration period that can give people the option; and even if it is a tiny proportion, even if it is a very small number who might take the counselling and decide to give their marriage or their civil partnership another go, then it is worth having, I would say, the period of reflection.

Again, as Mrs Barber pointed out, Relate and other jurisdictions support that. In fact a very similar piece of legislation has completed its passage through the House of Lords now and has had its first reading at the Commons. This has a similar length of time that they have determined to go for, and that is supported by the government through the Ministry of Justice. I would say it is for Members to make their mind upon that but overall, and again with 62% of the public consultation I would think that is a sensible compromise, as Dr Allinson pointed out.

Now, just turning to Mr Baker and the other concerns that he had, I think it was particularly in terms of legal advice. Well, it is no different from how it is now. Some couples could determine to go through the process alone. The only difference now is there has to be one party who applies for the divorce and the other party is the respondent. Allowing people to do this tiny part of the process does not take away at all that they would be, in terms of financial settlements and child care arrangements, very well advised to seek legal advice, especially when there is a weaker person. I think what comes out would be that in the rules of court, which are the processes that go around this, they perhaps could include the aspect of mediation.

Now, many people who called for it suggested that the mediation was ... We did not put it in to legislate or enforce counselling or mediation, because it is impossible to force somebody to go to mediation if they absolutely do not want to, because there would be no engagement. I would say that it is not at all saying there should be no legal advice to support, and certainly in cases where there is a weak party. But the option is there in fact where couples are able to come to an amicable arrangement that this aspect, this one third of the divorce process, this one application out of the three would not need an advocate to advise any longer to make sure that one of the five facts, the grounds for divorce, are suitable enough to enable a quicker divorce.

So any matters of finances and custody of course would still benefit from people taking legal advice and that will still be an option, including applying to Legal Aid on that point.

In terms of the comment, ‘It is a disposable culture’, I think that this process would actually recognise that once people have decided, it is better to allow them to proceed without the blame game; and reducing the period where amicable couples have to wait two years I feel it is actually much better that they are able to go ahead. In terms of a longer period, we can all remember the Owens v. Owens case, the unedifying spectacle where an elderly wife could not get a divorce because her husband refused to consent to the divorce. She still moved out of the family home for that period, until all the way to the Supreme Court it was judged that the unreasonable behaviour was not unreasonable. And this, I just think, has no place in the modern world.

Perhaps counselling might have assisted some couples but it is not legislated for or proposed in this Bill. But in terms of the time frame of 20 weeks, if people were able – and a good family
lawyer would always emphasise and suggest that people go to counselling if there is any benefit in that. A family court lawyer signs up to do all they can to bring around a reconciliation; but in many cases it simply is not possible to do that.

Now, in terms of the query from the Hon. Member for Douglas North, Mr Ashford, he is speaking about the query about the Bill having references to so many Deemsters having to agree and then coming forward to the Council of Ministers in terms of having an appointed day order for it to come in. Obviously this is an enormous change from the current system and there will be a period of time when people, who have applied for divorce or dissolution under the existing law, will have to run alongside people who are going forward on applying for the no-fault process. I think it is simply something that in terms of all the rules of court – for instance, the processes, procedures and rules that everybody has to undertake, and the route by which people take the path towards the final separation – all those processes are, I am told, really quite antiquated at the minute, and perhaps this will enable them also to be modernised and the appropriate guidance leaflets and information will be readily accessible to couples going through it.

So I think that amount of consultation and the various points in the Bill where consultation is necessary with the Deemsters, because of the significant amount of court-focused secondary legislation, perhaps that will make the system work.

Turning then to Mr Shimmins, the Member for Middle, I am very grateful for his comments and of course I agree. I do think the balance is right if we have Members who think it is too short, and 25% of the public in the consultation obviously felt there should be no minimum. But my own feeling is that that does really give a good structure and a better start for people who have made this decision. I do think, looking at some of the comments that came out, I really feel that this is a pragmatic compromise and significantly better, I would say, than what we currently have.

If I could just conclude by saying that amongst the comments from the public a selection I think really support, as most Members have said, that this is a positive thing – and it will be welcomed by the community. I quote: ‘This is an excellent idea, it cannot come soon enough’. ‘If nothing else, it may preserve relationships on a platonic level as there has been no need for blaming or playing the waiting game. This is massively crucial where there are children involved’. ‘If one or both parties want to end the contract they should be able to …’

And in terms of the final one I will leave you with, it is saying, ‘Current legislation makes the moving-on process much harder than necessary. Divorce is already a difficult time without being stuck in purgatory for two to five years. I think it is vital that this legislation goes ahead’.

I am really grateful for all the public who took the trouble to respond and for Members’ supportive comments today. If there are any queries that I have not responded to I am more than happy to engage with Members and discuss any points or queries, questions or concerns that they may have before we reach the clauses stage. But for now I thank everyone who has contributed to the debate and particularly Mrs Barber for supporting me and seconding this legislation.

Mr Speaker, I beg to move.

The Speaker: Thank you. I put the question at 4.1 on the Order Paper that the Divorce Dissolution and Separation (Isle of Man) Bill 2020 be read for a second time. I presume the motion will be carried unless any Member indicates dissent, which they should do so now.

No dissent being indicated – oh, Mrs Caine has indicated dissent, so we move to the vote.

Voting resulted as follows:

FOR
Dr Allinson
Mr Ashford

AGAINST
None
Mr Baker  
Mrs Barber  
Mr Boot  
Mrs Caine  
Mr Callister  
Mr Cannan  
Mrs Corlett  
Miss Costain  
Mr Cregeen  
Ms Edge  
Mr Harmer  
Mr Hooper  
Mr Moorhouse  
Mr Peake  
Mr Perkins  
Mr Quayle  
Mr Robertshaw  
Mr Shimmins  
Mr Skelly  
Mr Speaker  
Mr Thomas

The Speaker: In which case, 23 votes for and none against; the ayes have it. The ayes have it.

4.2. Elections (Keys and Local Authorities) Bill 2020 –
Second Reading approved

Mr Thomas to move:

That the Elections (Keys and Local Authorities) Bill 2020 be read a second time.

The Speaker: We turn then to 4.2, the Elections (Keys and Local Authorities) Bill 2020 and I call on Mr Thomas to move.

Mr Thomas: Thank you, Mr Speaker,

I am pleased to move the Second Reading of the Elections (Keys and Local Authorities) Bill 2020.

Ensuring that elections are properly administered is vital in maintaining the public’s confidence in the democratic process. This Bill proposes to repeal and replace the Representation of the People Act 1995 and the Local Elections Act 1986, and to consolidate election rules within a single piece of primary legislation.

The intention is to provide greater clarity and consistency within our electoral system to address issues that have come to light during recent elections; and to look to the future.

New provisions are being introduced that reflect a genuine desire to put the Island’s electors at the very heart of the process. An updated system of pre-election meetings, an additional process to deal with election complaints, postal voting on demand, and the ability to recall Members whose conduct falls below acceptable standards will strengthen the powers of our citizens.

These proposals have been shaped by extensive stakeholder engagement, expert advice and public feedback. The Bill presents an opportunity to effect positive change and to encourage people to engage in Manx politics, to cast their votes and to have their say in how our Island is governed.

Mr Speaker, many aspects of electoral law have been explored as part of the review. However, this has not been an exercise in ripping up the rule book and starting completely
afresh. Some of the fundamental principles that have served the Island well for many years are being retained. And while the drive to achieve greater consistency has been a key factor in the preparation of the Bill, it is necessary – and indeed desirable – to maintain certain differences between national and local elections.

Mr Speaker, this is a comprehensive piece of primary legislation and it is not my intention to provide a full commentary on all 158 clauses and six Schedules. I will, however, highlight some of the main changes and new provisions that will have an impact on voters and election candidates.

One such is e-voting. It is not felt appropriate to introduce internet voting or the use of electronic voting machines at polling stations for the 2021 General Election. On the balance of evidence available at this time, the potential benefits of e-voting appear to be outweighed by significant concerns in respect of security, trust, reliability and cost. The situation will continue to be monitored. There is a willingness and a desire to embrace digital technology, and this Bill leaves the door open in terms of the future use of e-voting systems.

Many will agree that the most important driver of voter engagement is the belief that casting your vote will make a real difference. However, it is also recognised that the convenience of voting remains a factor in encouraging people to take part in Isle of Man elections. With that in mind, the Bill proposes the introduction of postal voting on demand for electors who are unable or who choose not to vote in person at their allocated polling station.

Another change aimed at strengthening interest and participation in the political process is the establishment of a new system of pre-election meetings. The intention is to guarantee electors an opportunity to gauge the performance of their candidates before going to the polls. In response to feedback on this matter, it is now proposed that the Government arranges and funds a series of 24 meetings around the Island – comprising the 17 parishes plus the four Douglas constituencies and the towns of Castletown, Peel and Ramsey – for a general election.

A Code of Conduct for tellers will help to tackle the issue of voters feeling intimidated by crowds gathered outside polling stations; while a new process will enable genuine, often lower-level election complaints to be dealt with in a timely fashion.

The Bill also provides electors with the power to trigger a by-election in certain prescribed circumstances. The current absence of recall provisions in the Isle of Man means that voters must wait until the next scheduled election to make their feelings known about a Member whose conduct may have fallen below acceptable standards. That would change with this Bill becoming enacted.

Mr Speaker, the appointment of the Chief Secretary as Returning Officer is intended to support a more co-ordinated approach to the organisation and administration of elections. It is proposed that advocates will continue to run national elections at a constituency level to provide experience, knowledge and independence.

Further amendments are set out in the Bill that will affect the way candidates manage their election campaigns. Members will note changes in connection with the declaration of donations and expenses, the publication of campaign materials, the appointment of election agents, and the previously thorny issue of treating.

We have also listened to feedback from the public and from Members on matters such as the date of elections, the minimum age of elected members, and the make-up of the Electoral Commission. Various options have been considered and the provisions contained in the Bill are aimed at providing a practical, clear and consistent way forward.

In conclusion, I would urge Hon. Members to support the Bill. The proposed new legislation puts in place the foundations for an electoral system that better reflects the needs of a modern democracy.

Mr Speaker, I beg to move that the Elections (Keys and Local Authorities) Bill 2020 be read for a second time.

Thank you, Mr Speaker.
The Speaker: I call on the Hon. Member for Ramsey, Dr Allinson.

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

The Speaker: I call on the Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I think there are a lot of positive changes in this Bill and the inclusion of a recall mechanism, for example, is very welcome as is the aim of the Bill to provide some more consistency and regularity to how elections are conducted across the Island. As the Minister knows, I have raised a number of queries with the team around various aspects of the Bill and I look forward to engaging with them on some of these more detailed points. But for now I would like to ask the Minister a couple of questions.

Could he perhaps advise in respect of the recall mechanism where the 10% threshold has come from for triggering a recall election? Many Members in this Hon. House throughout its history have been elected by numbers of votes smaller than 10% of all eligible electors in the first place. So is he satisfied this is an appropriate benchmark?

I would also like to highlight that some of the provisions in respect of parties in here I can tell him, from personal experience, that some of the time scales are impractical and introduce complications where there need not be any. And so we could do with it being aligned and delivered closer to the charities framework that they are based on.

The Bill itself does obviously seem to include for the first time some controls around online electioneering, which I think are quite welcome. But again they seem quite cumbersome and I think could possibly do with some revision.

Could the Minister also maybe advise us what the purpose of an election agent is? It seems that under this Bill candidates will be required to appoint one, although they can be their own agent. But I am a bit unclear on exactly what this function is designed to serve.

Lastly, the Minister mentioned in his opening remarks the differences between local and national elections. But can he provide us with some more information on why the decision was taken not to try and align these a bit more closely? The consultation responses generally for both consultations were quite consistent in respect of things like qualification criteria and vacancy requirements that basically they should be as similar as possible across the two. There was a difference, however, in respect of term length and election day.

So in the first consultation the response highlighted a plurality of respondents with 42% of people agreeing the terms for both should be five years, which was far in excess of the number who felt four years or felt that they should not be the same. So then it was a bit of a surprise to see the second consultation come out in that respect. In the second consultation the question was asked and it seemed quite directed, and it did not give much room for a person to indicate a different view, which is probably why it produced such a different response. So the question that was asked leaned into the preference that only 20% of people preferred as their option which was the percentage of people saying they should not be the same length of term, whereas that seemed to be the least favoured option but is the one they went with in the second consultation. So a bit of an explanation for that would be helpful.

The same in respect of holding the elections on the same day. I appreciate it is less important if the terms are different, although it was quite interesting to note in the first consultation I thought was quite odd considering only 42% of people felt in the first place they should have the same term. So there seemed there to be 80% of people responding to that consultation who thought elections should be held on the same day even though they would be in different years. I was wondering then if that reflects more the way the consultation data was
responded to and was presented back. Again, if the Minister has any information on that it will be gratefully received.

Even though taking all this in the round and allowing for the idea of candidates to move between local and national roles aligning the terms would still be possible, and under the current proposal my real worry about having not taken this step is we seem to be creating larger gaps between national and local elections. So if you look over the next decade, for example, the elections get further and further apart. And again I am not really convinced that is very sensible; I have not heard an argument that says that is the right thing to be doing. And it definitely does not seem to be the way that the public felt when they were asked generally an open-ended question as opposed to the very closed question they were asked during the second consultation.

So I look forward to being able to go through these and many other queries with the Minister and his team between now and clauses. But if he has any comments on any of these remarks that would be great.

Thank you very much, Mr Speaker.

The Speaker: I call on the Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I thank the Minister and obviously I have been working with him and some of the officers on some of my concerns, and will continue to do so before the Third Reading.

I too share some of the concerns there that the Hon. Member for Ramsey, Mr Hooper has outlined. I do not really understand why there is so much difference between a local election and a national election. One of the big areas I have concern around is transparency at the start of any election, for the public, and they will be accountable for any donations, expenses, etc. But I also think an individual who is going to represent the people needs to be also considering their own interests and making sure that they are very clear to the electoral population of the Island to make sure that it is a fair process.

With regard to the trigger of a by-election and the 10% threshold, again I would like to understand why that figure, because we do know that the turnout in some areas is very low. I am not sure, it could end up being possibly 20 people could do that, or less, and you actually need more people to nominate you in the first place. So I do think that does need clarification.

With regard to pre-election meetings, obviously we all know that the local areas call a requisition meeting and there are some slight differences for us as national politicians. We get called up and we do go along and we do talk. Within local authorities, if the ratepayers call a public meeting the individual commissioners or councillors can turn up but say nothing. So I do have concerns about that as well and I will continue speaking to the Minister about it.

With regard to e-voting and the security, trust and transparency and that obviously it will not be in place by 2021, I do feel that if we are going to have a recall position people should make sure they go out and vote for the candidate that they wish to represent them. That, to me, would make it a more valuable recall process than if somebody can just sit at home and press a button and then hide behind a keyboard for a period of time, but then a recall could come about. So I have got concerns around areas like that.

But I welcome further discussions with the Minister and the officers with regard to some of the concerns.

Thank you, Mr Speaker.

The Speaker: I call on the mover to reply.

Mr Thomas: Thank you, Mr Speaker.

I thank Dr Allison for seconding. I also thank both Mr Hooper and Ms Edge for huge engagement in the last couple of months, and even before that, through the whole of the
process. And I acknowledge the existing and what will be continuing dialogue up to the clauses stage.

Obviously Mr Hooper’s status as a Member of Cabinet Office is new and it has changed the dialogue, but I hope that we can reflect and convince each other about the relative merits of various of the propositions that are technical, and then perhaps put on the table some political decisions about term and duration.

So I come to some of the specific points in terms of parties. The provisions in the Bill I assert are adequate to ensure the party is accountable. There is a discretion, so if a party cannot comply with the time frame there is a discretion in that for the officer to make alternative means and I hope that can end up being adequate. But, as I said, we will discuss that.

Election agents are indeed an innovation. If there is no election agent appointed, the candidate is the election agent. So that is more like the existing situation. But the reason for election agents is so that there is formal responsibility for submitting the declaration of expenses, donations, approving campaign literature, overseeing polling and the counting of votes from the candidate’s point of view and the like. So that is not a tactical issue, but I look forward to continuing the discussion.

Both Members who have spoken did make valuable points about the need to constantly refine the Keys and Local Authority elections process, the capacity of candidates and the nature, and I look forward to reviewing that more in the next couple of weeks. I know Ms Edge particularly is already engaged with having some amendments drafted and we are just in the process of refining some of the drafting instructions to deal with that issue. I look forward to working with her and I am sure together, and in fact involving Mr Hooper as well, we will make available to all Members as early as possible their thoughts and the advice of Crown Office in coming to a conclusion about the extent to which those things that are on the table can be supported.

I think I have dealt with the most –

The Speaker: Mr Thomas.

I have had an indication that Mr Hooper would like to interject but I did not want to disturb your flow just in case you covered the point in the intervening period. Would you be content to take an interjection from Mr Hooper?

Mr Thomas: Delighted.

The Speaker: Mr Hooper, over to you.

Mr Hooper: Thank you very much, Mr Speaker.

I just wanted to clarify something that the Minister mentioned, something in respect of parties and there being some flexibility. That is not strictly the case in every instance.

But the point I want to interject on really is about the election agent. The Minister listed some functions of an agent there, but I am not clear where in the Bill those are spelled out, or if there is actually any indication in the Bill whatsoever as to the purpose of an election agent. That is really what I was seeking some clarity on.

Mr Thomas: Thank you, that is a very helpful intervention, Mr Speaker and Mr Hooper, and I look forward to working on that to see if we can do something from within to make that clear, if necessary.

In terms of the points about the 10% and the recall mechanism, that came through transfer from across. It seems perfectly reasonable to me and again I look forward to the dialogue about whether that threshold is the right threshold.
Likewise in terms of the terms, and also in terms of election days, I guess there will be
different political views and ultimately it will have to be as they were in the consultation, as
Mr Hooper summarised; and I guess it will have to be a political settlement in the end.

So with that, Mr Speaker and Hon. Members, I beg to move and I hope Members will
understand that we want to pay the proper attention to this and we will only come back to
clauses stage when we are ready – if that could be in two weeks, excellent, and if we need
slightly more time we will have to take it. But I really do hope that this important Bill can
continue in its passage and I assert and promise that we will make sure we have time to do
justice to all the valuable points that have been raised today at Second Reading, before we get
to clauses.

Thank you. I beg to move.

The Speaker: Thank you.

Hon. Members, the question is at 4.2 on your Order Paper that the Elections (Keys and Local
Authorities) Bill 2020 be read a second time. I presume the motion will be carried unless any
Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

4.3. Road Traffic Legislation (Amendment) Bill 2020 –
Second Reading approved

Mr Harmer to move:

That the Road Traffic Legislation (Amendment) Bill 2020 be read a second time.

The Speaker: We turn to Item 4.3, Road Traffic Legislation (Amendment) Bill 2020 and I call
on Mr Harmer to move.

Mr Harmer: Thank you, Mr Speaker.

This Bill, the Road Traffic Legislation (Amendment) Bill 2020, affects the laws on road traffic
and drivers in various ways.

Of the Bill’s principal provisions, the most weighty are those set out in Part 2 and provide for
an amendment to the Road Traffic Act 1985. This Part has five key themes: first, to deal with
unsafe or irresponsible driving, whether it be drug driving, using a motor vehicle for the
purposes of crime, or riding a vehicle on footways – that is to say pavements; second, to lessen
the load on the courts by providing for enforcement of fines, compensation or vehicle duty
through the seizure of motor vehicles; third, to improve the law relating to the construction and
use of vehicles, for example, their use by disabled persons; fourth, to make extensive and
material amendments to the law on driving licences and disqualification; and finally to facilitate
the detection of crime, for example, by providing on the one hand for the use of the Motor
Insurers’ Database, and by extending on the other the information-gathering powers of both the
Police and the authorised vehicle examiners of the Department of Infrastructure.

I will now deal with those themes in that order. As far as the first is concerned, this Part
further addresses drug-driving by enabling a constable to administer a preliminary drug test,
which will be used to test specifically for certain drugs above specified limits, the use of which
when driving or attempting to drive is now made an offence.

A Legislative Council Committee investigated this Bill in an earlier form, and on this particular
item requested the proposals were amended to include a zero level for all psychoactive drugs
that are not specifically recognised in the provisions. The United Kingdom’s Department for
Transport, on whose research these provisions are based, put in place an expert medical panel
to investigate drugs and their effect on driving capability and to recommend levels at which different drugs caused driving impairment. The research conducted led to the production of the table of drugs and the recommended levels which are included within these provisions. In the panel’s opinion, supporting evidence to provide levels at which ‘legal high’ drugs were considered safe to drive does not exist; but they did request that forensic testing be encouraged so that once reliable evidence is available that can be acted upon and changes could be introduced to their recommendations.

Legal-high substances are already dealt with under the provisions of the Misuse of Drugs Act 1976 and the Psychoactive Substances Act 2016 (Application) Order 2016 when their use is detected in social environs. The provisions in this Bill are concerned with fitness to drive in the same way that drink-driving provisions vary from social drinking laws. The provisions in the Bill are the same as those in place in England and Wales and were introduced in Scotland on 21st October 2019. The provisions can be amended by a Tynwald approved order should any changes be identified.

As to using vehicles for the purposes of crime a further deterrent is prescribed, empowering the courts to disqualify offenders.

The opportunity is then taken to clarify the law on using vehicles on footways. At present it is an offence to ‘drive’ on them, but the reference solely to ‘driving’ begs the question whether it also embraces ‘riding’. For example, does one ride or drive a pedal cycle? Against this background Hon. Members may agree that the law should be certain. At first glance, the public interest would appear best served if the use of vehicles on pavements were generally prohibited, yet there is a strong case for exemptions; for example, by permitting pedal cyclists to use areas of pavements, particularly where using the adjoining carriageways would be hazardous. So the power is given in the Bill to provide by order for exemptions of this kind. All in all, I believe that the right balance has been struck, and in this respect I would like to assure the House that the present exemption for mobility scooters will not be affected.

As regards the second theme, lessening the load on the courts, this Part of the Bill provides for the seizure of motor vehicles in cases where the courts have imposed fines or ordered the payment of compensation for motoring offences that have remained unpaid. The powers of seizure are also extended to the non-payment of vehicle duty. If the fines, compensation or duty then remain outstanding, seized vehicles may be disposed of and the proceeds used for, or towards, the outstanding payment. These provisions introduce a means of enforcement without further recourse to the courts.

In respect of the third theme, the construction and use of vehicles, provision is made for better testing and inspection under the related regulations; introduction of powers to make regulations on the use of vehicles by disabled persons; the facilitation of amendments to the law on the carriage of dangerous goods; and the enabling of authorised vehicle examiners to prohibit the driving of unfit public passenger vehicles – all of which I am sure you will agree serve the public interest.

The fourth theme, improvements to the law on drivers’ licences and disqualification, begins by making four new and important proposals with respect to applications for licences. Importantly, as well as having to declare relevant disabilities as at present, applicants are required to declare prospective relevant disabilities – these, by virtue of their intermittent or progressive nature, may become relevant disabilities in the course of time. Applications to renew licences to drive large passenger or heavy goods vehicles must be accompanied by a certificate from a medical practitioner that the applicant is still fit to drive that category of vehicle. And finally, applicants for a licence who are aged 75 or over must have passed a prescribed eyesight test.

For its part, the Department is required to: include in a licence the driving conditions to which the holder is subject in a case where the Department is satisfied that the holder is suffering from a disability which would present a danger to the public should the said conditions...
not be complied with; and revoke the licence of a driver who, suspected of driving with defective eyesight, fails the eyesight test.

As a deterrent to unsafe driving a series of new offences is prescribed, namely: making a false declaration to obtain a licence; secondly, driving a motor vehicle contrary to any limitation or condition included in a licence; contravening the prescribed restrictions relating to learner drivers; and failing to return to the Department, when required to do so, a revoked licence or a licence requiring amendment.

Consideration has also been given to the Glasgow bin lorry tragedy in 2014, where the driver’s failure to declare that he was liable to fall unconscious at the wheel led to the death of six people and injuries to several more; and where, as at present in the Island, the law was found to be inadequate to bring a prosecution. The offence of making a false declaration is made triable either way – in lesser cases, summarily, with a maximum fine of £5,000; and in graver cases, on indictment, with penalties of two years’ custody or an unlimited fine or both.

As far as disqualification is concerned, in the interest of road safety a provision is introduced to reduce the number of penalty points leading to the disqualification of a provisional or newly qualified driver from 12 or over to six or over, or to the revocation of his or her licence, as the case may be.

As to the final theme, the detection of crime, this Part implements two new proposals: first, it effectively requires insurers to notify the UK Motor Insurers’ Bureau of policy particulars so that they may be recorded in its database; and second, it caters for the use of the database by the Department, the Police and local authorities in accordance with regulations to be approved by Tynwald. In this way, owners of motor vehicles will be easily and swiftly identified and information, for example, about insurance or non-insurance just as easily ascertained.

Lastly, the circumstances in which the furnishing of information is required, for example in the case of accidents, is extended.

I now turn to the rest of the Bill, which makes amendments to the Road Traffic Regulation Act 1985 and the Local Government (Miscellaneous Provisions) Act 1984. There is also an amendment to the Licensing and Registration of Vehicles Regulations 2015.

The amendments to the Road Traffic Regulation Act 1985, contained within Part 3 of the Bill, include: greater penalties for speeding, particularly in residential or school zones or in roadworks areas; regulation of movement of caravans on the Island in accordance with Tynwald instruction; changes to overnight and weekend waiting of certain vehicles; removal of the bureaucratic procedures involved on the one hand in extending the validity of temporary traffic regulation notices, and on the other in temporarily relocating school crossing patrols; extension of the circumstances in which emergency traffic signs may be used, for example, when blasting operations are taking place at a quarry; the use of Automatic Number Plate Recognition technology to detect, prevent and facilitate the prosecution of offences involved in the use of a motor vehicle; making it an offence to deface traffic signs or other street furniture, or to misuse a disabled person’s badge; and finally, to prescribe a small number of fixed penalty offences, almost all of which relate to parking, being offences under the Road Traffic Regulation (Fixed Penalty Offences) Order 2013.

The amendments of the Local Government (Miscellaneous Provisions) Act 1984 which deals with the removal and disposal of abandoned or illegally parked vehicles, are affected by Part 4 of the Bill. These include: power to remove from a road or public place any vehicle that is in such a condition that its presence there makes it offensive to the public, but only after 28 days have elapsed and then only after 14 days’ grace is given by notice affixed to the vehicle; and the power to prescribe procedural provisions relating to the retention, release and disposal of vehicles under the Act, being provisions that for consistency are broadly in line with those for the enforcement of fines, which I have previously addressed.

Part 5 of the Bill contains amendments to the Licensing and Registration of Vehicles Regulations 2015 so that prescribed Departments, offices and boards can request vehicle owner details from the Department in order to investigate an offence, lay a charge or collect any
outstanding duties, fees, fines or taxes. This is a consequential amendment due to the changes described earlier within the Road Traffic Regulation Act 1985.

Finally, Part 6 of the Bill repeals two old amending Acts and section 13(2) of the Road Traffic Act 1985.

All in all, I am convinced that this Bill will make a material contribution to the law on road traffic and drivers. As such, I commend it to the House.

Thank you, Mr Speaker. I beg to move that the Road Traffic Legislation (Amendment) Bill 2020 now be read for a second time.

The Speaker: I call on the Hon. Member for Ayre and Michael, Mr Baker.

Mr Baker: Thank you very much, Mr Speaker.

I beg to second.

The Speaker: Thank you.

I call on the Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

Firstly, I would just like to apologise to the Minister for not having contacted him already about some of these queries, and I will do my best to do so after we have finished here today.

Some of the questions I think he has already touched on in his opening remarks, but I would like to go through them just for completeness.

I am not entirely clear on the purpose of prescribing a small list of drugs with a prescribed limit. I heard what the Minister said about following some research in the UK and not prescribing other drugs, but I am not sure there has been a full explanation of why these particular drugs. I mean, there are definitely other drugs out there that will impair your ability to function and I am a little bit confused as to why they are not being brought in with prescribed limits. I am not quite certain that circle has been squared, if that makes sense. I would be quite grateful for some thought or explanation from the Minister.

There are some provisions in this as well that seem to allow arrest specifically without a warrant if a police officer suspects a person has drugs. The language used is ‘in his body’. They do not actually have to be under the influence of those drugs, simply a reasonable suspicion of having those drugs in their body is enough. And given the very wide definition of ‘drugs’ in the Act, I wonder if the Minister feels this may be somewhat inappropriate?

If a police officer reasonably suspects I have taken some prescription painkillers he then has the power to arrest me without warrant, irrespective of whether or not I have failed a breath test, irrespective of whether or not it looks I am under the influence or negatively impacted. The powers there are quite specific, he just has to reasonably suspect I have drugs in my body. I am pretty sure coffee is regarded as a drug. Does this Bill mean we are essentially passing a standing warrant for the arrest of the Hon. Member for Garff, who is something of a connoisseur of coffee? I think we need some clarity on what the intention is here.

The provisions in terms of alcohol in the existing Act give this power to arrest without warrant only after a failed breath test or where a test has failed to be provided, and then a court constable has a reasonable cause to suspect; but the drug’s powers do not actually require a failed test first. So, again, why are these provisions different from drugs and alcohol?

Another example of where there is a difference is the current Act seems to say that a breath test for alcohol intoxication can only be taken at an accident or if the person is suspected of committing a serious driving offence. The drug provisions are much broader and simply allow a
test ‘if a constable reasonably suspects a person is under the influence’, so there is no
stipulation there that there must be a connection to an accident or other serious driving offence.

So I would like to ask the Minister is my understanding correct and if so why are the
provisions for alcohol and drugs so different? If this is updated language, for example, why is he
not also updating the offences in relation to alcohol, or is there a genuine good reason why they
should be different? Because I am not so sure that there is.

Following on from this, some of the sentences actually seem different. Driving with excess
alcohol in breath, blood or urine is a sentence of six months or a £5,000 fine or both; but the
same drug offence, driving or attempting to drive with a concentration of specified controlled
drug above specified limit, is a summarily Level 5 fine on the scale, but no custody. Similarly,
being in charge of a vehicle with excess alcohol in your breath is three months or £2,500 or both;
but being in charge of a vehicle with a concentration of specified controlled drug, Level 5 on the
standard scale but no custody.

So again, why are these offences treated differently? Why is it that you can lock somebody
up for driving under the influence of drink having failed a test, but not for drugs? I do not really
understand the logic here as to why there are different offences.

I think we need some explanation and some clarity here as to why these sections are
different; why the drug provisions are different from the alcohol provisions; why the drug
provisions are much broader in some cases; why the alcohol provisions perhaps are not being
updated. There are a number of other queries that lead off from some of these questions.

I will do my best to send these through to the Minister for his review, but if he could
comment on some of this now I think I would be very grateful for some initial insight.

Thank you very much, Mr Speaker.

The Speaker: Thank you, Mr Hooper.

Now, as no other Member has indicated a wish to speak I call on the mover to reply.

Mr Harmer: Thank you, Mr Speaker.

Thank you to my seconder for seconding; and to Mr Hooper for those comments.

I will come back to him with full detail on all of those. Essentially, there is provision in
Tynwald to modify the list of drugs. Those lists of drugs are not fixed, but as increased evidence
comes about we can modify those drugs.

The intention is to have the penalties linked to the severity and the likelihood of accidents –
or accidents is not the correct word, of road traffic collisions – and that is why they have been
specified on those. It very much was in line with other jurisdictions and that is why we went for
those particular amounts. But I will come back to the Hon. Member in detail on those enquiries
that he has just made.

With that, I beg to move that the Road Traffic Legislation (Amendment) Bill 2020 is moved for
a second time.

The Speaker: Thank you.

I put the question then that the Road Traffic Legislation (Amendment) Bill 2020 be read for a
second time. I presume that the motion will be carried unless any Member indicates dissent,
which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.
5. CONSIDERATION OF COUNCIL AMENDMENTS

5.1. Domestic Abuse Bill 2019 –
Conference with the Council regarding amendments –
Motion carried

The Hon. Member for Arbory, Malew and Castletown (Mr Cregeen) to move:

*That the Keys request a Conference with the Council in respect of the amendments numbered 4, 6, 11 and 12 and concur with the Council in respect of the remainder, noting the deletion of Clause 38 from the Bill sent to the Council.*

The Speaker: We turn to Item 5 on our Order Paper.

I just want to briefly explain the process here. The Hon. Member has moved the motion that the Keys request a Conference with the Council in respect of four of the amendments and concur with the remainder. Should any Member need clarification the House can agree with Council’s amendments, disagree with Council’s amendments, amend the amendments or disagree with Council’s amendments with a view to a conference.

So with regard to the motion that we have before us today, subject to any amendments, I will put first that the Keys concur with the remainder and then secondly that Keys disagree with those specified with a view to a conference. So I hope that clears things up. We can take it as we move along.

I call on Mr Cregeen, the Hon. Member for Arbory, Castletown and Malew to move.

Mr Cregeen: Thank you, Mr Speaker.

This Bill was last in the Keys when it received its Third Reading just before Christmas 2019. This House, as Members will recall, gave serious and careful consideration to the issues surrounding domestic abuse. The Bill then passed to the Legislative Council where it received further comprehensive and independent scrutiny during the first quarter of this year.

Mr Speaker, that Chamber made 28 amendments to the Bill. The motion in my name invites the House to agree with the Legislative Council in all but four of them, where we request a conference with Council.

We are able to agree with most of the amendments because many of them make technical or proofing adjustments that enhance and improve the reading of the Bill. In the case of the other amendments, the Department has listened to the case made by Council and was prepared to accept the changes suggested and then made.

Members are invited to note that clause 38 was not moved in the Council and is removed from the Bill. This clause was in the UK Bill and on review it was concluded it did not add anything useful to our Bill.

Mr Speaker, it is only in relation to those amendments numbered 4, 6, 11 and 12 that amend age-related provisions that were previously agreed and with which the Department has concerns. So I invite this House to seek a conference with Legislative Council to explore further these small, but very important, areas of disagreement.

We do of course recognise a particular duty of care is owed to children and young people, that is to persons under the age of 18. However, that duty must surely include preparing children for adulthood by addressing criminal behaviour that amounts to domestic abuse. The Isle of Man Constabulary reports that they have had to deal with abusive situations where children and young people are the initiators of such abuse.

The charity SafeLives highlighted reasons from 2014 in the UK which found a third of adolescent girls and a quarter of boys reported sexual violence through pressure or physical force. The rates are higher for girls if only physical force is included in the definition.

Between 50% and 70% of all young people reported experiencing abuse through new
technologies, most often controlling behaviour and surveillance through messaging and social networking sites, although pressured sexting was most commonly reported by girls.

The Domestic Abuse Protection Notice provision in this Bill gives the Police a power to impose conditions on an abuser in the short term to prevent further harm to the victim. This allows a longer-term solution to the abuse to be considered. Any conditions lasting longer than 14 days must be granted by a court. If the age limit is limited to 18 and above, the Police will not be able to effectively intervene in these situations.

In the United Kingdom, in two serious case reviews from 2016 looking at two separate deaths of two girls aged 16 and 17, both of whom were murdered by their partners, both reviews concluded professionals in both cases failed to see them as children requiring protection with significant risks in their lives, and instead positioned them as ‘a difficult adolescent’.

If we leave the provisions as they are it is my view that we will be failing these young people. There are also incidences of adolescent-on-parent violence, a form of domestic abuse which often forms part of a more complex set of issues within the family.

The Department considered the views expressed in Legislative Council at a related briefing session, but would remind Hon. Members that 16 and 17-year-olds are legally able to marry, to form civil partnerships and to engage in intimate relationships in the same way as those 18 years and over. The Department believes the time is right now to address these issues and to do so by seeking a conference with Legislative Council, where we may discuss directly and try to reach a united position on the age when a person becomes liable to offences related to domestic abuse; or where the Police and the courts can take appropriate – and I do emphasise appropriate – measures to protect victims from domestic abuse and require perpetrators, whether adults or children, to address their behaviour. The sooner this behaviour is addressed the better, is surely the key. It is vital that we support an approach of early intervention rather than one which criminalises young people.

The Department’s view is that by extending the use of Domestic Abuse Protection Notices and Prevention Orders to those under the age of 18 we are able to do this more effectively.

Mr Speaker, I beg to move the motion standing in my name.

The Speaker: I call on the Hon. Member for Douglas Central, Mrs Corlett.

Mrs Corlett: Thank you, Mr Speaker.
I beg to second.

The Speaker: No Member having indicated a desire to speak, I will put the motion; and, as I said, I will put the motion in two parts.

The first is that Keys concur with the Council amendments with the exception of 4, 6, 11 and 12. I presume that motion will be carried unless any Member indicates dissent, which they should do now.

That part of the motion being agreed, I will next put that the Keys disagree with those amendments numbered 4, 6, 11 and 12 with a view to a conference. Again, I will presume that the motion will be carried unless any Member indicates dissent, which they should do now. That part of the motion also then carries.

With that in mind, Hon. Members, I will arrange that the request be delivered by the Secretary to the Clerk of the Legislative Council.

We are now required to elect a deputation under Standing Order 5.2 to represent the views of the House. Traditionally this is a deputation of three Members unless anyone dissents.

The Deputy Secretary: Mr Speaker, I believe in Tynwald Standing Orders it must be three Members.
The Speaker: It must be three, yes; in which case I now call for nominations. I might also point out that again it is traditional that the mover of the Bill would be part of the delegation, but that is by no means necessary.

The Deputy Secretary: Mr Speaker, this is very confusing, are you taking the nominations from what people are typing or are you going to ask them to speak?

The Speaker: No, I am just going to ask them if they wish to nominate someone please just type in the person that you wish to nominate. We are only at nominations, not voting. If a name appears twice I will take that as a proposer and a seconder.

I have Mr Hooper proposed and seconded; I have Mr Cregeen proposed and seconded; I have Mrs Corlett proposed and seconded. Those are the only names that I am seeing. This could be easier than we thought. If there are no other nominations ...

Okay, in which case, I am going to take it that as Mr Hooper, Mr Cregeen and Mrs Corlett are the only ones who have been proposed and seconded, they represent your delegation to meet with Legislative Council. The delegation will be required to meet and elect a chairperson in the relatively near future. I do not have the exact date, but that will be set and advised by the Clerks.

Thank you very much.

We then turn to Item 6 on our Order Paper, Consideration of Clauses, Bank (Recovery and Resolution) Bill 2020 in the name of Mr Shimmins, and I call on Mr Shimmins to move.

Oh I am sorry, Mr Shimmins, before you do: I have just noticed Mr Robertshaw’s motion to second Mrs Barber but I am afraid it is out of time. I did give what I thought was plenty of time for seconding, so I declare that the delegation is Mr Cregeen, Mrs Corlett and Mr Hooper.

6. CONSIDERATION OF CLAUSES

6.1. Bank (Recovery and Resolution) Bill 2020 – Clauses considered

Mr Shimmins to move.

The Speaker: Mr Shimmins to move Item 6, Bank (Recovery and Resolution) Bill 2020, Consideration of Clauses.

Mr Shimmins: Mr Speaker, this is the second half of the clauses Bank (Recovery and Resolution) Bill 2020 which, as indicated in the Second Reading, establishes a framework for the recovery and resolution of banks and for connected purposes.

The Bill is divided into 14 Parts, comprising 171 clauses and one Schedule. In today’s sitting I shall cover Parts 8 to 14 of the Bill.

Sorry, Mr Speaker, the microphone still seems to be on in the Chamber, there is quite a lot of interference. (The Speaker: My apologies.) Thank you.

As mentioned previously, the Bill provides various powers for the Isle of Man Financial Services Authority’, which I shall call ‘the FSA’ when referring to that body in its capacity as a financial services regulator, and I shall call it ‘the Authority’ when referring to the body in its capacity as a resolution authority. This is in line with the terminology used in the Bill and in the explanatory notes supplied to Members.

As before, I have grouped the clauses by subject. If any Member wishes to go through any clause individually I will of course be pleased to do so.
Turning to the clauses: clauses 72 to 76 are the first in Part 8. These clauses introduce the ‘sale of business tool’, which enables the transfer of assets, rights, liabilities and shares of a bank in resolution to another party. The Authority may use this tool for a bank that meets the resolution conditions without the consent of the failed bank’s shareholders or other third parties, whilst observing resolution safeguards and the general principle that costs must be recovered from the bank in resolution.

Business acquired by a purchaser must continue as it was prior to the transfer and the purchaser must seek a deposit-taking licence in the Island if it does not already hold one.

Net proceeds of any such transfer must benefit shareholders or the bank in resolution. However, if the purchaser agrees the assets, rights, liabilities and shares may later be transferred back to the bank in resolution.

I beg to move that clauses 72 to 76 stand part of the Bill.

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

Mr Shimmins: Thank you, Mr Speaker.

Clauses 77 to 81 require the Authority to market the assets, rights, liabilities or shares of a bank that the Authority intends to transfer. Such marketing must be carried out according to specified criteria, to ensure fairness and maximum price. However, the sale of business tool may be applied without marketing the bank if it appears that the resolution objectives or financial stability may be compromised.

Any parties whose assets, rights and liabilities are not transferred to a purchaser, have no rights over the assets, rights and liabilities that are transferred. Also, if a private sector purchaser acquires only a part of the failing bank’s business through the sale of business tool, the residual bank must be liquidated within an appropriate timeframe.

I beg to move that clauses 77 to 81 stand part of the Bill.

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

Mr Shimmins: Thank you, Mr Speaker.

Clauses 82 to 86 introduce the ‘bridge bank tool’. The clauses describe the purpose of a bridge bank and enable the Authority to make share transfer or property transfer instruments to apply the bridge bank tool, whilst observing resolution safeguards.
The bridge bank is a legal entity that is controlled by the Authority, irrespective of any ‘bail-in’ or other tools. It must operate as a viable, going concern so that it may be marketed as such in future.

No shareholders’ or other third parties’ consent is required before the bridge bank tool is used, but consideration paid must benefit shareholders or the bank in resolution depending on the circumstances. Also, the Authority may recover reasonable expenses in connection with the resolution.

Any assets, rights, liabilities and shares transferred to a bridge bank may later be transferred back to the bank in resolution or the original shareholders, by the Authority.

I beg to move that clauses 82 to 86 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: If no Member wishes to speak, the motion is that clauses 82 to 86 stand part of the Bill. I will presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 87 to 90, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 87 to 90 continue to look at the rights over the bridge bank’s assets and rights and liabilities that are transferred. Also, the bridge bank and its management do not have any duty or responsibility to those shareholders and creditors other than in specified circumstances.

I beg to move that clauses 87 to 90 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I will presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 91 to 94, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 91 to 94 describe how the bridge bank must be operated and marketed with a view to its ultimate sale, which will normally be within two years. The period of termination of the bridge bank may be extended for one or more additional one-year periods where considered necessary by the Authority. The clauses also describe how the Authority must decide that a bridge bank is no longer a bridge bank if certain circumstances arise, and require that it should be wound up following the sale of all or substantially all of its assets, rights and liabilities.

The clauses also describe how any proceeds generated as a result should be applied, with reference to the general principle on the costs of resolution.

I beg to move that clauses 91 to 94 stand part of the Bill.

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker. I beg to second.
The Speaker: If no Member wishes to speak, I put the question that clauses 91 to 94 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 95 to 100, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 95 to 100 introduce the ‘asset separation tool’, specify the conditions necessary for its use and state that it may only be used in conjunction with other stabilisation tools. Subject to certain restrictions which are specified, the tool may be used to effect transfers of business to a publicly owned ‘asset management vehicle’ without shareholders’ or other third parties’ consent, whilst observing resolution safeguards.

The ‘asset management vehicle’ is also described, together with its objectives, when it may be used and how consideration paid by such a vehicle should be applied, with reference to the general principle on costs of resolution. It is clarified that an asset management vehicle does not have any obligations to the shareholders or creditors of the bank in resolution, other than in specified circumstances.

The clauses also enable property transfer instruments, which the Authority may use in connection with transfers both to and from an asset management vehicle.

I beg to move that clauses 95 to 100 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: Thank you.

If no Member wishes to speak – and perhaps if I could just put out a plea that if any Member wishes to speak to a clause that is coming up, if you could give me advance warning so that I can slow down at that point. Otherwise I will try and keep the tempo up.

The question is that clauses 95 to 100 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 101 to 104, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 101 to 104 introduce the ‘bail-in tool’ and enable the Authority to make resolution instruments for its use. The scope and conditions for use of the bail-in tool are specified, as are the categories of liabilities to which the bail-in tool may not be applied. Additionally, the Authority’s discretion to exclude certain liabilities from bail-in under certain circumstances is specified.

I beg to move that clauses 101 to 104 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: The motion is that clauses 95 to 100 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 105 to 107, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
Clauses 105 to 107 enable the Authority to make a contribution from the resolution fund to the bank in resolution in certain circumstances. These circumstances relate to losses not being applied to excluded liabilities, not being fully passed on to other creditors. The factors to be considered in such decisions are outlined.

A contribution from the fund may only be considered after minimum levels of losses have been absorbed by shareholders and creditors. These levels may be amended by Treasury after consulting with the Authority, subject to Tynwald approval.

The clauses also enable a write-up mechanism to reimburse creditors and shareholders in specified circumstances.

I beg to move that clauses 105 to 107 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: The motion is that clauses 105 to 107 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do so now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 108 to 112, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. Clauses 108 to 112 set out the actions to be taken in respect of shareholders when applying the bail-in tool or the write down or conversion power, as well as detailing the sequence under which the write down or conversion power must be applied to various classes of capital instruments and eligible liabilities.

The Authority must ensure that the principal amounts of certain capital and subordinated debt instruments are written down or fully converted into shares, before following this sequence. The clauses specify conditions that apply to certain liabilities when the write down or conversion power is used, with a particular focus on derivative contracts.

Any losses that arise must be imposed equally between each class of capital instruments and eligible liabilities. Also, eligible liabilities which have been exempted from bail-in may be treated more favourably than other liabilities of the same rank in liquidation proceedings.

I beg to move that clauses 108 to 112 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the motion that clauses 108 to 112 stand part of the Bill. I will presume that the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 113 and 114, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. Clauses 113 to 114 require that appropriate methodologies and principles must be observed by the Authority in determining the value of liabilities arising from derivative contracts. Also, the Authority may apply different conversion rates to different classes of capital instruments when using the write down or conversion power.

I beg to move that clauses 113 to 114 stand part of the Bill.

The Speaker: Mr Peake.
Mr Peake: Thank you, Mr Speaker. I beg to second.

The Speaker: The motion is that clauses 113 and 114 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 115 to 118, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 115 to 118 outline the minimum requirements for a business reorganisation plan that must be submitted by the management of a bank if the bail-in tool has been used.

The Authority is required to assess the business reorganisation plan and to advise the bank’s management of its acceptability or otherwise. If an amended business reorganisation plan is considered necessary, this must be submitted within two weeks. Reports on progress against the finalised plan must be submitted by the management of the bank to the Authority on a six-monthly basis.

I beg to move that clauses 115 to 118 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: The motion is that clauses 115 to 118 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 119 to 121, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 119 to 121 set out the effects of a full or partial reduction of a liability, through the use of the write down or conversion power by the Authority, as well as some ancillary provisions in relation to the exercise of such a power.

The Authority is also permitted to require a bank incorporated in the Island to include a contractual term in certain contracts governed by the law of another jurisdiction, recognising that the eligible liabilities concerned may be subjected to bail-in. However, the absence of such a term in the contracts concerned will not prevent the write down or conversion power from being exercised in relation to the liabilities to which the contracts relate.

I beg to move that clauses 119 to 121 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the motion that clauses 119 to 121 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 122 to 124, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 122 to 124 form Part 9 of the Bill and enable the Authority to provide extraordinary public financial support to a failed or failing bank, as a tool of last resort. Such support may only be considered after the other stabilisation tools have been exploited to the maximum extent. The Authority must act in agreement with and under the direction of the Treasury. Further
restrictions are also detailed in relation to any Government financial assistance provided, which must be temporary in nature. I beg to move that clauses 122 to 124 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the motion that clauses 122 to 124 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated. The ayes have it. The ayes have it.

Clauses 125 to 129, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. Clauses 125 to 129 introduce Part 10 of the Bill and describe how the Authority must use the write down or conversion power. This includes the circumstances, timing, sequence, effects and consequences of using the power. I beg to move that clauses 125 to 129 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the motion that clauses 125 to 129 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should indicate now. No dissent being indicated. The ayes have it. The ayes have it.

Clauses 130 and 131, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. Clauses 130 and 131 set out factors which must be disregarded in determining whether a default event provision applies. These factors relate to contracts involving a bank in resolution, in specified circumstances. A resolution instrument or share transfer order may provide that such instrument or order’s existence may be disregarded in determining whether a default provision under a contract applies. I beg to move that clauses 130 and 131 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: Thank you. The motion is that clauses 130 and 131 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated. The ayes have it. The ayes have it.

Clauses 132 and 133, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. Clauses 132 and 133 require the Authority to consider the effects of exercising resolution powers both internationally and on a bank’s group as a whole.
The Authority must seek to minimise the effects on financial stability in other jurisdictions and must avoid carrying out any action that would be likely to breach international obligations of the United Kingdom or the Island.

To this end an ‘international obligations notice’, as defined, may be served on the Authority by the Treasury or the Attorney General at the behest of any of these parties.

I beg to move that clauses 132 and 133 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clauses 132 and 133 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 134, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 134 requires the Authority to assess new shareholders of a bank, or the transferee of its business, in a timely manner that does not delay the application of a stabilisation tool. The clause also requires the FSA to consider a licence application connected to use of a stabilisation tool in a timely manner.

I beg to move that clause 134 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clause 134 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 135, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 135 requires that normal insolvency proceedings may not be commenced if the bank concerned meets the resolution conditions or a stabilisation tool has been used, except by or with the consent of the Authority.

I beg to move that clause 135 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clause 135 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 136 and 137, Mr Shimmins.

Clauses 136 and 137, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 136 to 137 detail the Authority’s wide range of resolution powers and tools. The clauses explain that these powers may be used individually or in any combination to meet the
resolution objectives. A bank in resolution, or any member of its group, must provide continuing operational services to any transferee so as to ensure effective operation of that business.

In addition, certain requirements for notification and permission are exempted from the exercise of resolution powers by the Authority.

I beg to move that clauses 136 and 137 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the motion that clauses 136 and 137 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

There being no clamour for dissent: the ayes have it. The ayes have it.

Clauses 138 and 139, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 138 and 139 introduce resolution safeguards, including the requirement that shareholders and creditors of a bank in resolution must not be financially disadvantaged by a bank having been subjected to use of a stabilisation tool, instead of being wound-up. A shareholder or creditor who is determined to have incurred greater losses by use of a stabilisation tool than they would have under a bank winding-up, is permitted to claim for compensation from the Bank Resolution Fund.

I beg to move that clauses 138 and 139 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the motion that clauses 138 and 139 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 140 to 143, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 140 to 143 protect certain arrangements if the Authority takes specific actions, such as partial transfers of assets, rights or liabilities, of a bank in resolution. In addition, certain actions in relation to transfers are prohibited, but payment and settlement systems are usually unaffected by the Authority’s use of a resolution tool.

I beg to move that clauses 140 to 143 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clauses 140 to 143 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 144, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.
Clause 144 allows the Authority to seek the court's determination of any question arising in relation to the taking of a resolution action. The court may then make an order specifying the action the Authority should take.

I beg to move that clause 144 stands part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the question that clause 144 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

There being no dissent: the ayes have it. The ayes have it.

Clause 145 to 147, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 145 to 147 require the Authority to ensure the prompt publication of an order by which a resolution action is taken. The means of such publication is specified. The parties which the Authority must notify if it determines that a bank meets the resolution conditions are also specified.

The bank's management must notify the Authority promptly if it considers that the bank is failing or likely to fail, as defined in clause 46. The actions the Authority must take in such circumstances are also specified.

I beg to move that clauses 145 to 147 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the motion that clauses 145 to 147 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being registered. The ayes have it. The ayes have it.

Clauses 148 to 150, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 148 to 150 form Part 11 of the Bill and address foreign resolution actions. The procedures the Authority must follow if it is notified of a foreign resolution action are described, including a requirement that the Authority makes a ‘recognition order’, which is subject to consultation with Treasury and to Tynwald’s affirmative procedure. The scope of such a recognition order and the Authority’s obligations to communicate its decision in respect of a foreign resolution action are described.

When the Authority makes an order recognising all or part of a foreign resolution action, the legal effect of the foreign resolution action concerned will be the same as if it had been made under Manx law. The Authority may also make a recognition order in respect of a Manx subsidiary of a foreign bank.

The Authority may exercise a stabilisation tool or power for the purpose of supporting a recognised foreign resolution action and may alternatively refuse to recognise a foreign resolution action in specified circumstances.

I beg to move that clauses 148 to 150 stand part of the Bill.

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker. I beg to second.
The Speaker: I put the motion that clauses 148 to 150 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.
No dissent being indicated. The ayes have it. The ayes have it.
Clause 151, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
Clause 151 is the sole clause in Part 12 of the Bill. It requires the Authority to submit a report to the Treasury regarding any resolution action undertaken within 12 months of the conclusion of that action. The clause outlines the content of such a report and requires that a suitably redacted version is laid before Tynwald at the earliest opportunity.
I beg to move that clause 151 stands part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the motion that clause 151 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.
There being no dissent: the ayes have it. The ayes have it.
Clause 152, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
Clause 152 is the first clause in Part 13 of the Bill. It specifies who may apply for a bank winding-up order and the requirements for such an application.
Mr Speaker, I understand that the Hon. Member for Ramsey, Mr Hooper, will now move an amendment to this clause. The amendment will correct an omission from the list of parties that may seek a bank winding-up order.
I beg to move.

The Speaker: Thank you.
Mr Peake.

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

The Speaker: Thank you.
Mr Hooper to move the amendment.

Mr Hooper: Thank you very much, Mr Speaker.
The amendment to clause 152 is very straightforward, it simply adds in the individuals who can request such a winding-up order, and it adds into that the bank itself. At present the list is simply the Authority, the Treasury or a shareholder or creditor of the bank but it seems sensible to merit the application of the Companies Act and allow the bank themselves to apply for such a winding-up order should that be necessary.
So that that is the effect of the clause, Mr Speaker, and I beg to move:

Amendment to clause 152
Page 116, in line 35 substitute for paragraph (c) of clause 152(1) the following —
«(c) the bank, or any shareholder or creditor of the bank.».

The Speaker: Thank you. I call on the Hon. Member for Onchan, Ms Edge.
Ms Edge: Thank you, Mr Speaker. I beg to second the amendment.

The Speaker: Thank you very much.

Now, I put you first the amendment in the name of Mr Hooper, and I presume that the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. I put to you the motion that clause 152, as amended, stand part of the Bill and I presume that that motion will be carried unless any Member indicates dissent which they should do now. The motion therefore carries.

We move to clauses 153 to 157, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 153 to 157 confirm that the provisions of the Companies Acts 1931 to 2004 and the Companies Act 2006 relating to the winding-up of companies have effect in relation to a bank, subject to the provisions contained in Part 13 of this Bill. The Authority is permitted to petition for a bank winding-up on specified grounds, but no other party may present a petition unless the Authority has agreed to this.

A bank liquidator in a winding-up has three objectives, which he is required to work towards. In order of priority, the objectives are: firstly, to work with the Depositors’ Compensation Scheme to ensure eligible protected deposits are transferred to another provider or receive the appropriate compensation payment; secondly, where part of a failed bank’s business is sold or transferred, to work with the purchaser or transferee to ensure the continued supply of services; and thirdly, to wind up the failed bank’s affairs for the greatest benefit of its creditors as a whole, as opposed to quickly.

The grounds upon which an application for a bank winding-up order may be made are set out, as well as when the court may grant such an application.

Also specified are the notification requirements if parties other than the FSA apply for a bank winding-up order, together with provision for certain parties to be heard at proceedings for the granting of a bank winding-up order.

The right to take any proceedings in bankruptcy against a bank are restricted, beyond any provisions of this part of the Bill. Additionally, the court must consult the Authority before it makes a decision on the application of a bank, or any shareholder or creditor of a bank, for the winding-up of that bank.

I beg to move that clauses 153 to 157 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the motion that clauses 153 to 157 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated, the motion therefore carries.

Clauses 158 and 159, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Clauses 158 and 159 establish the powers that may be granted to a bank liquidator in a bank winding-up, including powers in the Companies Act 1931. Any such power must be specified in the bank winding-up order. This order must, in relevant circumstances, require the provision of continued service to any transferee by the bank liquidator. The liquidator is entitled to retain possession of a bank’s records and to agree to disposition of property. Also, various actions are prohibited without leave of the court.

I beg to move that clauses 158 and 159 stand part of the Bill.
The Speaker: Mr Peake.

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

The Speaker: I put the question that clauses 158 and 159 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.
No dissent being indicated. The ayes have it. The ayes have it.
Clauses 160 to 163, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
Clauses 160 to 163 require that following the grant of a bank winding-up order, a bank liquidation committee is established to oversee the functions of the bank liquidator who must report to the committee in accordance with arrangements specified. The members of such committee are specified, as well as when the committee should meet.
The committee is required to make recommendations to the bank liquidator in pursuit of Objective 1 and/or Objective 2, as described in clause 154, and the liquidator has additional duties in respect of these objectives. These duties include informing the committee about the ongoing provision of services, and when objectives 1 and 2 are no longer relevant.
Additionally, either the committee or the liquidator may apply to the court in relation to specified matters and the court may make a direction.
I beg to move that clauses 160 to 163 stand part of the Bill.

The Speaker: Mr Peake.

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

The Speaker: I put the question that clauses 160 to 163 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.
No dissent being indicated. The ayes have it. The ayes have it.
Clauses 164 to 167, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
Clauses 164 to 167 set out additional duties of the bank liquidation committee to oversee the work of the bank liquidator generally and address the committee’s duties to decide whether objectives 1 and/or 2 have been achieved.
The committee may cease to exist when certain events occur and a conventional committee of inspection may be formed thereafter. If a committee of inspection is subsequently formed, the FSA will have certain rights to receive information from, and make representations to, that committee.
Any person aggrieved by the actions of the bank liquidation committee may apply to the court, which may make an order including for repayment of money. The bank liquidator may also apply to the court in certain circumstances and the court may issue an order or directions accordingly.
A bank liquidator may process sensitive personal data for the purposes of achieving the objectives in clause 154 and may disclose that data to various specified parties and in accordance with data protection legislation.
I beg to move that clauses 164 to 167 stand part of the Bill.

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker. I beg to second.
Mr Shimmins: Thank you, Mr Speaker.
Clauses 168 to 171 comprise Part 14 of the Bill and address various miscellaneous matters. The Part provides that the Authority must not be treated as, or deemed to be, a shadow director or de facto director of a bank.

The Authority is permitted to make regulations for the better carrying out of functions under this Act, after consultation with the Treasury. Such regulations require Tynwald approval.

Civil penalties may be imposed under the Act, but the Authority must make regulations to detail the circumstances and amounts of such penalties. These regulations are subject to Tynwald approval and any penalties received will form part of the general revenue of the Island.

The arrangements for appeals under the Act are outlined. Appeals may be made by an aggrieved person to the court in respect of actions taken by the Authority, or any other person exercising a function under the Act. The appeal rights differ according to the action which has been taken and do not suspend the effects of certain decisions or actions in the interim. The court may make interim or final orders in respect of appeals.

I beg to move that clauses 168 to 171 stand part of the Bill.

Mr Peake:

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

The Speaker: I put the motion that clauses 168 to 171 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 168 to 171, Mr Shimmins.

The Speaker: Mr Peake.

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

The Speaker: I put the question that clauses 164 to 167 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 168 to 171, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
Clauses 168 to 171 comprise Part 14 of the Bill and address various miscellaneous matters. The Part provides that the Authority must not be treated as, or deemed to be, a shadow director or de facto director of a bank.

The Authority is permitted to make regulations for the better carrying out of functions under this Act, after consultation with the Treasury. Such regulations require Tynwald approval.

Civil penalties may be imposed under the Act, but the Authority must make regulations to detail the circumstances and amounts of such penalties. These regulations are subject to Tynwald approval and any penalties received will form part of the general revenue of the Island.

The arrangements for appeals under the Act are outlined. Appeals may be made by an aggrieved person to the court in respect of actions taken by the Authority, or any other person exercising a function under the Act. The appeal rights differ according to the action which has been taken and do not suspend the effects of certain decisions or actions in the interim. The court may make interim or final orders in respect of appeals.

I beg to move that clauses 168 to 171 stand part of the Bill.

The Speaker: Mr Peake.

Mr Peake: Thank you, Mr Speaker. I beg to second.
The Speaker: The motion is that Standing Orders, and in particular Standing Order 4.11(1), be suspended to permit the Third Reading of the Bank (Recovery and Resolution) Bill 2020 to be taken at this sitting.

Nobody wishes to speak to that motion? Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I did not really hear a rationale for this when the Hon. Member moved his request to speed through the Third Reading. I have got no issue in principle with moving forward with this particular Bill, suspending Standing Orders to go through Third Reading today.

My concern would be that we have had this rather technical and complex Bill for quite some time which has enabled us I think to progress through it quite quickly and quite sensibly, virtually. I am a little bit concerned about, if the intention is to speed through the process, how that will play out in the Legislative Council given that they will not have had the Bill for a similar amount of time, or they have not had the same amount of input and engagement as we have had as it has gone through the Branches.

I am just a bit concerned that suspension of Standing Orders with no real explanation implies that this will also be a kind of fast-track process, or there is a will to fast track it through both Branches.

I would appreciate some clarity, please, from the hon. mover that that will not be the case and that the intention here is to keep things moving at a reasonable speed, but actually they are not going to try and also push this very quickly through the Legislative Council.

Thank you.

The Speaker: Mover to reply.

Mr Shimmins: Thank you, Mr Speaker; and I am grateful for Mr Hooper’s question.

As Members are aware, this Bill has been delayed because of the emergency that we have been going through, and that is the primary reason why we are keen to get things back on track and take the Third Reading today after the second half of clauses.

Hon. Members will remember that we actually split up the clauses because it is quite a lengthy technical Bill so we took it in two chunks, and we have had a lot of engagement with various Members, including Mr Hooper who has raised a number of good points on this Bill.

What I can say is that it is not the intention to have combined sittings in the Legislative Council when this Bill goes to them for their consideration. There will be a full refresher presentation for all the Members of the Legislative Council who of course have already had the opportunity, and I have had discussions with a number of our colleagues in this regard. But because of the passage of time we will of course be delighted to discuss matters further with them.

So I hope that reassures Hon. Members that we can proceed with the Third Reading of this Bill at this time. I beg to move.

The Speaker: I put the question that Standing Orders be suspended to permit the Third Reading of the Bank (Recovery and Resolution) Bill, and I presume that the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.
Mr Shimmins to move:

*That the Bank (Recovery and Resolution) Bill 2020 be read the third time.*

**The Speaker:** Mr Shimmins to move Third Reading.

**Mr Shimmins:** Thank you, Mr Speaker.

As described in the clauses readings the Bank (Recovery and Resolution) Bill 2020 establishes a framework for the recovery and resolution of banks and for connected purposes.

In moving the Third Reading, I would like to take this opportunity to thank all Hon. Members for their support in taking this legislation forward. I would also like to thank the Member for Ramsey, Mr Hooper, for moving the amendment to correct an omission from the list of parties that may seek a bank winding-up order. I would like to thank my seconder, Mr Peake; and all the officers for their hard work and support on this complex but important Bill.

The primary aim of the Bill is to enable a failing bank to be either resolved or wound up in an orderly fashion without losses falling upon the taxpayer, and in line with relevant international standards. Members have acknowledged the importance of such legislation, but some clarification has been sought as to how various matters will be addressed.

The resolution authority for the Isle of Man will be the Isle of Man Financial Services Authority, whose role as a resolution authority will need to be kept operationally separate from its functions as a regulatory supervisor. Some Members asked how this would be achieved effectively and I can confirm that regulations are currently being drafted to this end. This reflects the process in various other jurisdictions.

The resolution authority will be funded by the banks. Public financial support is not envisaged, other than temporarily to aid cash flow. Funding to resolve any bank that fails would be expected to come from that bank, with any shortfall coming from other banks. Any levy on banks must be prescribed by order, which would enable Tynwald to comment on such proposals.

The resolution objectives include ensuring continuity of banking services, protecting financial stability and protecting public funds. In the pursuit of these objectives the Authority may require banks to maintain appropriate recovery plans, and the Authority must draw up suitable resolution plans for each bank that is incorporated in the Island.

If any material impediments to a bank’s resolvability, stability or winding-up are apparent, the Authority may require that bank to take specified measures to address these. The Authority is provided with various resolution tools, including the ability to establish a ‘bridge bank’. However, the Authority must usually consider winding-up a bank before applying tools such as bail-in proposals or establishing a bridge bank.

There is a limited provision for extraordinary public financial support to be provided to a failed or failing bank, but this is a last resort and is subject to restrictive conditions.

The Bill also addresses actions in the event of a foreign resolution action, the stages of liquidation and consequential changes to depositor preference priorities in the Preferential Payments Act 1908.

Mr Speaker, I beg to move that the Bank (Recovery and Resolution) Bill 2020 be now read the third time.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.
The Speaker: I put the question that the Bill be read for a third time and I presume the motion will be carried unless any Member indicates dissent, which they should do now.
No dissent being indicated. The ayes have it. The ayes have it.

6.2. Registration of Electors Bill 2020 –
Clauses considered

Mr Thomas to move.

The Speaker: We move then to Item 6.2 on our Order Paper, the Registration of Electors Bill 2020 in the hands of Mr Thomas, and I call on Mr Thomas to move clauses 1 to 3.

Mr Thomas: Thank you Mr Speaker.

This Bill aims to improve the process for people to become registered electors, to move from the current practice of an annual canvass to the concept of individual and lifelong registration, and ultimately to result in a more accurate and complete register, supporting efforts to strengthen political engagement and increase turnout at elections.

The Bill is divided into 6 Parts, with 28 clauses and three Schedules. I have grouped the clauses by subject, but will be happy to introduce any particular clause by itself.

Mr Speaker, Members might also like to be reminded that Dr Allinson — who was the original Bill seconder as Cabinet Office Member — is now moving amendments on behalf of Government and is also seconding Mr Hooper’s amendments in a similar capacity. Mr Hooper is seconding the amendments in Dr Allinson’s name.

Clauses 1, 2 and 3 are introductory.

Clause 1 gives the short title that the Bill will have if it is passed.

Clause 2 deals with the Bill’s commencement, with the majority of the Bill’s provisions coming into operation on the day that the Act is passed. The remaining provisions can be brought into operation by the Council of Ministers in the usual way, by Appointed Day Orders.

Clause 3 provides for the general interpretation of the Bill’s provisions.

Mr Speaker, I beg to move that clauses 1, 2 and 3 stand part of the Bill.

The Speaker: Mr Harmer.

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

The Speaker: I call on Dr Allinson to move amendments number 1 and 2.

Dr Allinson: Thank you, Mr Speaker.

As my colleague, Minister Thomas has stated, this section provides assistance in the interpretation of terms used in the Bill. The term ‘constituency’ has been defined in a Bill which has not as yet been enacted. Whilst I do not believe that any disrespect has been shown to either this House or the other place and that it represents a practical situation between two pieces of draft legislation, which are to all intents and purposes companion pieces of legislation, I do propose that the definition of constituency is amended to remove reference to the other Bill and to set out, for this Bill, exactly what the constituencies are.

The second amendment to this clause is purely to correct an error of referencing in the definition of ‘registration requirement’.

I now beg to move the amendments standing in my name:
Amendments to clause 3

1. Page 9, line 18, in sub-clause (1), for the definition of ‘constituency’ substitute the following —
   «‘constituency’ means any of the following 12 constituencies —
   (a) Arbory, Castletown and Malew;
   (b) Ayre and Michael;
   (c) Douglas Central;
   (d) Douglas East;
   (e) Douglas North;
   (f) Douglas South;
   (g) Garff;
   (h) Glenfaba and Peel;
   (i) Middle;
   (j) Onchan;
   (k) Ramsey; and
   (l) Rushen;».  

2. Page 11, line 1, in sub-clause (1), for ‘section 6(6)(a)’ substitute «section 6(5)(a)».

The Speaker: Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I am more than happy to second both of those amendments.

The Speaker: If no other Member wishes to speak, I will put first the amendments number 1 and 2 in the name of Dr Allinson and I presume that the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Mr Hooper: Thank you very much, Mr Speaker.

I am more than happy to second both of those amendments.

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No dissent being indicated. The ayes have it. The ayes have it.

Mr Hooper: Thank you very much, Mr Speaker.

I am more than happy to second both of those amendments.

The Speaker: If no other Member wishes to speak, I will put first the amendments number 1 and 2 in the name of Dr Allinson and I presume that the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 4 and 5, and Schedules 2 and 3, Mr Thomas.

Mr Thomas: Mr Speaker, I propose to take clauses 4 and 5 together, along with Schedules 2 and 3.

Clause 4 introduces the concepts of ‘a qualifying person’ and an ‘eligible elector’ and the relationship between the two. If a person meets these qualifying criteria and they satisfy the registration requirement in section 6(5)(a), which we will shortly come to, that person becomes an eligible elector and entitled to vote in that electoral area.

Schedule 3 beautifully illustrates the interconnection between the three concepts.

Clause 4 also makes clear that an eligible elector must only vote once in the same election.

Clause 5 sets out the Officer’s duties in respect of the preparation, maintenance and revision of a register of electors for each polling district.

Whilst the duty is subject to receiving the required information, the clause retains the ability for the Officer to submit a form to any person over the age of 16, requesting that they complete either their own details or relevant details for another person. Failure to return the form would render that person liable to a civil penalty.

The clause goes further regarding a person who returns the form knowing that it contains false information. Such a person would be liable to summary conviction.

The clause makes clear that a person can only be entered in a register of electors in respect of one polling district for national elections and one polling district for local elections, although this does not need to be the same.
Finally, the clause refers to Schedule 2, which contains further provisions about civil penalties which can be imposed under clause 5(4). The Schedule specifies that the procedure for imposing a civil penalty must be set out in regulations, which may specify steps which the Officer must take before imposing a penalty and which may give a person on whom a penalty is imposed, the right to request a review or appeal. Any regulations are required to have received Tynwald approval.

Mr Speaker, I beg to move that clauses 4 and 5 and Schedules 2 and 3 stand part of the Bill.

The Speaker: Mr Harmer.

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

The Speaker: If no Member wishes to speak, I put the question that clauses 4 and 5 and Schedules 2 and 3 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Mr Thomas: Mr Speaker, I propose to take clause 6 on its own as it is a crucial clause of the Bill and introduces the concept of individual and continuous registration. It is a qualifying person who must ensure that he or she is registered, and that his or her personal data are up to date.

Once registered, that person will remain on the register until such time as they cease to be a qualifying person or die.

The clause also changes the penalty for non-compliance with this clause. Whereas under the current legislation a person could be prosecuted, under the Bill the Officer can impose a civil penalty on a person for non-compliance; and accordingly the clause also refers to Schedule 2.

To assist persons to comply with their obligations under this clause the Officer needs to issue guidance.

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

The Speaker: Mr Harmer.

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

The Speaker: Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

Just a very quick question for the Minister, which covers more than just this clause and is a repeating issue throughout the Bill. Can I just ask him to confirm what oversight is built-in and is in place in respect of providing oversight of the Electoral Registration Officer and their actions?

This Bill gives the Registration Officer a number of powers along with a number of responsibilities, and I would just like to be sure that there is some level of governance built in around that system. So if the Minister can provide some clarity, that would be brilliant.

The Speaker: If no other Member wishes to speak, I will call on the mover to reply.

Mr Thomas: I believe this an issue that the Hon. Member for Ramsey, Mr Hooper, raised earlier in the process and his amendments in part address this sort of issue. There is oversight inside the system of public service in the Isle of Man Government through to the terms of the Crown and Elections functions. There is also a legal process around it in terms of appeals and
review and obviously there is all of the panoply of the procedure that could be used in dire circumstances when something goes wrong.

So he makes a good point and it is absolutely up to Cabinet Office members to take the lead in looking at this to make sure that the oversight is adequate given the risks.

I beg to move.

The Speaker: I put the question that clause 6 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 7 and 8, Mr Thomas.

Mr Thomas: These clauses are moved together as they enable persons to register by means of an alternate procedure if they are, at the material time, off Island due to their service, studies or employment; and also persons who are deemed to be vulnerable and at risk. The exact procedure will be specified in regulations and must make provision for such a person to be an eligible elector or in an equivalent position to an eligible elector.

These regulations are subject to the affirmative procedure.

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

The Speaker: Mr Harmer.

Mr Harmer: I beg to second. (Interjection)

The Speaker: Sorry, Clerk?

The Deputy Secretary: There is an amendment.

The Speaker: Yes, to this I have amendments 3, 4 and 5 in the name of Dr Allinson.

Dr Allinson: Thank you, Mr Speaker.

I would like to first talk to amendments 3 and 4. The amendment to this clause is purely to omit words which are not now necessary to the interpretation of the clause. The purpose of this clause is to allow certain categories of person to register. Whilst it is correct that the same persons would be able to request to vote by way of a postal vote, if they happened to be on the Isle of Man at the material time they would also be allowed to vote in person at a polling station.

With the omission of the wording in sub clause (1) and the further omission of sub clause (3), the clause will still entitle those people to comply with the registration requirement, they will just do it by an alternative means that will be prescribed by regulations.

In an amendment to clause 8, which is amendment 5, the purpose of clause 8 is to enable those persons who may be vulnerable or at risk the right to be included in the register of electors for their area without fear of being identified. Whilst the Officer may take account of the evidence supplied in support of an application, the Officer has the right to make up his or her own mind, thereby recognising that such evidence may not be readily available or may change in nature. As such, this amendment proposes to move the evidence that may be requested into regulations, recognising that it is an operational matter which is subject to the Officer’s discretion.

I now beg to move the amendments standing in my name.

Amendments to clause 7
3. Page 14, lines 19 to 21, in sub-clause (1) omit ‘and, upon doing so, is entitled to vote by means of postal vote (subject to the condition in subsection (3) having been satisfied)’.
4. Page 14, lines 31 to 34, omit sub-clause (3).

Amendment to clause 8
5. Page 14, lines 38 and 39, and page 15, lines 1 to 5, in sub-clause (1) for ‘any of the following — ‘ and paragraphs (a) and (b) substitute «such evidence as may be prescribed.».

The Speaker: Mr Hooper.

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

The Speaker: Thank you.

If no Member wishes to speak, I will put first the amendments number 3, 4 and 5 in the name of Dr Allinson. I presume that motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Putting clauses 7 and 8, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 9 and 10, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

These clauses specify that unless the Officer has any reasonable doubt about the accuracy of a person’s identity, age, residential status or legal capacity to vote, the Officer must enter their name and any other relevant personal data, as prescribed in regulations, in a register of electors. Furthermore, the Cabinet Office must issue guidance to enable a registered person to conclude when his or her name will be entered on the register.

If the Officer refuses to enter a person’s name in a register of electors that person may make an objection under Part 5.

Mr Speaker, I beg to move that clauses 9 and 10 stand part of the Bill.

The Speaker: Mr Harmer.

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

The Speaker: If no Member wishes to speak, I put the question that clauses 9 and 10 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 11-17, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clauses 11 to 17 inclusive, in Part 3, all concern the preparation, publication and maintenance of the register and are, in the main, procedural in nature – that is why I am moving them together.

Clause 11 obliges the Officer to publish a full and updated register of electors for each ward, district and constituency as applicable once a year. The clause further makes provision for what should happen if the date of publication is to change.

Clause 12 builds on the provisions of clause 11 and makes clear that to compile the updated register the Officer must use the following information: (1) relevant personal data, which has been processed to compile the most recent full and updated register; (2) all alteration notices published since the publication of the most recent full and updated register; (3) information
provided by the registrar of each district pertaining to those members who have died; and (4) any other relevant data.

The personal data may be submitted by the data subject or another person, and any Department or Statutory Board may disclose the information to the Officer to the extent necessary for the purposes of verification.

Clause 13 sets out requirements including where the Officer must place the updated registers after the updating process has been completed and the allocation of unique register numbers. In the event that no register of electors has been prepared for a polling district or has not been made available for inspection or has not been updated, the applicable part of the register previously in force must be taken to be the relevant part of the register for that district.

Regulations which are required to be made under this section require Tynwald approval.

Clause 14 makes clear where copies of the registers must be available for inspection and any public notices that are required in this regard.

Clause 15 sets out how changes are to be made to the register.

Clause 16 finishes the cycle and sets out when the Officer must remove relevant personal data of an eligible elector.

The final clause in this part is clause 17, which is an important clause in ensuring that an individual is able to take part in the democratic process of elections. It provides that even where the relevant personal data of a person does not appear on the last published alternation notice, the Cabinet Office may still permit that person to vote in an election. Any person who objects to the exercise at the Cabinet Office’s discretion may make an objection under Part 5.

Mr Speaker, I beg that clauses 11-17 inclusive stand part of the Bill.

**The Speaker:** Mr Harmer.

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

**The Speaker:** Thank you.

Amendments number 6 to 13, Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

Amendments 6 and 7 are purely stylistic to make clear that the body referred to is a local authority.

The purpose of amendments 8 to 13 is to insert a requirement into the clause that the Officer must promptly update each register of electors by removing the personal data of persons who cease to be a qualifying person. In this sense the clause now includes persons who no longer meet the qualifying criteria if, for example, they no longer have the legal capacity to vote.

The clause is further amended by the addition of subsection 1(c) to make clear that the removal of such a person is subject to the Officer having received such information in the manner prescribed by regulations.

I beg to move the amendments 6 to 13 standing in my name are moved.

*Amendments to clause 14*

6. *Page 19, line 18, in sub-clause (4), for ‘authority’ substitute «local authority».*

7. *Page 19, line 19, in sub-clause (5), for ‘authority’ substitute «local authority».*

*Amendments to clause 16*

8. *Page 20, line 17, in sub-clause (1)(a), omit ‘or’.*

9. *Page 20, line 18, in sub-clause (1)(b), for the full stop substitute «; or».*
10. Page 20, in sub-clause (1), immediately after line 18 insert the following new paragraph —
«(c) has ceased to be a qualifying person.».

11. Page 20, line 22, in sub-clause (2)(a), after the semicolon omit ‘and’.

12. Page 20, line 25, in sub-clause 2(b), for the full stop substitute «; and».

13. Page 20, in sub-clause (2), immediately after line 25 insert the following new paragraph —
«(c) subsection (1)(c) is subject to the Officer’s having received prescribed information in a manner that has been prescribed in conformity with the data protection legislation. Tynwald procedure – approval required».

The Speaker: Mr Hooper.

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

The Speaker: If no Member wishes to speak, I put first the amendments 6 to 13 in the name of Dr Allinson, and I presume that motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

I put clauses 11 to 17 stand part of the Bill, as amended. Those in favour — sorry! I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

It is amazing how we slip into old habits!

Mr Thomas.

Mr Thomas: Mr Speaker, thank you.

Part 4 refers to the Electoral Registration Officer, or ‘Officer’ as we have called them in the Bill, in clause 18 and those who are required to assist the Officer in clause 19. I propose to take these clauses separately as they refer to different people and obligations.

Mr Speaker, clause 18 obliges the Chief Secretary to make two appointments from persons employed in the Cabinet Office, namely an Electoral Registration Officer and a Deputy Electoral Registration Officer. It will be the duty of the Deputy to act when the Officer is unavailable.

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

The Speaker: Mr Harmer.

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

The Speaker: Thank you.

I put the question that clause 18 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 19, Mr Thomas.

Mr Thomas: Clause 19 particularises the assistance that must be given to the Officer by the registrar of each district, by local authorities and by any person who owns or occupies premises. Non-compliance may incur a criminal penalty for the clerk of a local authority, or a civil penalty for the owner or occupier of premises.

Mr Speaker, I beg that clause 19 stand part of the Bill.

The Speaker: Mr Harmer.
Mr Harmer: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

Dr Allinson, amendment number 14.

Dr Allinson: Thank you, Mr Speaker.

This amendment is purely stylistic to make it clear that the body referred to is a local authority.

I beg to move the amendment standing in my name.

Amendment to clause 19
14. Page 22, line 6, in sub-clause (2), for ‘authority’ substitute «local authority».

The Speaker: Mr Hooper.

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

The Speaker: If no Member wishes to speak, I shall put first that amendment 14 be agreed. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 19, as amended. I shall presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 20, 21, 22 and Schedule 1, Mr Thomas to move.

Mr Thomas: Part 5 comprises clauses 20 to 22, all of which relate to the determination of claims and objections. These clauses are restated unchanged from those that appear in the current legislation.

Clause 20 specifies who can make a claim or objection and obliges the Officer to maintain records of such claims and objections, which are to be available for public inspection.

Clause 21 specifies the procedure for the determination of such claims including notification provisions, and refers to Schedule 1 which makes further provisions for hearings to be heard and determined by the High Bailiff including the process of the hearing, the powers of the High Bailiff and the process to be followed on any appeal from the High Bailiff.

Finally, clause 22 provides when the Officer must, in accordance with regulations, modify the register of electors in accordance with the result of any claim or objection; and also contains provisions pertaining to jurors, namely that on the register they should be marked with a ‘J’ and a list sent in accordance with the legislation to the Clerk of the Rolls.

Mr Speaker, I beg that clauses 20, 21, Schedule 1 and clause 22 stand part of the Bill.

The Speaker: Mr Harmer.

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

The Speaker: Thank you.

Mr Hooper to move amendments 15 to 26.

Mr Hooper: Thank you very much, Mr Speaker.

I will go through these in order, which would really be quite sensible.

Amendments 15, 16 and 17 are quite straightforward, they are essentially one amendment and they are just to ensure that, for the avoidance of doubt, an appeal in connection with the
use of discretion by the Cabinet Office under clause 17 is included in the claims and objections process.

Amendment 18 includes a requirement for the Claims Officer to notify any parties and all parties to a claim or objection that a claim or objection has actually been made. So those are quite straightforward, hopefully.

Amendment 19 makes it a requirement for the officer who is disallowing or allowing a claim to notify each person who is concerned. The Bill originally said ‘may’, so this changes the word ‘may’ to ‘must’.

Amendment 20 clarifies the wording in subclause (5) in respect of when a matter must be referred to a hearing. This is basically because on my initial reading I was concerned the wording did not allow a hearing in any case where somebody was aggrieved by the initial decision of the officer. The language ‘allow’ or ‘does not allow’ or ‘disallow’ seemed quite vague and slightly convoluted language, and this amendment just has the effect of clarifying the intention here.

I think the only challenge here is the amendments themselves perhaps have not ever been used, so there is not really much experience here to be drawn on as to how they might operate in practice.

The amendments made to Schedule 1, which are amendments 21 to 26, are to clarify the hearing process itself. The effect of these cumulative amendments is to ensure that provisions operate as the Bill seemed to intend them to operate. The hearing process looks like it should constitute a two-stage process. The hearing that Schedule 1 deals with can be for two reasons: the hearing could be an initial hearing as referred under clause 21, or it can be an appeal hearing following that initial decision. Both functions serve slightly different purposes and the original provisions in Schedule 1 seem to muddle up the two together a little bit. These amendments simply have the effect of clarifying the intended process.

So, as with the amendments to clause 21, I do not think these provisions have ever actually been used in practice but I think if they ever do become needed it is only right that they do the job they are intended to do.

So with that, Mr Speaker, I beg to move amendments numbered 15 all the way through to 26.

Amendments to clause 20
15. Page 22, line 31, in sub-clause (1)(b)(ii), omit ‘or’.

16. Page 22, line 32, in sub-clause (1)(b)(iii), for the comma substitute «; or».

17. Page 22, in sub-clause (1)(b), immediately after subparagraph (iii) insert the following new subparagraph — «(iv) in accordance with section 17(4),».

18. Page 23, lines 1 to 3, for sub-clause (3) substitute the following — «(3) The Officer must, on receipt of a claim or objection under this section, — (a) maintain such records in such form and containing such information as may be prescribed; and (b) give notice of the making of the claim or objection, as the case may be, — (i) to every person affected by it; and (ii) in such written form as must be prescribed.».

Amendments to clause 21
19. Page 23, line 30, in sub-clause (4), for ‘may’ substitute «must».
20. Page 23, lines 36 to 40, for sub-clause (5) substitute the following —

«(5) In any case in which —
(a) the Officer does not allow or disallow a claim or an objection; or
(b) the Officer either allows or disallows a claim or an objection, and any person has in writing advised that Officer that the person is aggrieved by the allowance or disallowance, as the case may be,
the Officer must refer the matter for a hearing under Schedule 1 and must give to each person concerned a notice in writing of the time and place at which the matter will be dealt with under that Schedule.».

Amendments to Schedule 1
21. Page 31, line 6, in paragraph 1, for ‘paragraphs (a), (b)(ii) and (b)(iii) of section 20(1)’ substitute «paragraphs (a), (b)(ii), (b)(iii) and (b)(iv) of section 20(1)».

22. Page 31, immediately after line 24 insert the following new cross-heading and paragraphs —

«Hearing and determination of appeals of decisions made by the Officer
6. Where, pursuant to section 21(5)(b), the Officer refers a matter for a hearing under this Schedule, the High Bailiff must hear and determine the aggrieved person’s appeal against the Officer’s decision to allow or disallow the claim or objection, as the case may be.
7. Paragraphs 2 to 5 apply mutatis mutandis to a hearing referred to in paragraph 6.».

23. From lines 26 on page 31 to line 19 on page 32, renumber paragraphs 6 to 10 as paragraphs 8 to 12.

24. Page 32, line 20, after the renumbered paragraph 10 insert the following new cross-heading and paragraphs —

«Provisions specific to an appeal to the High Bailiff
13. When hearing an appeal referred to in paragraph 6, the High Bailiff has —
(a) the power conferred by paragraph 8; and
(b) the power to either affirm or overrule the decision being appealed.
14. Paragraphs 16 to 20 also apply to the decision of the High Bailiff on an appeal referred to in paragraph 6.
15. The High Bailiff must endeavour to reach a decision on an appeal before the day of the election to which the decision being appealed (“the decision”) relates; but where, despite best endeavours, a decision is not reached before the election, the appellant and any other person affected by the decision must be permitted to vote in the election regardless of whether or not the effect of the decision is that such voting ought not to be permitted.».

25. Page 32, line 20, for the cross-heading substitute the following —

«Appeals regarding decisions of the High Bailiff».

26. From line 21 on page 32 to line 3 on page 33, renumber paragraphs 11 to 15 as paragraphs 16 to 20.

The Speaker: Dr Allinson.

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

The Speaker: Thank you.
If no Member wishes to speak, I put first that amendments 15 to 26 in the name of Mr Hooper be approved, and I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Putting clauses 20, 21, 22 and Schedule 1 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 23, Mr Thomas.

The Speaker: Clause 23, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Part 6 is the last part of the Bill and contains general and miscellaneous provisions.

Clause 23 provides an enabling power for regulations to be made to prohibit and/or restrict what can be done with the register of electors.

Mr Speaker, you will note that this Bill contains no provisions with regard to the edited register, which appears in the current legislation. This Bill, if approved, will make the edited register a thing of the past. The only register that will exist is the full register and with restrictions on its use; people whose name appears on the register are afforded additional privacy. Regulations may make non-compliance an offence.

Mr Speaker, I beg that clause 23 do stand part of the Bill.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: If no Member wishes to speak I put the question that clause 23 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 24, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

This provides a general power for the Council of Ministers to make regulations to give effect to the Act and specifies certain matters that regulations must make provision for. The regulations may also make non-compliance an offence. Any such regulations must be approved by Tynwald before they come into force.

Mr Speaker, I beg that clause 24 do stand part of the Bill.

The Speaker: Mr Harmer.

Mr Harmer: I beg to second.

The Speaker: If no Member wishes to speak I put the question that clause 24 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 25, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
Clause 25 provides two financial provisions in relation to this Bill. The first permits expenses incurred by the Treasury, the Cabinet Office, the Clerk of the Rolls, the High Bailiff and the Officer to be paid out of moneys provided by the Treasury.

The second allows the Cabinet Office, subject to Treasury concurrence, to prescribe fees that the Central Registry can impose under clause 24(2)(b) for the supply of copies of the register and other documents.

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

The Speaker: Mr Harmer.

Mr Harmer: I beg to second.

The Speaker: Thank you.

If no Member wishes to speak I put the question that clause 25 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 26, Mr Thomas.

Mr Thomas: Clause 26 makes clear that personal data disclosed by the Treasury under the Census Act can be processed by the Cabinet Office or the Officer for the purposes of compiling or reviewing a register of electors. Any processing, however, must comply with the data protection legislation.

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

The Speaker: Mr Harmer.

Mr Harmer: I beg to second.

The Speaker: If no Member wishes to speak I put the question that clause 26 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 27, Mr Thomas.

Mr Thomas: Clause 27 makes necessary consequential amendments to other pieces of primary legislation. I do not intend to list every amendment which, in the main, are changes to the terminology. However, most notably this clause inserts a clause into the Census Act 1929 to in effect create a legal gateway to allow for the disclosure of data by the Treasury to the Officer, for the sole purpose of verifying information submitted under this Bill.

Mr Speaker, I beg that clause 27 do stand part of the Bill.

The Speaker: Mr Harmer.

Mr Harmer: I beg to second.

The Speaker: I put the question that clause 27 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 28, Mr Thomas.
Mr Thomas: Thank you, Mr Speaker.
This clause has the sole purpose of repealing the Registration of Electors Act 2006 in its entirety.
Mr Speaker, I beg that clause 28 do stand part of the Bill.

The Speaker: Mr Harmer.

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

The Speaker: I put the question that clause 28 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.
No dissent being indicated. The ayes have it. The ayes have it.

Registration of Electors Bill 2020 –
Standing Orders suspended to allow Third Reading

Mr Thomas to move:

That Standing Orders, and in particular Standing Order 4.11 (1), be suspended to permit Third Reading of the Registration of Electors Bill 2020 to be taken at this sitting.

The Speaker: I call on Mr Thomas to move for the Suspension of Standing Orders to allow Third Reading.

Mr Thomas: Thank you, Mr Speaker; and I would thank Hon. Members for taking very seriously all these clauses over the last few months and in fact over the last few years because this Bill has been in development for a number of years.
I would call for Standing Orders and in particular Standing Order 4.11(1) to be suspended to permit Third Reading of the Registration of Electors Bill 2020 to be taken at this sitting.
Mr Hooper made an incredibly important point when the similar motion was considered in respect to the Bank (Recovery and Resolution) Bill and the intention of suspending Standing Orders is exactly the one I believe Mr Hooper would want, which is to maximise the amount of time that is available for the Legislative Council to consider this Bill given that it has been considered so carefully in the House of Keys up to this point. So there will be no intention whatsoever to speed the Bill through the Legislative Council.
Mr Henderson, who is kindly taking it, has been prepared for that since February and Members of the Legislative Council have received all the paperwork for the consultations.
I hope that Hon. Members will agree to suspend Standing Orders to allow Third Reading to be taken today.

The Speaker: Mr Harmer.

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

The Speaker: If no Member wishes to speak, I put the question that Standing Orders, and in particular Standing Order 4.11 (1), be suspended to permit Third Reading of the Registration of Electors Bill 2020. I presume the motion will be carried unless any Member indicates dissent, which they should do now.
No dissent being indicated. The ayes have it. The ayes have it.
Mr Thomas to move:

That the Registration of Electors Bill 2020 be read the third time.

The Speaker: I call on Mr Thomas to move Third Reading.

Mr Thomas: Thank you, Mr Speaker.
Firstly, thank you to Hon. Members for supporting the suspension of Standing Orders to allow for the Third Reading of the Bill to be taken today.
Mr Speaker, I am also grateful to Hon. Members for their contributions to the Bill throughout, and the consultations before that, particularly Mr Hooper who has paid such close attention to so many parts of it.
This Bill modernises the system of electoral registration which, as we all know, is an essential part of ensuring that democratic elections can be held in the Isle of Man.
It introduces the concept of individual and continuous registration, improves the process of registration for the electorate and generates efficiencies for Government.
This legislation will result in a more accurate and complete electoral register, thereby supporting efforts to strengthen political engagement and increase voter turnout.
I thank the officers who have prepared this legislation so diligently and so professionally. I thank seconders and movers.
With that, Mr Speaker, I beg to move that the Registration of Electors Bill 2020 be read for the third time.

The Speaker: Mr Harmer.

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

The Speaker: I put the question that the Registration of Electors Bill 2020 be read for the third time. I presume the motion will be carried unless any Member indicates dissent, which they should do now.
Mr Hooper has indicated dissent, so we shall move to a vote.

The Speaker: Mr Moorhouse, if you are there and you can hear me, could you cast your vote, please?

The Deputy Secretary: Mr Speaker, Mr Moorhouse has sent in a vote by email and it is a yes.

Voting resulted as follows:

FOR
Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Miss Costain
Mr Cregeen

AGAINST
None

823 K137
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

The Speaker: In which case, by my rudimentary maths, I make that 23 votes in favour and none against. The ayes have it. The ayes have it.
Hon. Members, that completes the business before the House this afternoon. Congratulations for your forbearance and very well done to those who were quick off the draw with their speaker finger.
The House now stands adjourned until Tuesday 19th in Tynwald Court.
Thank you very much.

The House adjourned at 6.18 p.m.