Douglas, Tuesday, 2nd June 2020

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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);
Mr 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);
Hon. 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 permit the House to sit virtually.................................861

2. Questions for Oral Answer...............................................................................................862
   2.1. Town Centre Purchase Incentive – Statement on progress.................................862
   2.2. Castletown Housing Land Review – Sites identified........................................863
   2.3. Home learning for children not able to return to school – DESC plans for enabling.....865

Procedural ..........................................................................................................................872

3. Questions for Written Answer.........................................................................................873
   3.1. Remote learning during coronavirus period – DESC policy and minimum standards ...873
   3.2. Comis Hotel quarantine solution – Basis for preference over self-isolation ...........874
   3.4. Breaches of Emergency Powers Regulations – Number of people in police custody and details ..................................................................................................................876
   3.5. Police detainment – Maximum number of prisoners .............................................878
   3.6. Prevention and spread of COVID-19 – Police provisions to protect detainees and officers ..................................................................................................................879
   3.7. COVID-19 regimes at Prison – Details of application to inmates .........................879

Order of the Day ................................................................................................................881

4. Consideration of Clauses.................................................................................................881
   4.1. Elections (Keys and Local Authorities) Bill 2020 – Clauses considered ...............881

The House adjourned at 1.05 p.m. and resumed its sitting at 2.30 p.m. .................................931

Elections (Keys and Local Authorities) Bill 2020 – Standing Orders suspended to take
Third Reading .......................................................................................................................931

Elections (Keys and Local Authorities) Bill 2020 – Third Reading approved ......................932

4.2. Road Traffic Legislation (Amendment) Bill 2020 – Clauses considered .....................934

Road Traffic Legislation (Amendment) Bill 2020 – Standing Orders suspended to take
Third Reading .......................................................................................................................962

Road Traffic Legislation (Amendment) Bill 2020 – Third Reading approved ......................963

The House adjourned at 4.27 p.m. ....................................................................................966
The House met virtually at 10.00 a.m.
Proceedings were conducted and broadcast live
from the Legislative Council Chamber.

[MR SPEAKER in the Chair]

The Secretary: The Speaker is in the Chamber.

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

PRAYERS
The Chaplain of the House

1. Standing Orders suspended
to permit the House to sit virtually

Mr Cregeen to move:

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

The Speaker: Gura mie eu.
We have no leaves of absence today, so we move into our Order Paper.
I am wondering, do we have the Deputy Speaker in the meeting? Mr Robertshaw?

The Deputy Secretary: He is not here yet, Mr Speaker. Colleagues are in touch and they are trying to help him get on the call.

The Speaker: Thank you very much.
Mr Cregeen, would you mind?

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

The Speaker: Thank you. I seek a seconder for that. Mr Perkins, would you mind?

Mr Perkins: Thank you, Mr Speaker.
I beg to second the motion, thank you.
2. Questions for Oral Answer

TREASURY

2.1. Town Centre Purchase Incentive – Statement on progress

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for
the Treasury:

If he will make a statement on the progress made with the Town Centre Purchase Incentive?

The Speaker: Thank you very much.

We turn to Questions for Oral Answer and Question 1 is in the hands of the Hon. Member for
Arbory, Castletown and Malew, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.

I would like to ask the Treasury Minister if he will make a statement on the progress made
with the Town Centre Purchase Incentive?

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

The Minister for the Treasury (Mr Cannan): Mr Speaker, in last February’s Budget I
announced that I had asked the Assessor of Income Tax to develop a town centre purchase
initiative with a view to assisting in developing our town centres and encouraging individuals to
move back into them. I did stress at the time that the incentive was very much in its infancy and
ideas being considered included full tax relief for interest paid on a mortgage for the first few
years following purchase within designated zones.

I am sure that Hon. Members will appreciate that in light of the coronavirus pandemic our
overriding priorities in recent weeks have been to ensure the health and safety of everyone and
to protect jobs and businesses. Therefore any further consideration of ideas was temporarily put
on hold.

Treasury officers have been redeployed to assist in the administration of the various support
schemes in recent weeks, but as they are now returning to their usual roles I can assure him that
we will turn our attention to looking at the introduction of incentives to encourage urban
regeneration and development as part of our ongoing economic plans.

The Speaker: Supplementary question, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker; and thank you, Minister, for that Answer.

In terms of expecting an update, possibly July is too soon. But in terms of the initiative, rather
than spending a lot of time creating something quite magnificent, would it be possible to test a
scheme potentially next spring, in one area of the Island, such as Castletown?

Thank you, Mr Speaker.

The Speaker: I am sure that Castletown was chosen purely at random.

Minister to reply.

The Minister: Mr Speaker, as I highlighted in February we would look at designated zones if
we brought in an initiative such as bringing in full tax relief or interest on a mortgage for an
apartment or a residential property. Therefore I do not necessarily see that we would have to
limit that to one particular specific town on the Island, but would probably incorporate that
more broadly across the Island.

Mr Speaker, given the current need for a sense of urgency to develop around our economic
planning, and what the Treasury, Government and private sector need to do to sustain a
productive future for the Isle of Man, given what has happened as a result of the virus, one
would hope that we adopt some of these plans at least with a sense of urgency in terms of
developing them and bringing them forward.

CHIEF MINISTER

2.2. Castletown Housing Land Review –
Sites identified

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Chief Minister:

If he will make a statement about the sites identified in the Castletown Housing Land Review
following the Planning Committee’s and the Inspector’s decisions on applications that have
been submitted?

The Speaker: Thank you.

We turn to Question 2 and I call on the Hon. Member for Arbory, Castletown and Malew,
Mr Moorhouse, again.

Mr Moorhouse: Thank you, Mr Speaker.

I would like to ask the Chief Minister if he will make a statement about the sites identified in
the Castletown Housing Land Review following the Planning Committee’s and the Inspector’s
decisions on applications that have been submitted?

The Speaker: Just to make the point that the connection there was a bit difficult. This
Question obviously in light of recent events has been redirected to the Chief Minister, so I call on
the Chief Minister to reply.

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

Hon. Members will recall that a shortlist of four sites was identified by the Castletown
Housing Land Review as being worthy of proper consideration through the planning application
process. The Cabinet Office invited the submission of planning applications for the potential
development of these sites and so far two applications have been made. The first is for
dwellings, sheltered housing, a care home, a community centre, parking, open space and
associated infrastructure works east of Malew Road. Approval in principle for a residential
development has been submitted to the Department of the Environment, Food and Agriculture.

As I understand it, a decision on this is pending.

The second planning application was for 48 new homes on land adjacent to Knock Rushen. It
was refused by the Planning Committee. The independent inspector recommended refusal at
appeal and this recommendation was accepted by the Department of Environment, Food and
Agriculture and a decision issued to that effect on 15th April 2020.

That recent appeal decision was helpful and if we can take one thing away from the report it
is the weight that decision makers attach to the Island development plan in the determination of
planning applications. What is needed now is to look again at the development opportunities in
Castletown in the context of the timetable to complete the set of area plans for the Island.
So, Mr Speaker, we are further forward in answering the very difficult question of how to provide more housing in Castletown.

The Speaker: Supplementary question, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker; and thank you, Chief Minister, for such a detailed Answer.

In terms of a timetable, given where we are with the Eastern Plan, is there any suggestion where any other area of the plan, especially that in the south, can possibly be looked at?

Thank you.

The Speaker: Chief Minister.

The Chief Minister: Thank you, Mr Speaker.

I think if there is a time to reflect on this and if there are clearly some problems going forward, then I understand the formal preliminary publicity stage for the north and western process has not begun yet, and as such there are currently no time pressures for delivering a draft plan for the north and west under the Town and Country Planning Act. So the option is feasible if we needed to include the south, Mr Speaker, to help Castletown.

But, as I say, the second application in principle is still pending. It is the biggest, I think it takes on two of the four sites and I think we should really wait to see how that application comes out before we look to taking this further on, Mr Speaker.

The Speaker: Supplementary question, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker; and to the Chief Minister for that comprehensive reply earlier on.

The timetable for the area plans has been mentioned. When does the Chief Minister expect the Area Plan for the East to be before Tynwald Court? And does the Chief Minister agree with me it would be disappointing to rely solely on the Town and Country Planning Act legal framework for the area plans for the north and west given the substantial commitment in the Programme for Government to deliver them during this administration?

The Speaker: Unfortunately, that is so far outside the realms of the Question that I do not even think I should put it to the Chief Minister.

Next supplementary question, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

Would the Chief Minister agree with me that it is very unfortunate that none of the brownfield sites identified in the Castletown housing review have come forward? Perhaps this reflects lack of progress on brownfield incentives.

The Speaker: Chief Minister.

The Chief Minister: Thank you, Mr Speaker.

I think it is fair to say that I too, like the Hon. Member for Middle, Mr Shimmins, agree that if a brownfield site can be developed first then that is obviously in everyone’s interest. It is disappointing. I know of the 20 sites that were put forward, 40% of them were unable to be developed at the current moment in time from the review. There were four sites put forward, sites 2, 5, 6 and site G, and I look forward to the other site coming forward in the near future.
But I do share his concerns on the brownfield sites and obviously we will be looking further on brownfield sites for the Eastern Area Plan and going forward with the other two areas, west and north.

The Speaker: Now, another supplementary question, Mr Thomas. If we could keep it a bit more relevant to the Castletown Housing Land Review, please, then that would be more than welcome.

Mr Thomas: Thank you, Mr Speaker.

The Speaker: No, the Question is as tabled. That is the area for questioning.

Mr Thomas: Can the Chief Minister advise when the Castletown commissioners can expect that attention will be paid to the Castletown housing issue in the light of the timetable for the area plan for the east, and the north, and the west?

The Speaker: Chief Minister.

The Chief Minister: Thank you, Mr Speaker.

I am more than happy to advise that, once we have had a decision on the first and only remaining planning application to try and resolve this, if it is not a favourable result for some in the Castletown area then obviously we will be setting up meetings as soon as possible with the local authority to see if we can find a way forward.

EDUCATION, SPORT AND CULTURE

2.3. Home learning for children not able to return to school – DESC plans for enabling

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Education, Sport and Culture:

What plans the Department has for enabling and supporting home learning for those children who are not able to return to school in line with the Department’s re-opening proposals; and if he will make a statement?

The Speaker: We turn to Question 3. 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 Education, Sport and Culture what plans the Department has for enabling and supporting home learning for those children who are not able to return to school in line with the Department’s re-opening proposals; and if he will make a statement?

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

The Minister for Education, Sport and Culture (Dr Allinson): Thank you, Mr Speaker.

The Department’s aspiration is very much that attendance at school can be expanded as soon as it is safe to do so and that as many pupils as possible will be able to regain access to face-to-
face lessons. However, we are aware that a safe and steady increase of school provision will mean that some pupils will continue to need to access learning remotely. For those pupils unable to attend their schools remote learning resources have been provided, using printed material and workbooks distributed to pupils by their teachers or through online resources.

With regard to the use of online platforms for learning, schools are using a range of mediums at present. The two most prominent in primary and secondary settings are ‘Google Classrooms’ and ‘itslearning’. Both offer the function to set assignments, surveys, quizzes and polls. As the Hon. Member will recall, the Department’s recommended platform is itslearning as this also offers the function of opening up dialogue and feedback from teachers on learning submitted and enabling learning and support to be targeted where most needed. Schools have been developing these more interactive platforms while also using their websites to keep parents abreast of developments with exams, information regarding transition points and posting activities and projects that where possible closely mirror the planned curriculum.

With regard to video conference lessons, over a series of weeks we have trialled and then successfully rolled out the use of ‘Microsoft Teams’ to pupils and teachers. Upon their completion of appropriate risk and information assessments many schools are now using either this platform or others to hold individual or group learning sessions with pupils. We have encouraged schools to either engage in this type of lesson video conferencing or recording of instructional clips for pupils, which can hopefully go some way to alleviating concerns of parents and bridging any educational loss as the result of reduced face-to-face teaching.

The Department, with the support of GTS, has also enabled schools to loan devices to households who, for whatever reason, may be struggling to access the teaching and resources being made available. This is alongside exploring how we can enable greater broadband coverage for disadvantaged families, or families whose children need to stay at home for longer due to continued shielding from the virus.

Thank you, Mr Speaker.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker. I would like to thank the Minister for that quite long and detailed Answer. He mentioned quite a lot in there about encouragement and guidance being provided. The Minister knows from conversations we have had previously, that a number of parents are concerned about the somewhat disjointed approach that is being fed out across the Island, concerns raised such as a lack of routine and a lack of interaction with teachers.

On the flipside of this the Minister is, I am sure, aware of a wider range of best practice that is being shown by the schools across the Island. I just wonder if any decision or any work is under way in respect of turning this best practice into a kind of minimum expectation so that parents know really what it is they can and should be expecting from their schools.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker; and I would like to thank the Hon. Member for his question.

I completely take on board the concerns from parents about what can be seen as the disjointed approach across the Island. I think we have to remember that even before the health emergency there was disparity in terms of the use of online resources in particular from different schools, and the sudden closure of schools did not allow time for the adequate training of some staff who were not au fait with the technical requirements. There were also some infrastructure issues and also safeguarding protocols that needed to be drawn up, particularly in terms of online lessons where you may be inviting a whole group of pupils to be online at the same time.
I think he is absolutely right that certain schools have excelled in terms of developing routines and very good interaction with their parents and with their pupils during this very difficult time for everyone. But others have been less quick to take up these options. What the Department is doing is trying to share best practice and set up a lot of support for those schools who need extra guidance in terms of how they can develop their online services both now and for the future. I think we all accept that online learning and remote learning, whilst very important now, has a real potential in the future as well. What we are going through at the moment is accelerating some of the changes that the Department is already thinking about to ensure that those pupils who may not be able to come to school, or perhaps want to access education in a slightly different way, are able to do so online or remotely.

Thank you Mr Speaker.

**The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker. I am just wondering if the Minister could confirm with regard to infrastructure which he mentioned there, that the Government Technology Services are making sure there are adequate services available for our schools?

Then, also, can the Minister confirm that he will be ensuring there is adequate budget for our schools to be able to develop further online services?

Then, also, if the Minister could advise: he mentioned vulnerable students but there are still a number of students in a vulnerable category who have perhaps shared parental responsibility and will not necessarily have access in both homes, or have access at all. How is the Minister going to address these individuals?

**The Speaker:** Minister to reply.

**The Minister:** Thank you very much, Mr Speaker. I would like to thank the Hon. Member for Onchan for her question.

In terms of the infrastructure, yes, GTS have been incredibly helpful in terms of facilitating schools to loan out various bits of equipment to their pupils. Actually we have a departmental meeting tomorrow to go through how we can expand this and a budget as well for extending this to those pupils who may need it for the foreseeable future – certainly until the end of the academic year if they need to shield at home.

She makes a very good point about shared parental responsibility and when you have a child going from different households, and that is why we have been very much looking at expanding the access to mobile devices but also expanding the access to mobile broadband access as well. We have got a paper going before the Department tomorrow looking at how we can try to make sure that those pupils who need to be online in particular, especially when they are in one or two different environments, are allowed to take their online access with them.

Thank you very much, Mr Speaker.

**The Speaker:** Supplementary question, Mrs Barber.

**Mrs Barber:** Thank you, Mr Speaker. Would the Minister accept that up until now the activities undertaken in the hub school have been primarily arts, crafts and sports-based; and, as the wider school community returns and refocuses on educational activities how will he ensure that those students still not able to attend physically are not reliant on the ability of parents to teach them where those parents may also be trying to work from home?
The Minister: Thank you, Mr Speaker.

I think the Hon. Member makes a very good point that we have had to adjust to a rapidly changing situation. There has been quite a lot of educational input at the hub schools for those children who have been attending, particularly the vulnerable children and children of key workers. But she is absolutely right, as we get more and more children back into their own schools following 15th and then 17th June the educational requirement will need to get back to a sense of normality and follow a more normal curriculum. Also we will have to extend that to the remote learning for those children who feel unable to come back to school.

The Department has made it quite clear throughout this health emergency that the obligation for parents to send their children to school has been removed because, quite rightly, there is a lot of apprehension there. The role of the Department and the role of the Education Services is to try to instil more confidence in parents that the schools, when they reopen, will be safe and they will be able to send their children back to school. We hope that this, with a revamped and expanded range of remote-learning options, will ensure that people get the opportunity to catch up with any educational deficits they may have had during what has been really quite a difficult time for all of us.

Thank you, Mr Speaker.

The Speaker: Supplementary question, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I would like to thank the Minister actually for the terminology he is using here, he keeps referring to ‘remote learning’ as being distinct from just online lessons. I think that is quite important for us to bear in mind, so I would like the Minister for that.

In the context though of helping these kids who will not necessarily be able to return in line with the Department’s proposals, the Chief Minister I believe in the press conference talks about possible changes to the social distancing guidance coming up in the next couple of weeks, provided things all go well. I am just curious from the Minister’s perspective, in the context of how much work, time and energy is going to be spent developing this new blended learning provision, what impact those changes might have on the Department’s plans?

The Speaker: Minister to reply.

The Minister: Thank you very much, Mr Speaker; and I would like to thank the Hon. Member for Ramsey for pointing out the difference between remote learning and online lessons.

I think there has been a lot of emphasis on online provision of teaching which obviously has a big role to play, particularly for older children. But actually when you look at the evidence of remote learning and giving workbooks and guiding children through more conventional teaching can be equally as rewarding, particularly with primary school children.

In terms of his questions about social distancing – and again the term social distancing is a little bit misleading because we are really talking about physical distancing. The Chief Minister made an announcement last night at his press conference that that would be reviewed, because there is a lot of evidence now that the two-metre guidance that was followed very much in line with the United Kingdom is perhaps slightly out of line some of the more international parameters used, particularly the World Health Organisation which recommends one metre. Certainly the Departments have been looking at other jurisdictions that have applied different guidelines for use in school environments and other environments where physical distancing of two metres may be impossible.

There has also been some very good research sponsored by the World Health Organisation which was released only this morning which looked at the relative and absolute risks of transmission of viruses with different distances. The Department will be taking that on board.
and consulting with teachers and their representatives throughout the next couple of weeks to come up with a good Manx solution that will work for us and keep us all safe.

Obviously, if we can in some way look at the physical distancing that we need to keep in schools, look at the health and safety guidance and the hygiene guidelines, there is the potential there to invite a lot more students back to take part in face-to-face lessons. I think that is important educationally but also in terms of the well-being of the children, because to come back to a classroom where you are physically separated from your peers and your friends, where you are not allowed to play with them and not allowed to eat with them, could be actually quite a strange environment. Certainly the Departments are aware of the need to reintegrate children back into a school environment after what has been quite a long period of being at home.

Thank you, Mr Speaker.

The Speaker: Supplementary question, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I would just like to ask the Minister, he did say that he has prepared a paper with regard to helping students that perhaps need some support in accessing online learning from the home. Could the Minister just confirm that that will be financial support for some of the most vulnerable?

Also, could the Minister confirm that Isle of Man College is also looking at all of their online learning? Obviously from a college perspective it is leading towards a university degree, etc. and there is far more opportunity for online learning going forward in the future rather than actual physical presence.

Apologies, one more question: with regard to students who have allergies, etc. arriving back in school – and this allergy could be for alcohol gels, etc. – how is the Minister going to ensure that these individuals are protected within the school environment, because the school will be very aware of certain allergies of some of their students?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker; and I would like to thank the Hon. Member for her questions.

In terms of the first question which was about of financial support for those most vulnerable pupils. Yes, she is absolutely correct. There are a whole range of reasons why a pupil at home may not be able to access online resources and we need to look at those on an individual basis. One of the things that we are very keen on doing is that as those children come back to school, or perhaps do not come back to school, use the expertise of their individual teachers to guide us in terms of future policy.

She makes a very good point about University College Isle of Man and the work that they have been doing in terms of online resources, they are really at the forefront of a lot of the online resources and actually lending out equipment such as laptops to their pupils, and they have got a very good system for doing that.

I think the reality that we have seen in the adjacent isle is that quite a few of the higher education facilities there are already looking forward to the next academic year and are adopting far more of an online presence. We are not sure at the moment how that will affect Isle of Man students who are perhaps wanting to start university the first time in September, but we are closely observing that. We need to make sure that those pupils get the education they want, whether that be virtually or physically; but perhaps more importantly get the pastoral care that they need on the Island if they are taking part in distance learning, because the experience of going to university is not just about education, it is far more social than that. I know that UCM has been particularly proactive in trying to encourage that.
She makes the very good point about allergies in schools which are obviously always an issue and always a priority for the Department. One of the things that we have been considering is that as children go back to their schools how we deal with things like school meals, and how we minimise any risk in terms of a large dining room. So we have taken a proactive approach in terms of packed lunches but we are also very aware about the allergy risks of that when people are eating together. We will be ensuring that we consider those children who may be vulnerable due to allergies or sensitivities to things like alcohol gels, that they are dealt with in the correct and appropriate way.

Thank you, Mr Speaker.

The Speaker: Thank you.

Supplementary question, Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.
Could I ask the Minister a couple of questions please?
Firstly, can he give an indication if the Department actually knows the proportion of students and pupils at primary school who have not engaged with online learning during the period of 10 weeks now that they have not been attending school? How many children have received little or effectively no education or engagement with their schools?
Secondly, would he agree with me that children returning to school is the most preferable?
Can he give any indication, given the Chief Minister’s expressed optimism in yesterday’s media briefing over the Isle of Man’s level of cases of COVID at the moment, would he expect to anticipate the majority of children may be able to return to schools before the summer holidays? Would that be his preference?
Thank you, Mr Speaker.

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker. I would like to thank the Hon. Member for Garff for her questions.

In terms of the proportion of students who have not engaged with schools, that is an extremely good point. We think it is a fairly small number. What we have tried to facilitate is that head teachers have actively been contacting pupils on a regular basis but obviously if they are at home this can be challenging in terms of talking to the students themselves rather than their parents.

There have been a minority of cases where, because of concerns, teachers have actually tried to encourage students to come back, perhaps those who were not seen as vulnerable before the health emergency, to make sure that their needs can be adequately assessed. But I would like to think that the vast majority of pupils have engaged with their schools and have actually been looked after by their teachers and received some educational content. There is a range of reasons why some have not and again what we cannot do is assess the educational input that they have had from their parents. But certainly in my conversations with teachers I think most parents have been working extremely well with their head teachers and with their schools to try to do the best for their children.

In terms of opening up the schools, I completely agree with her that what we are dealing with is really an unprecedented situation and the best thing would be to get children back into their schools – back to the teachers who know them, back to their friends who can support them and try to get back to a sense of normality. In terms of the schedule for this, obviously at the moment we are in the early stages, hopefully confident stages, of being able to suppress the virus on the Isle of Man; and she references the Chief Minister’s statement of yesterday.

The current timetable is that all schools on the Isle of Man will reopen on 15th June; and on 17th June those pupils currently studying at the hub schools will come back to their own school.
We anticipate then opening up the school to some of the key age groups, 2 and 6 in primary schools and 10 and 12 in secondary schools. My aim would be to do this from 22nd June and then a phased return of the other year groups.

Obviously we may be able to accelerate that return to school if the health situation is still stable. But we need to be careful that if, for whatever reason, the health situation on the Isle of Man should deteriorate we can slightly delay some of that transition. But certainly it would be my hope and aspiration, and I think the hope and aspiration of all teachers and pupils and parents, to try to return all children to their schools by the end of the academic year.

Thank you, Mr President.

The Speaker: Now a final supplementary, Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

It was good to hear that the Minister for Education is concerned about the educational deficits, which were his words. And this is a concern for many pupils and parents.

What initiatives will he be bringing forward to overcome this deficit? I am aware that all schools in Guernsey are opening five days a week for all year groups from Monday. And our children are falling behind. Parents want to know when the Isle of Man will catch up. They want details; they do not want delays.

The Speaker: Minister to reply.

The Minister: Thank you very much, Mr Speaker; and I thank the Hon. Member for Middle for his comments.

I completely agree that some parents are getting very frustrated and want to send their children back to school. However, I am also cognisant that some parents are actually quite scared and quite anxious about sending their children back into an environment where perhaps they do not feel that it is necessarily safe at the moment.

He references Guernsey. I do not think that education should ever be a competition between jurisdictions. Guernsey is in a slightly different place to the Isle of Man at the moment and they have made their own decisions based on their own health data. On the Isle of Man we will do exactly the same.

But whilst he talks about educational deficit, we will not actually understand what children have lost out with in terms of their education, if anything, until we are able to get them back to schools. So whilst he talks about delays and people wanting to get their children back to school, which I completely appreciate and which I am trying to facilitate, really my main emphasis with all of this is on the safety of pupils and the staff who work in our schools, rather than some speed or competition with other jurisdictions. I would like to reassure him and his constituents that the Department will be doing as much as possible to make sure that the children on the Isle of Man, and their education, are not victims of the current pandemic.

Thank you, Mr Speaker.
The Speaker: That brings us to the end of Questions for Oral Answer.

Just before we move on, I have been asked by the Clerks to do a sound check for Mr Robertshaw who has joined us late, presumably stuck behind some cows on the information superhighway.

Mr Robertshaw, are you there?

Mr Robertshaw: Yes, good morning, Mr Speaker. I was able to move, thank you.

The Speaker: Good, thank you.

The other notice I need to give you is that our streaming is down; however, Manx Radio will be broadcasting on AM for the whole sitting, for your information.

Okay, we turn then to Questions for Written Answer and they will be circulated by the Table Office shortly.
3. Questions for Written Answer

EDUCATION, SPORT AND CULTURE

3.1. Remote learning during coronavirus period – DESC policy and minimum standards

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Education, Sport and Culture:

What the Department’s policy on remote learning has been through the period schools have been closed owing to coronavirus; what expectations or minimum standards were set for schools; and if he will make a statement?

The Minister for Education, Sport and Culture (Dr Allinson): The Department would always expect schools to offer the best quality education they can for pupils throughout their school careers and fully understands concerns for children during this critical period of their education.

It has to be acknowledged, of course, that schools did close somewhat unexpectedly and that schools have had to adapt as quickly as they could, significantly expanding opportunities for remote learning. Long-term plans to develop more opportunities for remote learning have had to be accelerated and this has not always been easy where staff and pupils may not have had the requisite expertise, or indeed hardware or bandwidth, to enable this.

To change the location of learning, to this extent, is quite a significant shift for the school system. It is not quite as straightforward as just delivering lessons in an online format but the particular nature of this style of teaching also has to be understood and accommodated. Schools are also developing such systems at the same time as delivering a ‘front-facing’ service for vulnerable pupils and those of key workers – in essence creating two formats for the delivery of lessons to run concurrently from this point forward. While schools have largely done a very good job, there are issues with staff training and enabling teachers to know what can be delivered with most impact as well as ensuring appropriate online security and Safeguarding protocols.

The Department’s Education Improvement Service (EIS) is aware that there are varying types, styles and amounts of remote/online learning being provided by schools, and has offered substantial support and guidance to ensure a greater degree of consistency over the past eight weeks. This includes:

- Guidance on providing education remotely in the event of school closure – this included checks on logins for pupils and staff, setting up online learning days, an overview of the platforms available to schools, online lesson formats, and a checklist prior to closure;
- ‘How to’ guides for all staff on Itslearning, Google suite, and Google Classroom;
- Guidance on delivering remote learning sent through an update and used by schools in their own staff meetings. This included key tips and potential pitfalls when providing work, and establishing feedback channels;
- Development of a process by which schools could loan devices to support the completion of remote learning provided;
- Schools supported to trial the use of Microsoft Teams with pupils. Several schools sought support from GTS and EIS to start video conferencing pupil groups and using the platform to teach online;
- Showcasing excellent online learning practice by schools across the Island. This is through collecting teacher accounts of what they have put in place and the feedback they have had from parents. This is growing daily and has led to schools seeing what has been highlighted and then contacting EIS for support in replicating good practice;
• Comprehensive guide on how to use Microsoft Teams with pupils provided to schools. Schools encouraged to use online lesson delivery as part of a wide range of learning mediums available;

• Inclusion and Safeguarding guidance website. This site is devoted to helping schools support pupils, staff, parents and vulnerable groups with well-being, bereavement, social and emotional learning and a host of other areas relating to universal and additional needs;

• Guidance on how to continue developing staff professionally during this period, along with how to support positive well-being of staff, parents and pupils. Guidance on how to prepare for the gradual (safe) return of year groups;

• Peripatetic support for setting up and delivering remote teaching and learning provided by Education Improvement Service Digital Advisory Teacher.

• Development of a team of seven ‘Itslearning Advocates’ who support the development of the platform to support remote learning in their schools and deliver training to other schools using Microsoft Teams. This, along with other work with Itslearning, has seen daily logins increase from 15,000 in February to nearly 50,000 by mid-May.

None of us would have chosen to develop remote learning in the current situation and it enables far from optimal conditions for learning. Schools have had to formulate responses very dynamically to a very fluid situation. However, we hope very much that attendance at school can be expanded as soon as is safe to do so and that as many pupils as possible will be able to regain access to ‘face-to-face’ lessons.

HEALTH AND SOCIAL CARE

3.2. Comis Hotel quarantine solution – Basis for preference over self-isolation

The Hon. Member for Douglas South (Miss Costain) to ask the Minister for Health and Social Care:

On what (a) legal and (b) medical basis the Comis quarantine solution was preferred over self-isolation?

The Minister for Health and Social Care (Mr Ashford): (a) From a legal perspective the Department had the option to either permit self-isolation at home (in accordance with Regulation 10 of the Emergency Powers (Potentially Infectious Persons) Regulations 2020 (‘the Regulations’)) or to require quarantine (whether at the Comis or otherwise) (in accordance with Regulation 6(2) of the Regulations). The Department issued a Direction under Regulation 6(2) for quarantine at the Comis Hotel on defined terms in line with the Council of Ministers’ decision.

Regulation 6(2) of the Regulations permits the Department to issue a restriction to a person where they have reasonable grounds to suspect that that person is potentially infectious. A restriction issued pursuant to Regulation 6(2) can include a requirement for that person to remain in a particular place for a particular period (see Regulation 7(1) of the Regulations); this would include a requirement to stay at the Comis Hotel as per the quarantine arrangements.

In this instance, the repatriated residents were returning from the UK which we included in our declaration issued pursuant to Regulation 4(2) of the Regulations as being an ‘infected area’. Regulation 4(1) provides that if a person has been in an area which had been declared as an...
‘infected area’ within the preceding 14 days they are deemed to be a ‘potentially infectious person’.

Regulation 6 (2) states that the Department only impose restrictions under this Regulation to the extent the Department considers them necessary and proportionate ‘(i) in the interests of the person, (ii) for the protection of other people, or (iii) for the maintenance of public safety’.

(b) In line with our evidence to PAC on Friday, 1st May following an urgent request from Chief Officers Group on 1st April, DHSC Executive Team reviewed whether we could support repatriation of Isle of Man residents. We indicated that repatriation would be supported under a number of strict conditions which included a strict quarantine facility only. This position was reviewed and supported by the Clinical and Public Health Advisory Group on 3rd April. The facilities themselves were not part of the discussions as these details were prepared by another department ultimately for CoMin approval. We agreed to continue to review the position and have more recently supported a change to self-isolation at home, again under strict conditions.

At the time the recommendation for quarantine in the Comis was supported by the Clinical and Public Health group, the IOM position was very different. We were in the midst of growing numbers of cases of Covid-19 and we did not have our own testing facility on Island. We were also in the phase of urgently building capacity within our existing health and social care system to deal with the potential demand if case numbers continued to rise.

HOME AFFAIRS

3.3. Breaches of Emergency Powers Regulations – Details of custodial sentences

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

How many persons have received a custodial sentence from the Manx Courts for a breach of the Emergency Powers Regulations, broken down by:
(a) sex;
(b) whether suspended or immediate;
(c) whether sentenced after remand or at first appearance;
(d) those who have served their sentence; and
(e) those who are serving their sentence?

The Minister for Home Affairs (Mr Cregeen): Firstly I believe it is very important to note that sentencing is a matter for the Courts and the Department does not and must not influence in any way the decisions of the Judiciary on the level or type of sentence imposed.

In answer to the questions:
Twenty six people received a custodial sentence from the Manx Courts for a breach of the Emergency Powers Regulations as detailed below –
(a) 21 males and five females;
(b) All but one were immediate custody and the remainder was a suspended sentence;
(c) The Department does not hold this information but has requested it be provided and will circulate it once it has been received;
(d) 20 have served their sentence; and
(e) Six are still serving their sentence.

It should be noted that of the 26, 11 faced additional charges not related to a breach of the emergency regulations.
3.4. Breaches of Emergency Powers Regulations – Number of people in police custody and details

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

_How many people have been held in police custody as a consequence of being arrested for breaches of the Emergency Regulations; for how long they have been so held; and where?_

_The Minister for Home Affairs (Mr Cregeen):_ The data shown covers the period from the beginning of the emergency until midnight on 26th May 2020 and relates to people in police custody in the Custody Suite at Police HQ.

There have been a total of 96 arrests made under the Emergency Powers Act. The table below shows the time in custody for each of the arrests. These arrests include cases where the detained person had been arrested for other offences, where alleged breaches of emergency powers have been secondary or subsidiary offences.

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3.5. Police detention –
Maximum number of prisoners

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

*What the maximum number is of prisoners the Police are able to detain?*

The Minister for Home Affairs (Mr Cregeen): The maximum number of prisoners the Police are able to detain is 20.
3.6. Prevention and spread of COVID-19 – Police provisions to protect detainees and officers

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

*What special provisions in relation to the prevention and spread of coronavirus (COVID-19) the Police had to implement in order to protect detainees and officers?*

**The Minister for Home Affairs (Mr Cregeen):** The Isle of Man Constabulary has worked to guidelines prepared by the UK National Police Chiefs Council in terms of protecting the public and its officers from COVID-19.

A full health and safety risk assessment of the custody suite at Police Headquarters was conducted by a suitably qualified individual to take account of the virus. Anyone working in, visiting, or being detained in the custody suite is provided with a face mask and given directions on how and when to use it. Other suitable personal protective equipment, such as gloves, aprons, face shields, goggles and disposable suits are also available for use and have been issued when necessary.

The custody suite comprises two separate cell corridors. One corridor is set aside for infected or potentially infected detainees.

The custody suite was cleaned to a very high standard before the pandemic, but an enhanced cleaning regime has been created and implemented.

3.7. COVID-19 regimes at Prison – Details of application to inmates

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

*When each of the three varied regimes at the Prison were applied to inmates as a result of COVID-19?*

**The Minister for Home Affairs (Mr Cregeen):** In relation to the regimes applying in the Isle of Man Prison it is rather more complex than simply three regimes. I have therefore provided more detail than requested to provide clarity as to the situation in the whole Prison.

Before 17th March 2020, the Prison operated its established regime.

17th March: the Prison operated on AMBER (normal regimes and procedures) as there were staff shortages because of self-isolation and underlying health issues.

26th March: Controlled unlock for meals introduced as social distancing was not being adhered to on A Wing.

With effect from 17th April, as a result of a new reception testing positive, the Prison moved to the RED scenario – a more restricted regime. The maximum time any offender spent on the Isolation Wing was 14 days – most of them spent less time than that because of police custody time. Only those who had other offences such as assaulting a police officer, resisting arrest, drugs, theft, alongside breaching of Emergency Powers spent the whole 14 days in isolation ahead of going to the main Prison where the regime was far more relaxed.

19th April: Time out of cell was increased to 30 minutes to allow a 10-minute phone call, a 10-minute shower, and 10 minutes to clean cell and on-wing exercise for the main Prison.

23rd April: More prisoners allowed out per unlock session to allow more interaction.

28th April: New regime for B Wing approved.

30th April: Time out of cell increased to 45 minutes on A, C and D Wings.
3rd May: Showers recorded on prisoners records for B Wing; access to indoor exercise on the landing.

9th May: Outdoor exercise introduced to B Wing.

20th May: B and F Wings switched back.

With effect from 21st May, until the present, the Prison returned to operating on AMBER/RED – increased access to showers, exercise and telephones.

The changes have been made to reduce additional restrictions as soon as it was safe to do so.

As a result the timing of each change is somewhat complex; it may well therefore be of assistance if I arranged for the Hon. Member for Douglas South to have a meeting (remotely) with the Prison Governor in order that any further questions and clarification on the above can be provided. I would be more than happy to arrange this on request.

I should also refer the Hon. Member for Douglas South to my previous answers to questions re the specific reception isolation regimes which detailed the different regimes.
Order of the Day

4. CONSIDERATION OF CLAUSES

4.1. Elections (Keys and Local Authorities) Bill 2020 –
Clauses considered

Mr Thomas to move.

The Speaker: Consideration of clauses, Elections (Keys and Local Authorities) Bill 2020. Mr Thomas to move clauses 1, 2, 3 and Schedule 2, please.

Mr Thomas: Before that, Mr Speaker, thank you very much for working so hard with the Clerks and the officers, the executive office and Mr President, to create these opportunities to move important Bills like this one in regular sittings of the House of Keys.

I am pleased to move this on behalf of the Crown and Elections Team at the Cabinet Office because it is important that this Bill makes progress but that it is also, at the same time, carefully considered.

As I advised Hon. Members during Second Reading, 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.

The Bill is divided into 10 Parts, with 158 clauses and six Schedules. In some cases I have indicated, as you have just confirmed, that I would like certain clauses to be grouped together; but if any Member would like me to talk to a particular provision and speak to that clause separately, I will be more than happy to provide assistance and we can consider that particular clause on that basis.

Clauses 1, 2, 3 and Schedule 2 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 and introduces Schedule 2 to assist with the interpretation of whether something constitutes a donation or an election expense for the purposes of this Act.

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

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

The Speaker: Thank you.

I call on Mr Hooper to move amendments 1, 2 and 59, please.

Mr Hooper: Thank you very much, Mr Speaker.

I would like to propose three amendments which I hope will further assist the clarification of certain provisions in the Bill.
The first amendment is to amend the definition of ‘casual vacancy’ to put beyond doubt what
this clause includes and which, for the avoidance of doubt, is where an incumbent demits, is
removed, on a Member’s death and as a consequence of a successful recall petition.

The second amendment proposed is the definition of ‘national emergency’ to align this with
the interpretation of the Emergency Powers Act 1936 which we understand is to be amended;
and in the future Civil Contingencies Bill I hope that this clause would be also amended in a
similar way.

Finally, in Part 2 of Schedule 2, I propose that where a candidate or prospective candidate is
endorsed by another person, and that candidate or prospective candidate is taken to have
consented to the person incurring expenses on that candidate’s behalf, that there is a caveat to
state: ‘unless the candidate or prospective candidate has expressly stated otherwise’. This is to
ensure that the candidate or prospective candidate is not liable for expenses that he or she is
not aware of or has not consented to.

Mr Speaker, I beg to move those three amendments

Amendments to clause 3
1. Page 22, lines 1 to 3, in subsection (1) for the definition of “casual vacancy” substitute the
   following —
   “casual vacancy” means a vacancy created by —
   (a) an incumbent’s demitting office;
   (b) an incumbent’s being removed from office before the scheduled end of the incumbency;
   (c) the death of an incumbent; or
   (d) there being, in respect of an incumbent, a successful recall petition under section 150;».

2. Page 22, lines 35 to 38, in subsection (1) for the definition of “national emergency” substitute the
   following —
   “national emergency” means any period during which there is in place a proclamation of
   emergency under section 3 of the Emergency Powers Act 1936;».

Amendment to Schedule 2
59. Page 121, in paragraph 6(2), for the full stop substitute «, unless the candidate expressly
   states otherwise.».

The Speaker: Thank you.

I call on Mrs Caine.

Mrs Caine: Thank you, Mr Speaker. I beg to second the amendment.

The Speaker: Thank you.

Now, I ask if anyone wishes to speak to clauses 1, 2, 3 or Schedule 2, or the amendments just
moved. If no one wishes to speak I will put the question firstly, that the amendments number 1,
number 2 and – Sorry, did someone interject then?

So, amendments 1, 2 and 59 be approved and I will presume the motion will be carried
unless any Member indicates dissent, which they should do now, please. No dissent being
indicated, that motion therefore carries.

I now put to you clauses 1, 2, 3 and Schedule 2 stand part of the Bill, and I presume the
motion will be carried unless any Member indicates dissent, which they should do now. The
motion carries.

Clauses 4 and 5, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I think the mover of the amendment, Mr Hooper, made an important point that the definition of ‘national emergency’ has changed often in the last 70 or 80 years of the life of the Emergency Powers Act. Personally, I find the definition in the Civil Contingencies Act 2004 across very helpful and I hope we can keep that under review in the light of the current emergency, and so on.

Clauses 4 and 5 set out the factors that both qualify and disqualify respectively, an individual from standing as a Member of the Keys.

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

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I call on Mr Hooper to move amendments numbered 5 to 7, please.

Mr Hooper: Thank you very much, Mr Speaker. I am proposing these three amendments to merely align the provisions of clause 5 with clause 20, which covers disqualifications for election and holding office as a member of a local authority.

Mr Speaker, I beg to move the amendments standing in my name:

Amendments to clause 5
5. Page 25, line 19, in subsection (1)(e) omit “or”.

6. Page 25, line 20, in subsection (1) (f) for the full stop substitute «; or».

7. Page 25, immediately after line 20, after paragraph (f) of subsection (1) insert the following new paragraph —
«(g) has within five years before the day of election or since his or her election, been convicted in the Island, the United Kingdom, the Channel Islands or the Republic of Ireland of any offence and has had passed on him or her a sentence of custody (whether suspended or not) for a period of not less than three months without the option of a fine.».

The Speaker: Mrs Caine.

Mrs Caine: I beg to second, thank you, Mr Speaker.

The Speaker: Does any Member wish to speak to clauses 4 or 5, or amendments 5, 6 or 7? If no Member wishes to speak I will put first the amendments numbered 5, 6 and 7 in the name of Mr Hooper. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, that motion therefore carries.

I then put clauses 4 and 5, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, clauses 4 and 5, as amended, stand part of the Bill.

Clauses 6 and 7, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clauses 6 and 7 specify when a national election will be held and also the term of the Keys. Notably, clause 6 permits the Council of Ministers, by order, to amend the date of the election from being the traditional fourth Thursday in September to another date in September, thereby
allowing for greater flexibility. The making of any such order is subject to the approval of Tynwald.

Clause 7 makes provision that the Keys is dissolved six weeks before a national election as long as it has not already been dissolved under clause 8.

Mr Speaker, I beg to move that clauses 6 and 7 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

I would just like to thank Mr Thomas for this clause because the fact that traditionally the Manx general election is held shortly after our young people go to university I think is very unhelpful. I really hope in the coming general election, and also in future general elections, that we will be able to adjust the date to enable our young people, who are our future, to participate in the general election.

Thank you.

The Speaker: Mover to reply.

Mr Thomas: Thank you, Mr Speaker; and to Mr Shimmins. I nearly mentioned Mr Shimmins’ huge contribution during moving the clause. I appreciate him raising this issue throughout the process and discussion of it earlier in the Second Reading, and there is also consultation about this and the general consultation on the Registration of Electors Bill.

The Manx public prefers a Thursday when the election is currently held – not another day, not another Thursday. Obviously we moved about 10 or 15 years ago from November to September. It will be kept under review.

This provides the legal capacity to change the date in the future. The September 2021 election will take place on this Thursday unless something unforeseen happens. There is now the possibility for that to be reviewed; but for that to be reviewed during the election to see the impact, and also thereafter to change the date according to the mechanisms described and prescribed in this law.

Thank you. I beg to move.

The Speaker: I put the question that clauses 6 and 7 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 8 and 9. Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

These two clauses allow for special provisions to be made in exceptional circumstances

Firstly, clause 8 enables the Governor to summon the Keys, prorogue the Keys or dissolve the Keys.

Secondly, clause 9, which is relevant during periods of national emergency, permits the Governor in Council to exercise a variety of measures which includes extending the terms of a Member of the Keys or Legislative Council for up to a year, and declaring that the register of electors remains in force for a period of a year. Should such an order be required for a subsequent year it cannot be made unless a national election intervenes or it receives the prior approval of Tynwald.

Any question arising under clause 9 must be referred to the Deemsters for determination.
Mr Speaker, I beg to move that clauses 8 and 9 stand part of the Bill.

**The Speaker:** Dr Allinson.

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

**The Speaker:** Mr Hooper to move amendment number 8, please.

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

I have proposed this amendment to make sure that there is Tynwald approval required for any order that is made by the Governor in Council with regard to the extension of Keys, the Legislative Council or the register of electors.

Mr Speaker, I beg to move the amendment standing in my name:

**Amendment to clause 9**

8. Page 26, immediately after line 29, at the end of subsection (1) insert «Tynwald procedure – approval required».

**The Speaker:** Thank you.

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

**The Speaker:** If no Member wishes to speak I will put first the question that amendment 8 be approved and I will presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, that motion therefore carries.

Mr Thomas to move clauses 10, 11 and 12, please.

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

Clauses 10, 11 and 12 each contain provisions specific to vacancies in the House of Keys.

Clause 10 obliges the Speaker to report any vacancy to the Governor within seven days of the same coming to his or her attention.

Clause 11 particularises when a seat becomes vacant and also the notice provisions required by both a Member and the Speaker should such person wish to resign their position.

Clause 12 makes clear that if a Member sits or votes during the vacancy of his seat that person commits an offence and is liable to a fine on summary conviction.

Mr Speaker, I beg to move that clauses 10, 11 and 12 stand part of the Bill.

**The Speaker:** Dr Allinson.

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

**The Speaker:** Thank you.

I call on Mr Hooper to move amendments 9, 10 and 11, please.

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

I am moving these three amendments to amend specifically clause 11(2) which states that the Keys may by resolution declare –
The Speaker: Sorry, Mr Hooper. I am having trouble hearing you; I presume other Members will as well. If I could just ask you maybe to speak a little slower and a little louder?

Mr Hooper: Apologies, Mr Speaker.

The Speaker: Excellent!

Mr Hooper: I am moving these amendments to amend specifically clause 11(2) which states that the Keys may by resolution declare the seat of a Member to be vacant and aligns the provisions with local authorities, so that a Member’s seat can be vacated if they miss sittings for a period of three months without leave, as opposed to the much less onerous three quarters of the sittings in a year; and to include where a Member ceases to be qualified to be a Member of the Keys or becomes disqualified otherwise than by virtue of this Act or a conviction.

Mr Speaker, I beg to move these amendments:

Amendments to clause 11
9. Page 27, line 31, in subsection (2)(a), after the semicolon omit “or”.

10. Page 27, lines 32 and 33, for paragraph (b) of subsection (2) substitute the following — «(b) fails, throughout a period of three consecutive months from the date of his or her last attendance, to attend any of the sittings of either the Keys or Tynwald;».

11. Page 27, immediately after line 33, in subsection (2) insert the following new paragraphs — «(c) ceases to be qualified to be a member of the Keys; or
(d) becomes disqualified for being a member of the Keys otherwise than by virtue of — (i) a conviction; or (ii) a breach of any provision of this Act.».

The Speaker: Thank you.
I will seek a seconder for that on the basis that Mrs Caine has her own amendment to this particular clause.

Ms Edge: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.
I call on Mrs Caine to move amendment number 4, please.

Mrs Caine: Thank you, Mr Speaker.
This amendment aims to ensure that a Member’s seat becomes vacant if the elected Member loses mental capacity.

Clause 5 provides that a person is disqualified from being a candidate if they are subject to any incapacity by virtue of another Act but does not provide for the same once they hold office. This amendment would ensure that is covered, although I do feel it would be better once the Island has a Capacity Act.

I beg to move:

Amendment to clause 5
4. Page 28, immediately after line 41, insert the following new subsection — «(11) The seat of a member of the Keys becomes vacant if the member is subject to any incapacity by virtue of this or any other Act.»
The Speaker: Thank you.

Mr Perkins.

The Speaker: Mr Perkins.

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

The Speaker: Thank you.

Does anyone wish to speak to any of those clauses or amendments?

In which case, I will put first the amendments 9, 10 and 11 in the name of Mr Hooper, and I will presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, I declare that motion carried.

Amendment number 4 in the name of Mrs Caine. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, I declare that motion carried.

I put the question that clauses 10, 11 and 12, as amended, stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated, those clauses as amended stand part of the Bill.

Clause 13 and Schedule 5, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Before moving those, I just wanted to agree with Mrs Caine that we will be in a much better place when we have the Capacity Act in place. Secondly I would like to thank Mrs Caine, Ms Edge, Miss Costain, Mr Hooper and even you, Mr Speaker, for the careful attention to the legislation over the last fortnight or so which has resulted in all of these amendments being approved. So it really shows well the House of Keys for the diligence it has applied, and can apply, and does apply.

Clause 13 makes clear that a Member cannot sit or vote in the Keys until the Member has taken and subscribed the oath set out in Schedule 5. Schedule 5 sets out the oath in both English and Manx.

Mr Speaker, I beg to move that clause 13 and Schedule 5 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: I call on Mr Hooper to move amendment 12 on the Order Paper.

Mr Hooper: Thank you very much, Mr Speaker.

Amendment 12 simply recognises that a Member, upon election, may rather pledge an affirmation instead of an oath.

Mr Speaker, I beg to move the amendment:

Amendment to clause 13
12. Page 29, lines 9 to 12, for clause 13 substitute the following — «13 Members to take oaths or to affirm
A member of the Keys is prohibited from sitting or voting in the Keys until the member has either —
(a) taken and subscribed the oaths set out in Schedule 5; or
(b) affirmed.»

The Speaker: Mrs Caine.
Mrs Caine: Thank you. I beg to second.

The Speaker: Thank you.

If anyone wishes to speak ... Otherwise, I will put the question that amendment 12 be approved and I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, that motion therefore carries.

I put the motion that clause 13 and Schedule 5, as amended, stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, that motion therefore carries.

Mr Thomas to move clauses 14 and 15.

Mr Thomas: Thank you, Mr Speaker.

I am delighted that the very important amendment about the affirmation has been included. And I just wanted to apologise to Mrs Barber who I forgot to mention in my original list of speakers who have spent a lot of time on this Bill in the last couple of weeks.

Clause 14 sets out the procedure to be followed to elect the Speaker of the House of Keys and the circumstances in which such office is vacated.

Clause 15 sets out the procedure to be followed to elect the Deputy Speaker of the House of Keys and the circumstances in which that office is vacated.

Mr Speaker, I beg to move that clauses 14 and 15 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Mr Hooper to move amendments 13 to 19, please.

Mr Hooper: Thank you very much, Mr Speaker.

Amendments 12, 13 and 14 are being moved to amend clause 14(4). This clause lists the scenarios which give rise to the office of the Speaker being vacated. Currently, this makes no reference to a successful recall petition. (Interjection) Not that I anticipate Mr Speaker being subject to such a recall, but the Act certainly provides for such. These three amendments just propose to include this here.

Similarly, amendments 15, 16 and 17 – sorry, 16, 17, 18 and 19 add into the clause that the office of the Deputy Speaker is also vacated in the event that he or she is subject to a successful recall petition. Furthermore, to align with the previous clause it makes clear that the Deputy Speaker must deputise for the Speaker if the Speaker is the one subject to a recall petition.

Mr Speaker, I beg to move the amendments:

Amendments to clause 14
13. Page 29, line 27, in subsection (4)(c) omit “or”.

14. Page 29, line 28, in subsection (4)(d) for the full stop substitute «; or».

15. Page 29, immediately after line 28, after paragraph (d) of subsection (4) insert the following new paragraph –
(e) on the success of a recall petition against the Speaker under section 150.».

Amendments to clause 15
16. Page 30, line 6, in subsection (2)(c) omit “or”.

17. Page 30, line 7, in subsection (2)(d) for the full stop substitute «; or».
18. Page 30, immediately after line 7, in subsection (2) insert the following new paragraph — «(e) on the success of a recall petition against the Deputy Speaker under section 150.».

19. Page 30, lines 8 to 10, for subsection (3) substitute the following — «(3) The Deputy Speaker must deputise in the absence of the Speaker and assume the powers of the Speaker —
(a) when the Speaker is absent from the Island;
(b) when the Speaker is not present at any sitting of the Keys; or
(c) where the seat of the Speaker has become vacant as a result of the success of a recall petition under section 150, until a new Speaker has been chosen.».

The Speaker: Thank you.
Just for the purposes of clarity, the numbering of the amendments that I am using is as per the Order Paper; so this is amendments 13 to 19.
Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.
I beg to second the amendments.

The Speaker: Thank you very much.
Does anyone wish to speak on the amendments or clauses 14 or 15? If not, I will put the question that amendments 13 to 19 be approved, and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated that motion therefore carries.
I therefore put to you that clauses 14 and 15, as amended, stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, that motion therefore carries.
Mr Thomas to move clause 16, please.

Mr Thomas: Thank you, Mr Speaker.
I am glad you mentioned the numbering issue about the Order Paper and the concatenated version. I think Mr Hooper is coping admirably and I am sure the Hansard record will be clear for future readers exactly what was happening, when read in conjunction with the Order Paper.
Clause 16 sets out particular provisions concerning the eligibility and ineligibility for appointments to such offices as the Chief Minister, the Speaker and Members of Departments and Statutory Boards.
Mr Speaker, I beg to move that clause 16 stands part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.
Does anyone wish to speak to that? Otherwise I will put the motion that clause 16 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, clause 16 stands part of the Bill.
Clause 17, Mr Thomas.

Mr Thomas: Thank you.
Clause 17 provides certain office-based qualifications prohibiting a person currently appointed as a Deemster, Judge of Appeal, High Bailiff or Deputy High Bailiff from membership of the Keys. However, a person is not disqualified for membership of the Keys by reason of
holding an office of profit under the Crown, or any other office or place, or for appointment to
or for holding any office by reason of being a Member of the Keys.
  Mr Speaker, I beg to move that clause 17 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Does anyone wish to speak to clause 17? Otherwise I will put the motion that
clause 17 stand part of the Bill and I presume the motion will be carried unless any Member
indicates dissent, which they should do now, please. No dissent having been registered, the
motion therefore carries.
  Clause 18, Mr Thomas.

Mr Thomas: Clause 18 preserves the inherent powers, authorities, duties and obligations of
the Keys should this Bill become an Act.
  Mr Speaker, I beg to move that clause 18 do stand part of the Bill.

The Speaker: Dr Allinson, clause 18.

Dr Allinson: Thank you very much, Mr Speaker. I beg to second.

The Speaker: Does any Member wish to speak?
If not, I will put the question that clause 18 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
having been registered, the motion therefore carries.
  Clauses 19 and 20, Mr Thomas.

Mr Thomas: Clause 19, Mr Speaker, is the first clause in Part 3 of the Bill, which solely
concerns Local Elections. Part 3 contains some similar provisions to Part 2 but there are also
differences to recognise where national elections and local elections require separate
consideration.
  Clause 19 establishes the qualifications that a person must hold in order to be able to stand
as a candidate for, and be elected as, a member of a local authority.
  Clause 20 particularises where a person will be disqualified for being a candidate for election
as a member of a local authority.
  Mr Speaker, I beg to move that clauses 19 and 20 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I call on Mrs Caine to move amendment number 20.

Mrs Caine: Thank you, Mr Speaker.
  This clause seeks to ensure that candidates and elected members of a local authority have not
been sentenced to custody for an offence committed since election or in the previous five
years. My amendment would, I believe, close a potential loophole that they would not be
disqualified if the offence was committed abroad. Substituting the list of the Island and
neighbouring jurisdictions with the words ‘in any jurisdiction’ would ensure that being
sentenced for an offence anywhere in the world would disqualify a person from office or from standing in a local election. I beg to move:

Amendment to clause 20
20. Page 32, lines 33 and 34, in subsection (1)(h) for “in the Island, the United Kingdom, the Channel Islands or the Republic of Ireland” substitute «in any jurisdiction».

The Speaker: Thank you.
Mr Perkins.

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

The Speaker: Thank you.
I call on Mr Hooper to move amendments 21 and 22, please.

Mr Hooper: Thank you very much, Mr Speaker.
These two amendments are just for clarity, referring to ‘local authority’ in the clause rather than simply ‘authority’.

Mr Speaker, I beg to move:

Amendments to clause 20
21. Page 32, lines 29 and 30, in subsection (1)(g) for “authority” in each line substitute «local authority».

22. Page 32, line 40, in subsection (2)(a) for “authority” substitute «local authority».

The Speaker: Ms Edge.

Ms Edge: Thank you, Mr Speaker.
I just seek clarity on the amendment as to how a check would be able to be carried out for any offence of anybody from another jurisdiction. I believe it is quite difficult that the Isle of Man is only registered for certain jurisdictions for accessing records.

So I am just wondering if I could seek some clarity around that, please.

The Speaker: Ms Edge, were you also seconding Mr Hooper’s amendment, or not?

Ms Edge: Happy to second, yes.

The Speaker: Thank you very much.
Dr Allinson, to speak to the amendments, please.

Dr Allinson: Thank you very much, Mr Speaker.
I would just like, as the previous Member from Onchan, to ask a question of Mrs Caine. Her amendment alters clause 20(1)(h) which is in terms of offences ‘passed on him or her a sentence of custody ... for a period of not less than three months without the option of a fine’.

If she wants to extend that to any jurisdiction, is she not concerned that that would involve offences from other areas of the world which would not be an offence on the Isle of Man; and also facilitates those countries which perhaps do not have as sound a judiciary as we have, from inflicting penalties on Manx residents which actually would be disputed in many other countries?
As the Hon. Member from Onchan has said, it would be extremely difficult to check on these convictions. I would like her to expand a little bit more in terms of the reasons for extending the net of these disqualification items.

Thank you, Mr Speaker.

The Speaker: Mr Ashford.

Mr Ashford: Thank you, Mr Speaker.

This just follows very nicely on from the Hon. Member for Ramsey, Dr Allinson. I have got serious concerns around the amendment by Mrs Caine, the Hon. Member for Garff. I would be exceptionally worried that this opens it up to people being subject to prosecutions in countries that would not be classed as prosecutions here in the Isle of Man; and the fact that there are certain things that would be prosecutable in some countries, say out in the Far East, that we would never dream of having as prosecutable offences here.

I am just wondering how Mrs Caine squares that circle.

The Speaker: Thank you.

Mrs Barber.

Mrs Barber: Thank you, Mr Speaker.

My concerns follow on from the others, and I think it is particularly fitting at the beginning of Pride month. There are some countries wherein it would be an offence to be homosexual and someone could have been imprisoned. They could now be living here and having the opportunity of the freedoms that we all are absolutely rightly entitled to, regardless of our sexual orientation, but would find themselves excluded. So I am concerned from that point of view.

The Speaker: In which case I will ask Mrs Caine first if she wishes to respond to the debate on her amendment.

Mrs Caine: Thank you, Mr Speaker; and I thank the Hon. Members who have contributed to the debate on this clause.

I accept the point that there are jurisdictions that have laws that would not be an offence in the Isle of Man; and perhaps a better amendment would be to say that it would apply to an offence of custody committed abroad if it was an offence in ours, or the surrounding jurisdictions. But in terms of it being a loophole, there is a possibility that a candidate or an elected local authority member could commit an offence and be sentenced to even a suspended sentence to custody in Europe, for instance, where we would assume that they have a high standard and a similar level of jurisdiction in terms of the judiciary where it would be, I feel, a shame if that person should receive a sentence and then not face any sanction when they return to the Isle of Man.

So I accept that perhaps there may be the possibility here that the clause as it is written perhaps enables a loophole for people to fall short of the standard expected and not face any sanction; whereas I absolutely agree I would not want to put a person in a situation where, for instance, they could go to a jurisdiction and be accused of being a spy or similar, where they would not face the similar offence here or in neighbouring jurisdictions.

So I will leave it for Members to determine, but I think that there is a loophole there that could perhaps be better worded.

Thank you, Mr Speaker.

The Speaker: Mr Hooper to respond to the discussion, such as there was, on his amendments.
Mr Hooper, I am afraid I cannot hear you.

**Mr Hooper:** Sorry, Mr Speaker. I do not have anything to say on those amendments that I have moved. Apologies, I took my silence to mean that I was not expected to speak. Apologies.

**The Speaker:** Okay, thank you very much.

Mr Thomas, to sum up on the clauses.

**Mr Thomas:** Thank you, Mr Speaker; and to Hon. Members who have debated the potential loophole, the potential issue that Mrs Caine is raising. But the three speakers – Dr Allinson, Mr Ashford and Mrs Barber – have raised the potential practical issues and also the whole issue of offences and the transferability across borders.

I know Mrs Caine had talked about a second version of her amendment and I think I will be voting against Mrs Caine’s amendment and encourage Hon. Members too, as I think she did more or less in her closing remarks. But I do think it is an issue that needs to be looked at by our colleagues so this Bill is leaving the House of Keys, I hope, perfectly. But there is an issue that can still be looked at diligently in the other place.

With that, I beg to move.

**The Speaker:** Thank you very much.

I will put first the amendment number 20 in the name of Mrs Caine. I presume that the motion will be carried unless any Member indicates dissent. Dissent being indicated, we will move to a vote.

I call on the Clerks to take the vote.

**Voting resulted as follows:**

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**The Speaker:** Thank you. With 2 for, and 21 against, the motion therefore fails to carry.

We turn to amendments 21 and 22 in the name of Mr Hooper. I will presume that the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated for that, that motion therefore carries.
I put clauses 19 and 20 stand part of the Bill as amended. I presume that motion will be carried unless any Member indicates dissent which they should do now, please. No dissent being indicated, the motion therefore carries.

Mr Thomas to move clause 21.

Mr Thomas: Clause 21 provides that the acts and proceedings of any person elected to an office as chairperson or member of a local authority and acting in that office are as valid and effectual as if he or she had been qualified, notwithstanding his or her disqualification or want of qualification.

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

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

If no Member wishes to speak, I will put the motion that clause 21 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 having been indicated, clause 21 stands part of the Bill.

Clause 22, Mr Thomas.

Mr Thomas: Clause 22 provides that local elections must be conducted in accordance with regulations made by the Council of Ministers, which must provide for such elections to be by secret ballot and may prescribe methods utilising electronic means. Such regulations are subject to Tynwald approval.

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

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: I now call on Mr Hooper to move amendment number 23.

Mr Hooper: Thank you very much, Mr Speaker.

The amendment here is simply a correcting amendment so that subsection (2) refers to ‘Regulations’ rather than to ‘Rules’ in line with the rest of the clause and the rest of the Bill.

Mr Speaker, I beg to move:

Amendment to clause 22
23. Page 33, line 27, in subsection (2) for “Rules” substitute «Regulations».

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

I beg to second the amendment.

The Speaker: Thank you very much.

I will give an opportunity if any Member wishes to speak, otherwise I will put the amendment number 23 in the name of Mr Hooper and presume that that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, that motion therefore carries.
Putting clause 22, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been indicated, the motion therefore carries.

Clause 23, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clause 23 stipulates the date on which a local election is held, which is the fourth Thursday in the April of every fourth year. However, the Cabinet Office can by order prescribe such other date as being no earlier than 1st April and not later than 14th May, commencing with 2024.

Any such order is subject to the approval of Tynwald.

Mr Speaker, I beg that clause 23 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I call on Mr Hooper to move amendments number 24 and 25.

Mr Hooper: Thank you very much, Mr Speaker.

This clause refers to the Cabinet Office prescribing the day on which an election may be held.

To bring this into line with other provisions of the Bill, and particularly in line with clause 6, which deals with House of Keys elections, I am moving an amendment so that this is changed from the Cabinet Office to the Council of Ministers.

The second amendment here is to change the date from 2024 to 2025, to take account of the deferment of the local authority elections.

Mr Speaker I beg to move both of these amendments:

Amendments to clause 23

24. Page 34, line 3, in paragraph (b) for “the Cabinet Office” substitute «the Council of Ministers».

25. Page 34, line 4, for “2024” substitute «2025».

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: Thank you. I beg to second.

The Speaker: Thank you.

Now, if anyone wishes to speak to clause 23 or amendments 24 and 25? Otherwise I will put first the question that amendments 24 and 25 be approved, and presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

Clause 23, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, clause 23 as amended will stand part of the Bill.

Clause 24, Mr Thomas.

Mr Thomas: Clause 24 sets out the term of office of a member of a local authority.

Mr Speaker, I beg that clause 24 stand part of the Bill.
The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you. I call on Mr Hooper to move amendment number 26, please.

Mr Hooper: Thank you very much, Mr Speaker.

This amendment is consequential on the last ones that were moved, and is a development of deferred Local Elections that are due to take place in 2024. As these are now being scheduled for 2025 this amendment simply replaces 2024 with 2025 everywhere it appears in the clause.

Thank you, Mr Speaker, I beg to move:

Amendment to clause 24
26. Page 34, lines 8 to 28, for “2024” wherever it appears substitute «2025».

The Speaker: Mrs Caine.

Mrs Caine: Thank you. I beg to second.

The Speaker: This is the opportunity for Members to speak, otherwise I will put the question that the amendment numbered 26 be approved, and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, amendment 26 therefore carries.

Putting clause 24, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. The motion therefore carries.

Mr Thomas to move clause 25, please.

Mr Thomas: Thank you, Mr Speaker.

Clause 25 allows for special provision to be made during a period of national emergency and permits the Governor in Council to exercise a variety of measures, which include extending the term of local authorities for up to a year; and to declare that the register of electors remains in force for a period of a year.

Should such an order be required for the subsequent year it cannot be made unless a local election intervenes or the making of such an order is previously approved by Tynwald.

Any question that arises in relation to this clause must be referred to the Deemsters for determination.

Mr Speaker, I beg that clause 25 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

Amendment number 27 in the name of Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

This is the corresponding amendment to that which was moved for clause 9 and seeks to require Tynwald approval in the event that the Governor in Council Orders the extension of local authorities and the relevant register of electors during a period of national emergency.

Mr Speaker, I beg to move the amendment:
Amendment to clause 25
27. Page 34, immediately after line 37, at the end of subsection (1) insert «Tynwald procedure – approval required».

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: I beg to second.

The Speaker: Thank you very much.

I will give an opportunity for Members to indicate if they wish to speak to that. Otherwise I will put that amendment 27 be approved, and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, that motion therefore carries.

Putting to you clause 25, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Mr Thomas to move clause 26.

Mr Thomas: This clause makes clear, Mr Speaker, that any person elected as chairperson, vice-chairperson or member of a local authority must make a declaration of office in such form as prescribed by the Cabinet Office, and deliver the same to the clerk of the local authority within one month of the election. The clause also sets out how the declaration should be made.

The clause also obliges the local authority to send to the Cabinet Office a list of the names and address of the members of the authority within one month from the election.

Mr Speaker, I beg that clause 26 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

If no Member wishes to speak, I put the question that clause 26 stand part of the Bill and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Clause 27, Mr Thomas.

Mr Thomas: I beg that clause 27, which sets out that a member of a local authority can resign by giving notice to the clerk of the local authority and the resignation takes effect immediately, stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

If no Member wishes to speak, I put the question that clause 27 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Clauses 28 to 31. Mr Thomas.

Mr Thomas: Mr Speaker, these clauses address a number of means by which a local authority seat shall become vacant and any exceptions to such a circumstance.
Clause 28 is where a member fails to attend meetings of a local authority.
Clause 29 is where a member of a local authority becomes a Member of the Legislative Council or a Member of the House of Keys.
Clause 30 is when a member is adjudged bankrupt.
Clause 31 specifies when a local authority must immediately declare the office of any of its members vacant.
Mr Speaker, I beg that clauses 28 to 31 inclusive do stand part of the Bill.

The Speaker: Dr Allinson.

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

The Speaker: Thank you. Calling on Mr Hooper to move amendments numbered 28 to 33 on the Order Paper.

Mr Hooper: Thank you very much, Mr Speaker.
All of these amendments are simply housekeeping amendments to substitute ‘local authority’ rather than just ‘authority’.
I beg to move those amendments:

Amendments to clause 28
28. Page 36, lines 15 and 16, in subsection (1), for “for authority” wherever it appears substitute «local authority».

29. Page 36, line 22, in subsection (2)(a)(i) for “authority” substitute «local authority».

30. Page 36, line 26, in subsection (2)(a)(ii)(A) for “authority” substitute «local authority».

31. Page 36, line 27, in subsection (2)(a)(ii)(B) for “authority” substitute «local authority».

32. Page 36, line 30, in subsection (2)(b) for “authority” substitute «local authority».

33. Page 36, line 32, in subsection (2) for “authority” substitute «local authority».

The Speaker: Thank you.
Ms Edge.

Ms Edge: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.
I call on Mrs Caine to move amendments 34 to 37 please.

Mrs Caine: Thank you, Mr Speaker.
These amendments seek to include the same provision as in my amendment to clause 11. It enables a local authority seat to be declared vacant if the member is demonstrated not to have the capacity for it.
I beg to move:

Amendment to clause 29
34. Page 37, line 9, for “authority” substitute «local authority».
Amendments to clause 31
35. Page 37, line 22, in subsection (1)(b)(ii) omit “or”.

36. Page 37, line 24, in subsection (1)(c) for the full stop substitute «; or».

37. Page 37, immediately after line 24, after paragraph (c) of subsection (1) insert the following new paragraph — «(d) is subject to any incapacity by virtue of this or any other Act.».

The Speaker: Thank you.
Mr Perkins.

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

The Speaker: Thank you.

Now, the clauses and the amendments are on the table, does any Member wish to speak to those? Otherwise I will put first amendments 28 –

Oh, Ms Edge.

Ms Edge: Thank you, Mr Speaker.
Just on Mrs Caine’s amendment. Without, obviously, the Capacity legislation I am just wondering what criteria will be applied.

The Speaker: Mrs Caine to reply.

Mrs Caine: Thank you, Mr Speaker.
I am anticipating that the Capacity legislation will come in and will be a helpful reinforcement for this clause if ever it was needed to be used. But at present if there was, for instance, any medical or other assessment of a candidate or a local authority incumbent that was declared to not have capacity for the role, then I think that would be evidence enough for these measures to be taken. But again it shows how we would have greater clarity if the Capacity Act did come in.

Thank you, Mr Speaker.

The Speaker: Thank you.
Mr Hooper, you also have a right to respond should you wish to exercise it.

Mr Hooper: No, thank you, Mr Speaker.

The Speaker: Thank you.

Mr Thomas to reply to the amendments and the clauses.

Mr Thomas: Thank you, Mr Speaker.
I fully support all of the amendments as drafted.
A good question from Ms Edge. If, in the worst case, we do not have Capacity legislation next year, I am sure guidance and regulations can be provided as per the terms of this particular piece of the legislation.
I beg to move.

The Speaker: Thank you.

I will put first then the question that amendments 28 to 33 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, that motion therefore carries.
Putting to you then Mrs Caine’s amendments, numbered 34 to 37. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, that motion therefore carries.

I therefore put to you clauses 28 to 31, as amended, stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been indicated, that motion therefore carries.

Mr Thomas to move clauses 32 to 36, please.

Mr Thomas: This group of clauses deals with the procedures to be followed when filling a casual vacancy.

Clause 32 specifies the date on which a vacancy is deemed to have occurred in various circumstances.

Clause 33 provides when an election to fill a vacancy in the office of chairperson or vice-chairperson must be held.

Clause 34 provides when the election to fill a casual vacancy in the office of a member must be held.

Clause 35 specifies the term of office of persons filling casual vacancies.

Clause 36 provides for temporary appointments to local authorities to be made by the Cabinet Office, where there are so many vacancies that the local authority is unable to act.

Mr Speaker, I beg that clauses 32 to 36 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

If no Member wishes to speak, I will put the motion that clauses 32 to 36 stand part of the Bill and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, that motion therefore carries.

Mr Thomas to move clause 37.

Mr Thomas: Clause 37 entitles an eligible elector in respect of a local authority to institute proceedings against a person claiming that they have acted or have claimed to act as a member of a local authority whilst disqualified. If proved, the High Court may declare the office of the member vacant, grant an injunction restraining the member from acting and, where relevant, impose a fine. The clause provides further information on when a person is deemed to be disqualified.

Mr Speaker, I beg that clause 37 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

If any Member wishes to speak? Otherwise I will put the question that clause 37 stand part of the Bill, and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clause 38, Mr Thomas.

Mr Thomas: Clause 38 establishes the procedure for appointing a chairperson and a vice-chairperson of a local authority.

Mr Speaker, I beg that clause 38 stand part of the Bill.
The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I call Mr Hooper to move amendment number 38.

Mr Hooper: Thank you very much, Mr Speaker.
The proposed amendment is simply a housekeeping amendment to change ‘a’ to ‘the’ inside the clause in relation to a local authority in subsection (1).

Mr Speaker, I beg to move:

Amendment to clause 38
38. Page 41, line 25, in subsection (1) for “a” substitute «the».

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: I beg to second.

The Speaker: Thank you.

Does any Member wish to speak? Otherwise I will put first amendment number 38 in the name of Mr Hooper and I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated, that motion therefore carries.

Putting to you clause 38, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. Clause 38, as amended, therefore carries.

Clause 39 and Schedule 3, Mr Thomas.

Mr Thomas: Clause 39 sets out the particular sections of the Bill that apply to the office of mayor in the same way as to the office of members of a local authority or chairperson of a local authority. Schedule 3 sets out the procedure for holding an election to appoint a mayor and a deputy mayor.

Mr Speaker, I beg that clause 39 and Schedule 3 do stand part of the Bill.

The Speaker: Dr Allinson

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: If no Member wishes to speak I will put the question that clause 39 and Schedule 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 having been registered, the motion therefore carries.

The Speaker: Clause 40, Mr Thomas.

Mr Thomas: Mr Speaker, clause 40 provides for the payment of the fees and expenses incurred by Deputy Returning Officers and other officials in connection with local elections. These fees shall be as prescribed by an Order of the Cabinet Office, subject to the approval of Tynwald, and paid out of the district fund of the local authority.

My Speaker, I beg that clause 40 do stand part of the Bill.
The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Does any Member wish to speak? Otherwise I will put the question that clause 40 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

Clause 41, Mr Thomas.

Mr Thomas: Clause 41 provides further assistance to interpret the terms found in this section.

Mr Speaker, I beg that clause 41 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

If no Member wishes to speak to clause 41, I will put the question that clause 41 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

We now pick up the pace. Mr Thomas to move clauses 42 to 55.

Mr Thomas: I am proposing to take these clauses together as they concern the criteria and procedure for the registration and conduct of political parties.

Clause 42 makes clear that, unless it is registered, a political party cannot endorse a candidate in a national election.

Clause 43 sets out the conditions which a political party must meet in respect of its name, officeholders, written constitution and the keeping of accounts; and furthermore provides that the Council of Ministers may make regulations regarding the restriction on name, abbreviation or emblem.

Clause 44 makes clear that a political party can only use the name or abbreviation or emblem with which it is registered.

Clause 45 sets out the procedure for an application for registration of a political party to be filed.

Clause 46 sets out the factors which will be checked by the Attorney General regarding compliance with the registration requirements and the subsequent approval or otherwise of the application by the Attorney General.

Clause 47 obliges the officer to maintain a register of political parties and to keep a copy of its constitution and accounts.

Clause 48 sets out the procedure to be followed by a political party, should it wish to change its name or emblem.

Clause 49 sets out the changes in particulars which must be notified to the officer by the political party and the officer must enter in the register the particulars of any such change.

Clause 50 sets out that every political party must make accounts up at least one time in each year which, depending on the amount of the political party’s gross income, must be audited by an accountant or other approved person and filed in the Central Registry. The officers of a political party are liable to a fine for non-compliance with this section. The section also authorises the Treasury to make such regulations as it considers necessary to carry the provisions of this part into effect, subject to Tynwald approval.
Clause 51 prohibits a political party from keeping an anonymous donation, which instead must be sent to the Chief Financial Officer within 10 working days of receipt.

Clause 52 sets out when the officer must remove a registered political party from the register subject to the required notice provisions being given.

Clause 53 allows for the inspection and copying of the register subject to payment of a fee.

Clause 54 provides a mechanism for appeals to be made to the High Court against decisions to refuse to register, or the removal from the register.

Finally, clause 55 provides further interpretative provisions used throughout the clause.

Mr Speaker, I beg that clauses 42 to 55 inclusive stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you very much, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

I call on Miss Costain to move amendments number 39 and 40, please.

Miss Costain: Thank you, Mr Speaker. Sorry, I am still having problems with my mute button today.

The amendment to clause 49 I am bringing because it updates the timescale for filing changes in the particulars of a political party with the Registrar, to bring them in line with other similar filing requirements such as for charities and companies, updating the timing from 10 days to 30 days. This is an administrative provision and is proposed on the grounds that Manx political parties are, by and large, voluntary organisations and from past experience a 10-day timescale can be overly restrictive. The primary focus of this clause is to ensure documents are filed in a timely manner and a tight deadline runs the risk of inadvertently causing people, volunteers in the main, to be in breach. Updating the timescale and aligning it with charities and companies is a sensible alteration.

Clause 51. This amendment is being moved to bring this Bill in line with an amendment being made to clause 73 which deals with anonymous donations to candidates. With the current 10-day requirement people are required to send any anonymous donation received to the Chief Financial Officer within 10 days of receipt. This could be breached without a party realising, as the only way to keep on top of this requires weekly checks of the bank account, whilst bank statements are received once a month.

With this in mind, the amendment has been drafted so that anonymous donations must be forwarded to the Chief Financial Officer within 10 days of being aware of the donation, or 30 days of receipt, whichever occurs sooner. This is the same proposed timescale and approach as for candidates further in the Bill.

Thank you, Mr Speaker.

Amendment to clause 49
39. Page 46, line 11, in subsection (2) for “10 working days” substitute «30 working days».

Amendment to clause 51
40. Page 48, line 12, in subsection (2), for “within 10 working days of its receipt” substitute the following — «within either 10 working days of becoming aware of it or 30 working days of receipt of it (whichever period is shorter)».

The Speaker: Thank you, Miss Costain.

Ms Edge, are you seconding these amendments?
Ms Edge: Happy to second, Mr Speaker. And obviously just to say, really, that bearing in mind what Miss Costain has just outlined, I think it is fair to move to the 30 days.

The Speaker: Thank you very much.
So the clauses and the amendments having been put, does any Member wish to speak? If not, I will put first –
Sorry, Mr Thomas did you want to reply on the basis that Ms Edge has commented?

Mr Thomas: Mr Speaker, just to confirm that these seem eminently sensible amendments and align parties with charities and companies. The Central Registry and others involved need proper process, and this is a proper process.
I beg to move.

The Speaker: Thank you very much.
In which case, I will put first amendments number 39 and 40 in the name of Miss Costain and presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been indicated, the motion therefore carries.
Putting clauses 42 to 55, as amended. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Mr Thomas to move clauses 56, 57 and 58, please.

Mr Thomas: Thank you, Mr Speaker.
We now come to Part 5 of the Bill which sets out provisions regarding the organisation of elections. The Part is separated into Divisions, some of which apply solely to national elections and some of which apply to national and local elections. I intend to make clear to which each clause refers.

Clauses 56 to 58: Mr Speaker, these three clauses comprise the first Division of the Part and concern the establishment of an electoral commission.

Clause 56 makes clear that this Division applies only to national elections.

Clause 57 requires the Governor in Council to appoint an electoral commission within 12 months of the general election in 2021 and every second national election thereafter. Current and previous Members of the Keys are ineligible to be appointed. The clause further establishes certain terms of reference of the Electoral Commission but mandates Tynwald, by resolution, to direct the Commission to look at other matters concerning the election.

Clause 58 allows the Commissioner to be paid attendance allowances and travelling expenses in accordance with the Payment of Members’ Expenses Act 1989.

Mr Speaker, I beg to move that clauses 56, 57 and 58 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.
I now turn to Mr Hooper to move amendments number 41 and 42, please.

Mr Hooper: Thank you very much, Mr Speaker.
The purpose here of these amendments and the purpose of clause 57 is to support the independence of the Electoral Commission. These amendments are being moved firstly to extend the disqualification for membership so that it applies equally to current and former Members of the Legislative Council as it applies to current and former Members of the House of Keys.
Secondly, I am also moving an amendment to require the Electoral Commission to submit its final report within 18 months, subject to any granted extension. This is to mitigate the possibility of the Electoral Commission continuing indefinitely because no final report has been made.

Mr Speaker, I beg to move amendments 41 and 42:

Amendments to clause 57
41. Page 50, line 12, in subsection (2) immediately after “Keys” insert «or the Council».

42. Page 50, line 27, in subsection (8) for the full stop substitute the following — «, which report must be so issued no later than 18 months after the appointment of the Electoral Commission (unless this period is, where circumstances so warrant, extended by agreement between the Electoral Commission and Tynwald).».

The Speaker: Mrs Caine.

Mrs Caine: Thank you. I beg to second.

The Speaker: Thank you very much.

I will give an opportunity if any Member wishes to speak, otherwise I will put the question that amendments 41 and 42 be approved, and I will presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Putting the motion that clauses 56, 57 and 58, as amended, 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 having been registered, the motion therefore carries.

Mr Thomas to move clauses 59 to 61, please.

Mr Thomas: Thank you, Mr Speaker.

These three clauses make up the second Division of the Part and relate to electoral areas. Clause 59 establishes that the Division applies only to national elections. Clause 60 lists the 12 constituencies into which the Island is divided for national elections and the Department of Infrastructure must prepare constituency maps showing the boundaries of each constituency. These are available to purchase and to inspect.

Clause 61 provides that the Cabinet Office may by order divide any constituency into two or more polling districts following appropriate consultation, and in respect of which the Returning Officer must ensure that there is a polling station for each polling district. The Cabinet Office must conduct a review of polling districts two years before each scheduled national election.

Mr Speaker, I beg that clauses 59, 60 and 61 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I should have actually asked the Minister this question earlier. It is just with regard to the plans on the maps of the constituency areas. I am just wondering why the Department of Infrastructure? Are they responsible for digital mapping?
The Speaker: Mr Thomas to reply.

Mr Thomas: Thank you, Mr Speaker.

The people responsible for mapping are located in DOI legally and obviously they work in a cross-Government way like more and more public servants are able to do with all of those changing structures. So the simple answer is, yes, they are part of the Department of Infrastructure.

The Speaker: Thank you.

In which case, I put the motion that clauses 59, 60 and 61 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Clause 62, Mr Thomas.

Mr Thomas: Mr Speaker, perhaps you would give permission for me to move clauses 62 to 69 together, rather than moving them individually?

The Speaker: Yes, that is no problem.

Clauses 62 to 69, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

We now come to the third Division in the Part and I propose to take clauses 62 to 69 together with the kind permission of Mr Speaker.

Clause 62 provides that this Division, which concerns the Returning Officer and deputy returning officers, applies to both national and local elections.

Clause 63 provides that the Chief Secretary is the Returning Officer for national and local elections and it is the duty of the Returning Officer to ensure that elections are conducted in accordance with election regulations; and also to ensure that suitable arrangements are made to hold pre-election meetings, with the cost of such meetings being paid by the Treasury.

The Returning Officer must also prepare a code of conduct for tellers and where required under this legislation, to give a speaker notice.

Under clause 64 the Returning Officer can appoint one or more deputy returning officers for each constituency, district or ward who may in turn be authorised to carry out any or all of the Returning Officer’s functions. The duration of the appointment of the deputy returning officers cannot be for more than five years. The office of deputy returning officer will be declared vacant upon his or her resignation or where the Returning Officer believes it expedient for the deputy returning officer to resign.

Clause 65 specifies such persons who are disqualified from being appointed as either a deputy returning officer or to any other office concerned with the conduct of an election. Should such a person act after failing to disclose that they are disqualified they are liable on summary conviction to a fine.

Clause 66 permits a deputy returning officer to be elected as a Member of the Keys or a local authority provided that it is for a constituency other than that for which they are deputy returning officer. The clause also makes clear that nothing prevents any deputy returning officer from exercising his or her vote at any election.

Clause 67 states that the deputy returning officer must have accepted the appointment before taking any step in the discharge of his or her duties.

Clause 68 states that a deputy returning officer must maintain order at an election and specifies the powers bestowed on the deputy returning officer in order to assist him or her to carry out this duty, which includes the power of arrest and detention; and the deputy returning officer may request the assistance of any constable in order to help in maintaining the peace.
Mr Speaker, clause 69 only applies to national elections and allows for the expenses of deputy returning officers to be paid out of money provided by Tynwald, in accordance with rates fixed by the Treasury. The accounts for all fees and expenses must be furnished to the Treasury within three months of the final closing date of the election.

Mr Speaker, I beg that clauses 62 to 69 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

I turn to Mrs Caine to move amendment number 43 to clause 65.

Mrs Caine: Thank you, Mr Speaker.

I found (1)(a) in clause 65 slightly bizarre but I am informed this line was carried over from previous legislation. My reason for bringing the amendment is in the spirit of modernising our election law. I feel it would fit better that there is clarity in terms that ‘any minister of religion’ be included in the list of people disqualified from being appointed a deputy returning officer.

I also feel that the provision as drafted is ambiguous. One interpretation is that the effect of the provision as it stands is that a minister of religion who either follows no ‘secular occupation’ at all, or one who follows only the ‘secular occupation’ of teaching in addition to being a minister of religion, is disqualified from being a returning officer.

It could also be interpreted that a minister of religion who follows no secular occupation other than teaching is disqualified. So any minister of religion except those who are also teachers could be disqualified. But the effect of this proposed amendment would be to disqualify anyone who is a minister of religion, regardless of whether or not that person follows a secular occupation of any sort, teaching included. So, being a minister of religion would by itself be a disqualification, which I feel is right and an improvement, being unambiguous.

The hon. mover said earlier this Bill was aimed at providing clarity, and amending this line is necessary to bring clarity, I feel. The separation of politics and religion is also a better fit for a modern democracy. There is no interpretation of ‘minister of religion’, but mine would be that this is a full-time appointed minister of religion and not a lay preacher who may also have another profession. It seems right to me that a minister of religion should not be appointed as a deputy returning officer.

Mr Speaker, I beg to move:

Amendment to clause 65
43. Page 54, lines 1 and 2, in subsection (1)(a) omit “who follows no secular occupation other than that of a teacher”.

The Speaker: Mr Perkins.

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

The Speaker: I will open the floor to anyone who wishes to speak. If not, I will put first amendment number 43 –

Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Just that I am concerned with the amendment on behalf of Mrs Caine. It does actually really encompass a number of people who are readers and lay preachers, and so forth. I think it is
important that we have freedom of religion and freedom of speech, and I think it will unfortunately catch a lot of people inadvertently. So I am speaking against that amendment.

Thank you, Mr Speaker.

The Speaker: If no-one else wishes to speak, I will ask Mrs Caine if she wishes to reply to the debate on her amendment.

Mrs Caine?

Mrs Caine: Thank you, Mr Speaker.

I welcome the point from Mr Harmer. I think it does show that there is a lot of ambiguity about this clause and there is no mention in the clause of lay preachers, or ministers of religion who are lay preachers rather than following any other secular occupation. So I feel it is strengthened in fact by my proposed amendment.

Thank you, Mr Speaker.

The Speaker: Mr Thomas to respond.

Mr Thomas: Thank you, Mr Speaker.

Mrs Caine’s objectives, she stated, were clarity – and who could be against that? She also made the important point which was affirmed by Minister Harmer that we needed clearly to separate politics and religion.

HM Attorney General’s Chambers have advised that the expression ‘minister of religion’ is wider than may be first perceived, and does not just include the ordained clergy of recognised denominations. It would also include a layman who conducts services, and a number of lawyers who conduct services as lay ministers in different denominations would be disqualified.

So therefore I think with the objective of clarity, and politics and religion, personally I will be voting against this amendment, having asserted the need for clarity and the separation of politics from religion. So it is something there that still needs to be looked at in the other place, I guess.

The Speaker: Okay. I will put to the House that amendment 43 be approved. However, I think there will be dissent, so we may as well just move straight to a vote.

I call on the Clerks to undertake the vote. Please wait –

The Secretary: Dissent has been registered, so voting has now started.

Voting resulted as follows:

FOR
Mrs Caine
Mr Perkins
Mr Shimmins

AGAINST
Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Boot
Mr Callister
Mr Cannan
Mrs Corlett
Miss Costain
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Quayle

908 K137
Mr Robertshaw
Mr Skelly
Mr Speaker
Mr Thomas

**The Speaker:** Thank you. With 3 votes for, and 20 against, the noes have it. The noes have it.

The amendment therefore fails to carry.

I put the question that clauses 62 to 69 without amendment stand part of the Bill, and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, clauses 62 to 69 stand part of the Bill.

I call on Mr Thomas to move clause 70.

**Mr Thomas:** Thank you.

Clause 70 is a Division in its own right and concerns the appointment of an election agent. A person must be named by or on behalf of each candidate, which may or may not be the candidate themselves. Where a registered political party submits a list of candidates, a candidate cannot be named as their own election agent but can be listed as an election agent for all of the candidates. Only one election agent can be appointed for a candidate.

Any appointment as an election agent must be made and signed by the appointer, accompanied by a declaration of acceptance by the agent. Once proper notice has been given, the returning officer, in the case of a national election, or the deputy returning officer in the case of a local election will give public notice of the name and address of the election agent.

Mr Speaker, I beg that clause 70 do stand part of the Bill.

**The Speaker:** Dr Allinson.

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

The Speaker: Thank you. I call on Mr Hooper to move amendment number 44.

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

Mr Speaker, this amendment is being moved to make provision for more clarity to be given to the role of any election agent by the provision of regulations made by the Council of Ministers and to be approved by Tynwald, which may include the role and responsibilities of an election agent and any acts or omissions for which an election agent may be liable.

Mr Speaker, I beg to move amendment number 44:

**Amendment to clause 70**

44. Page 57, immediately after line 25, insert the following new subsection —

«(12) The Council of Ministers may by regulations make provision regarding —
(a) the role and responsibilities of an election agent; or
(b) acts or omissions for which an election agent may be liable.
Tynwald procedure – approval required».

**The Speaker:** Thank you.

**Mrs Caine:** I beg to second.

The Speaker: Thank you very much.

If anyone wishes to speak? In which case I will put the motion that amendment 44 be approved, and I presume that will be carried unless any Member indicates dissent which they should do now. No dissent having been registered, that motion therefore carries.

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I put to you then clause 70, as amended, and I presume that the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, clause 70 as amended carries.

Mr Thomas to move clauses 71 to 79.

Mr Thomas: Thank you, Mr Speaker.

We come to Division 5 of the Part which concerns election donations and expenses.

Clause 71 states that the Division applies equally to national elections and local elections.

Under clause 72, candidates must declare the relevant donations that they have received during the relevant period and information about the donation, the donor and the receipt and disposal of anonymous donations. The clause specifies that a donation is relevant if it is over £50.

Under clause 73, a candidate or prospective candidate must send any anonymous donations received to the Chief Financial Officer, within 10 days of receipt. The Chief Financial Officer will make arrangements for its distribution to the nominated charitable trust.

Clause 74 makes clear that a prospective candidate or a candidate’s election expenses incurred during the relevant period must not exceed the amount of £2,000 plus 50 pence for each eligible elector. If a person believes that a candidate’s expenses have exceeded the maximum amount they can make a complaint to the officer, and the clause sets out the steps that must be taken by the officer in response to the complaint.

Clause 75 sets out the requirements of the declarations made by a candidate in respect of donations received, whether identifiable or anonymous, and when required by the officer in response to a complaint under section 74. Any amendment to the information declared must be notified by submitting a further declaration of the amendment to the officer within 10 working days of becoming aware. Upon receipt, the officer must record the details of the declaration and file a copy of the same in the Central Registry where it is available for inspection by the general public.

Clause 76 sets out that all candidates must submit a declaration of expenses commencing from one year before the scheduled date of the election before election day and a subsequent declaration within 35 days of the election, both of which are available for public inspection. If a complaint is made the officer may request documentary proof of the expenses which must be complied with within 15 days.

Clause 77 states that a candidate must make a written declaration of any financial donation that the candidate made to a resident in the constituency, district or ward.

Clause 78 provides that if a person pays or incurs a candidate’s expenses that person must provide the candidate with the necessary information required so that the candidate can comply with the requirement to make a declaration as to his or her expenses.

Finally, clause 79 provides further guidance by way of interpretative provision relevant to this division.

Mr Speaker, I beg that clauses 71 to 79 stand part of the Bill.

The Speaker: Thank you very much.

I will call on Mr Hooper to move amendments number 45 and 46, please.

Mr Hooper: Thank you very much, Mr Speaker.

Amendment 45 is being moved to bring this Bill in line with reporting requirements in other Bills which have passed through this Branch. The argument has already been made that the 10 days required to send an anonymous donation to the Chief Financial Officer could easily be breached without a candidate realising necessarily and requires weekly checks of a bank account whilst bank statements are received monthly or less frequently. With this in mind, the amendment has been drafted so that anonymous donations must be forwarded to the Chief Financial Officer within 10 days of receipt.
Financial Officer within 10 days of the recipient becoming aware of the donation, or 30 days of receipt, whichever occurs sooner.

The amendment to clause 76 is proposed to prevent a candidate from filing the first required expenses declaration at the very start of their election campaign, and would instead require this first expenses declaration to be filed no earlier than 10 days before the day of the election, with the supplementary declaration then being filed no later than 35 days following the election.

Mr Speaker, I beg to move both of those amendments:

Amendment to clause 73
45. Page 58, line 37, in subsection (2) for “within 20 working days of receiving it” substitute «within 10 working days of becoming aware of the donation or 30 days of receiving it (whichever comes sooner)».

Amendment to clause 76
46. Page 60, line 15, in subsection (2) immediately after “made” insert no earlier than 10 days».

The Speaker: Thank you.

Now, the eagle-eyed amongst you will have noticed that I did not get a seconder for clauses 71 to 79, so Dr Allinson.

Dr Allinson: Thank you very much, Mr Speaker.

I beg to second clauses 71 to 79.

The Speaker: Thank you. I do not intend to ask Mr Hooper to repeat his remarks.

Ms Edge, are you seconding amendments 45 and 46?

Mrs Caine: Yes please, I am happy to second.

Thank you, Mr Speaker.

The Speaker: Sorry. That sounded like Mrs Caine.

Mrs Caine: That was – sorry.

The Speaker: Mrs Caine, you have your own amendment which I will come to next. So you would not be able to second that, and that is why I was asking if Ms Edge was content to.

Ms Edge: Thank you, Mr Speaker, that is fine.

I am happy to second.

The Speaker: Thank you.

Mrs Caine, you have amendment number 47.

Mrs Caine: Apologies, Mr Speaker, yes.

Amendment 47 is a change proposed to clause 79 correcting a typographical error in the heading Interpretation of Division 4 – it should read Division 5, which is the section where the terms appear.

I beg to move:

Amendment to clause 79
47. Page 61, line 6, in the heading for “Division 4” substitute «Division 5».
The Speaker: Thank you very much.
Mr Perkins.

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

The Speaker: Now that we are all caught up and the clauses are before us, and the amendments in the name of Mr Hooper and Mrs Caine have been proposed and seconded, we now open for debate.

First up, I have Mr Callister.

Mr Callister: Thank you, Mr Speaker.

I was wondering if I could just ask the mover some questions relating to clause 74, Election expenses. If we go back to 1st April 2016 the postal charge was 45 pence for a standard letter. If we move towards the election, Members got £2,000 plus one standard letter. In this particular clause it is limiting the postage to 50 pence. The current charge for a standard letter on the Isle of Man per 100 grams here today is 62 pence. So if we were holding the election today every candidate would have to find an additional 12 pence for every manifesto that went into the post. If we take a round figure of 3,000 households that would be £360 off the £2,000 in order to fight the election.

I am just wondering if that particular clause should be £2,000 plus one standard letter, or an A5 letter of less than 100 grams to each eligible constituent within that area. I was wondering if I could get some clarity on that because as we go towards the election next year you could find that most candidates will have to find 20 pence for each eligible elector during this forthcoming election. I would welcome some clarity on that particular point.

The Speaker: Thank you.

Next up, Mr Baker.

Mr Baker: Thank you very much, Mr Speaker.

My question is regarding clause 77 which I think, on fine reading, could be open to misinterpretation. I think if nothing else, this is perhaps something that needs picking up in the other place. There is no clarity around the timescales that apply to these donations by candidates. One could infer the timescale that is mentioned in the preceding clauses which is a year, but it is not completely clear.

The other thing which is not clear is the phrase:

... directly or indirectly, any financial donation to a person resident in the constituency, district or ward ...

My concern on that would be ‘indirect’. And where do donations that are made by sitting Members of Keys in the ordinary course of being a constituency Member, to things like local constituency organisations, clubs, societies and events fit in to that clause 77? I think we could end up in quite a lot of debate next year when Members are supporting local horticultural shows or local football clubs, etc., which is certainly in my experience an integral part of playing your part as a sitting Member, certainly in a rural constituency.

I would like some clarity and some reflection on that from the hon. mover.

Thank you, Mr Speaker.

The Speaker: Thank you.

That is all the Members I have, who wished to speak. I will call on Mrs Caine first, if she wishes to respond to any of the points made.

Mrs Caine: No, thank you.
The Speaker: Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I would like to just comment very briefly on those two points that were raised. My understanding in respect of the postage for an election manifesto is that that does not actually count towards an election expense. I am sure the hon. mover can confirm how that works. But my understanding is the maximum expense is actually what you are allowed to physically spend, and the postage itself for that single manifesto that is allowed to all candidates does not form part of that because it is covered centrally by the Government.

Mr Baker’s comments I think are quite on point. I think there is some clarity in the clause 3 interpretation in relation to what a candidate is, because that talks about the 12-month period. And again I am sure the hon. mover can clarify this a bit more in relation to what kind of donations are being talked about and what is meant by ‘indirectly’, and perhaps some guidance should be issued around this in advance of the next election. I think Mr Baker makes some sensible points there.

Thank you, Mr Speaker.

The Speaker: Thank you.

Mr Thomas to reply.

Mr Thomas: Thank you, Mr Speaker.

In terms of Mr Callister’s point, on the record it would be important to state that subsection (5) allows regulations to amend the amounts prescribed and things like that, so that can be dealt with. But Mr Hooper is completely correct, which is that a manifesto is payable by the state to facilitate the election process, as it has been previously.

Moreover, in the arrangements that are proposed under this legislation there are more expenses that you could argue are being incurred by the state to encourage the quality of elections. So, for instance, requisition meetings in larger constituencies will be more plentiful, and also there are intentions to make manifestos available digitally to encourage that sort of enhancement to our election process. So that is to do with a very good point that Mr Callister raised.

In terms of Mr Baker’s questions: I think if extra clarity is needed it is indeed the case that we have got the other place to provide that.

But as Mr Hooper suggested clause 3 as proposed, and as moved and agreed already, provides interpretation of a candidate being a candidate for 12 months, which is a replication of the existing procedure in the elections. That is why we needed to get this this Bill through the Branches if at all possible and with launch then before September 2020, so that the 12-month period for the September 2021 election will start as provided for in this legislation. So 12 months is the clear intention in terms of candidates incurring expenses for the September 2021 election.

Mr Baker was very open in terms of the use of personal moneys by politicians in some places. It seems to me that can be a difficulty. Different politicians have different perspectives on this very issue and if there is any clarity that is needed in terms of how politics works in the Isle of Man I am sure that can be provided in secondary legislation if absolutely necessary. It is not in guidance or in Member standards inside the Tynwald process or whatever, but it is something that can be revisited I guess in the debate in the other place.

With that, Mr Speaker, Hon. Members, I beg to move.

The Speaker: Thank you.

I will put first the amendments in the name of Mr Hooper, and I will presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the amendments 45 and 46 are approved.
Putting to you amendment number 47 in the name of Mrs Caine, I presume that the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, amendment 47 therefore carries.

Putting to you then that clauses 71 to 79, as amended, stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent have been indicated, the motion therefore carries.

We turn then to clauses 80 to 82 please, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Part 6 of the legislation concerns the holding of elections and I would like to take clauses 80, 81 and 82 together as you have just permitted.

Clause 80 provides that a national election can only take place under and by authority of a writ issued by the Governor.

Clause 81 provides that elections must be conducted in accordance with election regulations, setting out what procedures may be included in the regulations.

Clause 82 provides in the event that a person breaches their official duties in connection with the election or the election regulations it does not mean that the election is invalid, as long as it appears to the High Court that the election was so conducted as to be substantially in accordance with the law as to elections, and that the act or omission did not affect the result.

Mr Speaker, I beg that clauses 80, 81 and 82 stand part of the Bill.

The Speaker: Thank you.

Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

I call on Mr Hooper to move amendment 48.

Mr Hooper: Thank you very much, Mr Speaker.

This amendment is an amendment to clause 81 and it is simply a housekeeping amendment to remove the reference to 'local elections', as the section only applies to national elections.

Mr Speaker, I beg to move:

Amendment to clause 81
48. Page 61, line 28, in subsection (1) omit “and local elections”.

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: I beg to second.

The Speaker: Thank you very much.

If any Member wishes to speak? Otherwise I will put to you first the question that amendment 48 be agreed, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the amendment therefore is approved.

I put to you clauses 80, 81 and 82 stand part of the Bill as amended. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Mr Thomas to move clauses 83 and 84.
Mr Thomas: Clause 83 sets out the legal entitlement that every eligible elector who is at least 16 years old on the date of the election is entitled to receive a ballot paper and vote in a constituency, district or ward.

Clause 84 follows on from clause 83 in that the person entitled to vote may do so in person, by post or by proxy, in certain specified cases.

Mr Speaker, I beg that clauses 83 and 84 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

Mr Hooper: Thank you very much, Mr Speaker.

This amendment seeks to reinforce the fact that a person cannot vote by proxy if that person has already voted in person or, as the amendment seeks to do, in advance by post.

Mr Speaker, I beg to move the amendment:

Amendment to clause 84
49. Page 64, line 19, in subsection (3) between “person” and the full stop insert «or in advance by means of post».

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: I beg to second.

The Speaker: Thank you very much.

If no one wishes to speak to clauses 83 and 84 or the amendment, I will put the question first that the amendment 49 in the name of Mr Hooper be approved, and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the amendment therefore carries.

I put to you the question that clauses 83 and 84, as amended, stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

Clauses 85 and 86, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clause 85 sets out the procedure to be followed should a person wish to vote in advance by post, either in his or her own capacity or as proxy for another person. The clause permits regulations to make further provision regarding this section.

Mr Speaker, clause 86 sets out the procedure to be followed if an eligible elector wishes to appoint a proxy voter and the criteria that such proxy should meet. The clause permits regulations to make further provision regarding this section.

Mr Speaker, I beg that clauses 85 and 86 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.
Now, unless any Member wishes to speak I will put the motion that clauses 85 and 86 stand part of the Bill and I presume that the motion be carried unless any Member indicates dissent, which they should do now, please. No dissent being registered, the motion therefore carries.

Mr Thomas to move clauses 87, 88 and 89.

Mr Thomas: Mr Speaker, these clauses provide some supplementary provisions regarding the conduct of elections.

Clause 87 provides that for the purposes of this Part, the register of electors is conclusive on whether or not a person registered in it was at the time of the list resident at the address shown and whether or not any address in any constituency, district or ward or part thereof.

Clause 88 provides further specification when public notices are required to be given.

Clause 89 provides for the distribution of election manifestos.

Mr Speaker, I beg that clauses 87, 88 and 89 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I call on Mrs Caine to move amendment number 50.

Mrs Caine: Thank you, Mr Speaker.

Page 66, line 21, contains a small typo – ‘in additional to’ should simply read ‘in addition to’.

I beg to move:

Amendment to clause 88
50. Page 66, line 21, in subsection (3) for “additional” substitute «addition».

The Speaker: Thank you.

Mr Perkins.

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

The Speaker: Thank you very much.

Now, if anyone wishes to speak to any part of that? Otherwise, I will put the motion that amendment 50 be approved and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

I put to you clauses 87, 88 and 89, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clauses 90 to 92.

Mr Thomas: Mr Speaker, these three clauses together concern election observers, and include how an application should be made to become an election observer, and the number and conduct of observers.

Clause 92 requires the Returning Officer to prepare a code of practice on the attendance of accredited observers and sets out what the code must in particular contain.

Mr Speaker, I beg that clauses 90, 91 and 92 stand part of the Bill.

The Speaker: Thank you.

Dr Allinson.
Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Does anyone wish to speak? Otherwise, I will put the motion that clauses 90, 91 and 92 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clause 93.

Mr Thomas: Mr Speaker, we come to Part 7 of the Bill, which is entitled ‘Offences etc. in connection with elections’. Ensuring the integrity of the conduct of an election is fundamental to safeguarding the democratic process of electing candidates to either local or national government.

Clause 93, which applies to both national and local elections, sets out where a person perpetrates a corrupt practice and where a person perpetrates an illegal practice; and, where relevant, refers to where a person has contravened the provisions of another section of the Bill.

Mr Speaker, I beg that clause 93 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: If no Member wishes to speak, I will put the motion that clause 93 stand part of the Bill and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clauses 94 to 96, Mr Thomas.

Mr Thomas: Mr Speaker, clauses 94, 95 and 96 together make further provision in respect of certain corrupt practices.

Clause 94 provides that a person commits the corrupt practice of personation if they vote as some other person, whosoever that may be.

Clause 95 pertains to the corrupt practice of bribery and when such a practice is committed, which can be both before and after an election.

Clause 96 pertains to the corrupt practice of committing the offence of undue influence and when this is deemed to occur.

Mr Speaker, I beg that clauses 94, 95 and 96 form part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

Mr Hooper to move amendment number 51 to clause 94.

Mr Hooper: Thank you very much, Mr Speaker.

This is just a housekeeping amendment to remove the reference to an absent voter.

Mr Speaker, I beg to move:

Amendment to clause 94
51. Page 70, line 28, in subsection (3)(b) omit “by an absent voter”.

The Speaker: Thank you.

Mrs Caine.
Mrs Caine: Thank you. I beg to second.

The Speaker: Thank you very much.

An opportunity for anyone to speak, otherwise I will put first that amendment 51 in the name of Mr Hooper be approved, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

I put to you then that clauses 94, 95 and 96 stand part of the Bill, as amended. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clause 97, Mr Thomas.

Mr Thomas: Mr Speaker, clause 97 places restrictions on the printing, publishing or posting of election publications unless it bears the name of the publisher. It also restricts the display of such publications around the building which forms part of a polling station unless it is displayed on a vehicle which is engaged in delivering a voter to, or collecting a voter from, the polling station. Any person contravening this section commits an offence and is liable to a fine on summary conviction.

Mr Speaker, I beg that clause 97 stand part of the Bill.

The Speaker: Thank you.

Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

We turn to amendment number 52 in the name of Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

As this clause relates to both national and local elections I would suggest that in addition to a Government Office there should also be reference to a Local Government Office and municipal buildings that should be out of bounds to candidates posting promotional election material.

I beg to move:

Amendment to clause 97
52. Page 72, line 35, in subsection (3)(c) immediately after “Government Office” insert «, or by any Local Government or Municipal Office».

The Speaker: Thank you.

Mr Perkins.

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

The Speaker: Thank you.

Now, does any Member wish to speak?

Mr Thomas, do you wish to sum up?

Mr Thomas: Thank, you Mr Speaker.

Just to fully support the sentiment and the specific amendment moved by Mrs Caine. She makes the more general point that the standards for local elections need to be equal to those for national elections, and vice versa. So therefore with that, Mr Speaker, I thank Mrs Caine for her attention to the detail and for moving this amendment.
I beg to move, and encourage support for Mrs Caine’s amendment.

The Speaker: I put first the amendment number 52 in the name of Mrs Caine. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the amendment therefore carries.

Putting to you clause 97, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clauses 98 to 115.

Mr Thomas: Clauses 98 to 115 make further provision for offences which may be committed and therefore it is logical to take them together.

Clause 98 makes clear that a person must not issue any poll card or document so closely resembling an official poll card as to be calculated to deceive.

Clause 99 prohibits a person from corruptly inducing or procuring another person to withdraw from being a candidate.

Clause 100 prohibits the giving of money in respect of a payment which is in contravention of this legislation.

Clause 101 makes clear those actions in which a voter must not engage.

Clause 102 makes clear that a person who engages in a corrupt practice commits an offence and depending on the nature of the offence is liable on information or summarily. A person who engages in an illegal practice is liable summarily.

Clause 103 provides that a candidate commits an offence. Furthermore, a person who knowingly or recklessly delivers a declaration under Part 4 of this legislation commits an offence.

Mr Speaker, I beg that clause 103 stand part of the Bill as part of the grouped clauses.

Clause 104 contains a number of offences regarding funding including the failure to send anonymous donations to the Chief Financial Officer, exceeding election expenses or failing to make declarations as to expenses.

Clause 105 makes clear that if a deputy returning officer, presiding officer or clerk or assistant acts in breach of his or her official duty that person commits an offence. However, no action for damages or any penalty lies against a person to whom this section applies.

Clause 106 sets out a number of offences in relation to nomination papers. If the person committing the offence is the deputy returning officer or an officer or clerk in attendance, they are liable to be convicted on information. In any other case, a person is liable to summary conviction. Furthermore, every person who intentionally acts in contravention of any provisions of election regulations that give directions or orders for the guidance of voters commits an offence and is liable on summary conviction to a fine.

Clause 107 places an obligation of secrecy on deputy returning officers, tellers, presiding officers, clerks and candidates that are attending polling stations and those at the count. The section prohibits interference with voters in any way. The clause also enables the presiding officer at a polling station to evict a teller who fails to abide by the code of conduct issued under this legislation and, should the teller fail to depart from the polling station, that person commits an offence.

Clause 108 makes it an offence for any person to intentionally refuse to obey or comply with a lawful order or direction of a deputy returning officer given in the execution of his or her duties under the Act.

In clause 109 a person who without lawful authority destroys, mutilates, defaces or removes any notice published by the returning officer in connection with his or her duties under the Act, commits an offence.
Clause 110 prohibits a candidate by himself or through another person displaying in any public place any list of eligible electors showing how or in what manner any such eligible electors will, or it is assumed will, vote in the election, otherwise that candidate commits an offence.

In clause 111 a person must not, for the purpose of promoting or of procuring the election of any candidate at an election publish, display or issue any document setting out the name of any candidate, or two or more candidates, where they are not the candidate that such person is seeking to promote or procure, and the manner in which the vote or votes may be recorded in favour of such particular candidate or candidates, otherwise that person commits an offence.

Clause 112 provides that if a deputy returning officer, other officer or clerk appointed under election regulations or any partner or clerk of such a person, acts as an agent of a candidate in the conduct of the election, he or she commits an offence and is liable on summary conviction.

Clause 113 provides that if any constable tries to persuade or dissuade any person from giving his or her vote at an election that constable commits an offence.

Clause 114 preserves the rights of creditors and states that any provision of this Part which prohibits payments and contracts for payments does not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Act.

Finally, clause 115 provides further interpretative assistance to phrases used in this Part.

Mr Speaker, I beg to move that clauses 98 to 115 inclusively stand part of the Bill.

Dr Allinson: Thank you very much, Mr Speaker. I beg to second.

Mr Speaker, I will give an opportunity for Members to speak on those clauses. Otherwise I will put the motion that clauses 98 to 115 stand part of Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clauses 116 to 135 and Schedule 1, please.

Mr Thomas: Thank you, Mr Speaker.

Part 8 comprising those clauses is broadly technical, establishing the procedure for complaining of an undue election, an undue return or no return and the consequences of this.

Whilst these clauses are incredibly important in the sense that they provide an avenue of accountability and redress, they have not been changed from the previous legislation and there is no evidence to call into question the effectiveness of these clauses.

Mr Speaker, I beg that clauses 116 to 135 and Schedule 1 stand part of the Bill.

Dr Allinson: Thank you, Mr Speaker.

With no amendments to those clauses, I will give an opportunity for Members to speak; otherwise I will put the motion that clauses 116 to 135 inclusive and Schedule 1 stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been indicated, the motion therefore carries.

Clauses 136 to 139, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
Clause 136 defines the term ‘recall petition’ and introduces how a Member could become subject to a recall petition in particular, by either being convicted of an offence and sentenced to custody after becoming a Member of the Keys, and the appeal period expires without the conviction or sentence having been overturned on appeal; or that following a report from the House of Keys Management and Members’ Standards Committee in relation to the Member, the Keys orders the suspension of the Member from the service of the Keys for a specified period of time.

Clause 137 makes further provision on what would satisfy the first recall condition and gives further guidance on the interpretation of a Member being sentenced, which included where a sentence is suspended but not where a Member is remanded in custody or detained under the Mental Health Act 1998 where there is no sentence or order for custody or detention.

Clause 138 makes further provision as to when the appeal period for the purposes of the first recall condition is deemed to have expired, and defines what a relevant appeal is for these purposes.

Finally, clause 139 obliges a court which has imposed a sentence on a Member, to notify the Speaker of the sentence and also if and when any appeal is brought.

Mr Speaker, I beg that clauses 136 to 139 inclusive stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

Now, turning to the amendments: first, amendment number 53 in the name of Miss Costain, please.

Miss Costain: Thank you, Mr Speaker.

This amendment seeks to give some additional clarity and flexibility to the conditions for a recall petition.

Currently the law as drafted would only allow a recall petition to be triggered if an MHK was served a custodial sentence. This means that two individuals could be convicted of the same offence but not both be subject to a potential recall. For example, if two MHKs were convicted of drink driving, but one received custody and the other did not, only the one could trigger a potential recall.

The judiciary of course has discretion to determine what criminal penalty is appropriate and will take all sorts of circumstances into consideration when determining this. But a recall petition is not a criminal sanction, it is a political one. The electorate would very likely view both the aforementioned drink drivers in a similar light and, given the offence is the same, the lapse in judgement it represents is the same.

The exact circumstances of the offence may not have justified a custodial sentence but if it was an offence serious enough that this was an option available to the court, it is surely up to the electorate to decide if it justifies a recall petition or not. This is not a criminal issue it is a political one, and the electorate should have the right to decide for themselves whether the circumstances of a serious event warrant a recall petition.

Thank you, Mr Speaker, I beg to move:

Amendment to clause 136

53. Page 94, line 15, in subsection (3)(a) for “and sentenced to custody” substitute “which carries the potential for a custodial sentence (whether or not such a sentence was imposed)”.

The Speaker: Thank you.

Do I have a seconder for Miss Costain’s amendment, please?
Ms Edge, I think you have turned your video on rather than your audio.

**Ms Edge:** Apologies! Happy to second, Mr Speaker.

**The Speaker:** Thank you very much.
We turn then to amendment number 54 in the name of Mr Hooper.

**Mr Hooper:** Mr Speaker, this amendment seeks to make clear that a summary conviction can satisfy the requirement to trigger the recall petition process on the basis that it would demonstrate a lack of judgement which may compromise the ability of the Member to retain the confidence of his or her constituency.

I think, as has just been touched on by the mover of the last amendment, it is this demonstration of a lack of judgement that is most relevant and which forms the basis of this amendment.

Mr Speaker, I beg to move the amendment standing in my name:

_Amendment to clause 136
54. Page 94, line 15, in subsection (3)(a) immediately before “convicted” insert «summarily»._

**The Speaker:** Thank you very much.
Do I have a seconder to Mr Hooper’s amendment?

**Miss Costain:** Sorry, Mr Speaker, I have problems again.
Happy to second.

**The Speaker:** Who is that, sorry?

**Miss Costain:** Sorry, it is Kate Costain.

**The Speaker:** Sorry, Miss Costain. Having moved your own amendment I am not sure you can second somebody else’s.

**Mrs Barber:** Happy to second the amendment in Mr Hooper’s name.

**The Speaker:** Thank you very much.
And Mrs Caine to move amendment number 55.

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

Similar to earlier, I feel that there is a potential loophole here and where a Member of the Keys is convicted of an offence and sentenced to custody, this recall condition should apply wherever that offence was committed. However, given the flaws pointed out with my previous similar amendment, I would ask not to move this amendment today, with the intention of bringing it to a Member of Council’s attention to give it their consideration, if that is possible?

Thank you.

**The Speaker:** That is no problem; you are under no obligation to move that amendment. So I will treat that as withdrawn.

We then have clauses 136 to 139, and amendments 53 and 54 on the table, if anyone wishes to speak to any of them?

Mr Harmer.
Mr Harmer: Thank you, Mr Speaker.
Although I fully support Mr Hooper’s amendment, I do have concerns on Miss Costain’s amendment. I think if a court were to judge particular severity or not severity, I think they could actually attract a lot of quite trivial offences, even speeding fines or all sorts of other offences, if there is the potential of having a full conviction. I think actually it again will attract a lot of unintended consequences.

So I do express deep concern on that amendment. Thank you.

The Speaker: If there is no other Member wishing to speak, I will see if Miss Costain wishes to sum up regarding her amendment.

Miss Costain: Yes, thank you, Mr Speaker.
I would just like to say I am not really quite sure what Mr Harmer’s concerns are, because I did not think you actually got a prison sentence for speeding or anything like that. It would only be for the more serious offences that could carry a prison term, a custodial sentence, which my amendment is referring to, not really just a matter of speeding or similar offences like that.

So I would ask Members just to consider, really, whether two sentences such as drink driving that could, both of them, carry a custodial sentence but one does and one does not. Is that fair, when asking the electorate if they want to recall somebody?

Thank you.

The Speaker: Mr Hooper, to respond to your amendment.

Mr Hooper: I have nothing specifically to add on my amendment.

The Speaker: Thank you.

Mr Thomas, to respond to the debate on clauses 136 to 139.

Mr Thomas: Thank you, Mr Speaker.
I think Mrs Caine has made the right decision inviting consideration in another place on the more general concept of offences.
Miss Costain has raised a very interesting point about judicial discretion versus sentencing guidelines and potentially unfair treatment. And so that also seems to me the sort of issue that could usefully be considered, especially as the argument that seems to have been made by Government is that this might have unintended consequences and has not been fully thought through.

So with that, Mr Speaker, I beg to move.

The Speaker: Thank you.
In which case I will put first amendment number 53 in the name of Miss Costain, and I presume that motion will be carried unless any Member indicates dissent. Right, dissent having been indicated, I will call on the Clerks to run the vote.

Voting resulted as follows:

FOR
Miss Costain
Mr Hooper

AGAINST
Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Boot
Mrs Caine
Mr Callister
The Secretary: Everyone has voted.

The Speaker: Thank you. With 2 for, and 21 against, the noes have it. The noes have it.

Amendment 53 therefore fails to carry.

Putting to you next, amendment number 54 in the name of Mr Hooper. I will presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, amendment 54 therefore carries.

I put to you clauses 136, 137, 138 and 139, as amended, stand part of the Bill and I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clauses 140 to 148 and Schedule 4, please.

Mr Thomas: Clauses 140 to 148 are being moved together as they set out the procedure to be followed once the Speaker has been informed that the first or second recall condition has been met.

As soon as practicable, the Speaker must give notice of the fact to a petition officer and a Member will be subject to the process during the period from giving them the notice and ending with either the early termination of the process or else a successful outcome.

Clause 141 makes clear that the deputy returning officer for a constituency is the petition officer, and refers to Schedule 4 which contains further provision regarding the petition officer’s general duty to perform his or her functions, and in relation to the recovery of expenditure.

Under clause 142, once a petition officer receives the requisite notice from the Speaker, he or she must designate up to six places where the recall petition is to be made available for signing, and a day from which the petition is available for signing, which is either the 10th working day after the petition officer received the notice or else, if this is not practicable, the date that is the first subsequent day that is reasonably practicable.

Under clause 143 the petition officer must send notice of the petition to eligible electors and other persons, in accordance with regulation made by the Cabinet Office.

Clause 145 contains the criteria a person must meet to be entitled to sign a recall petition.

Clause 146 states that this could be done in person, by post or by proxy.

Clause 147 provides those circumstances in which a person commits an offence which includes signing the recall petition more than once or signing as a proxy more than once.

Clause 148 states that in the event that the polling day for the next election is brought forward under clause 6 or 8 and is within six months of the date on which the Speaker’s notice was given or the Member’s seat is vacated, this will give rise to the early termination of the recall process, and the petition officer must take such steps necessary to terminate the process and give a public notice of the fact, which the Speaker must then lay before the Keys.

I beg that clauses 140 to 148 and Schedule 4 stand part of the Bill.
The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

I turn now to Mr Hooper for amendments 56, 57 and 58.

Mr Hooper: Thank you very much, Mr Speaker.

These amendments seek to remove the reference to descriptions of electors and instead make it a requirement to send a notice to all eligible electors in a constituency.

The amendment to clause 144 is to amend the term ‘eligible people’ so that it reads ‘eligible electors’.

Mr Speaker, I beg to move those amendments:

Amendment to clause 143
56. Page 99, lines 10 and 11, for paragraph (a) of subsection (1) substitute the following — «(a) to all eligible electors for the constituency; and».

57. Page 99, line 12, in subsection (1)(b) omit “descriptions of”.

Amendment to clause 144
58. Page 99, lines 32 and 37, in subsection (3) for “eligible people” in both places where it appears, substitute «eligible electors».

The Speaker: Thank you.

Mrs Caine.

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

The Speaker: Thank you very much.

Now, if any Member wishes to speak? Otherwise I will put to you first amendments 56, 57 and 58 in the name of Mr Hooper, and I presume that those will be approved unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

I therefore put to you clauses 140 to 148 inclusive and Schedule 4 stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clauses 149 to 152, Mr Thomas.

Mr Thomas: Clause 149 sets out that a recall petition will be deemed successful if the number of persons who validly sign the petition is at least 10% of the total number of eligible electors registered in the register of electors for the constituency. If it is successful the petition officer must notify the Speaker and give public notice of the fact.

Clause 150 sets out that the effect of a successful petition is that the Member’s seat becomes vacant from the time that the petition officer gives notice to the Speaker.

Clause 151 enables the Cabinet Office to make regulations with regard to recall petitions and sets out what they may contain.

Finally, clause 152 provides further provision to assist with the interpretation of Part 9.

Mr Speaker, I beg to move that clauses 149 to 152, inclusively, stand part of the Bill.

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

The Speaker: Now, unless any Member wishes to speak I will put the motion that clauses 149 to 152 inclusive stand part of the Bill and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

We now turn to New Clause 1 in the name of Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I stand to introduce in principle the New Clause 1 into this important Bill. This new clause relates to a candidate declaring their own interests at nomination stage of any electoral process.

It is current practice in some countries for election candidates to complete a declaration of interest form. The interests are then published with the intention of promoting greater transparency for voters and a level playing field among candidates. The main purpose is to provide information of the candidates’ interests either pecuniary or other material benefit or membership that may be thought by others to influence his or her actions, speeches or votes.

The Cayman Islands and Bermuda have it in their laws, to mention a couple; and the Ministry of Justice in the UK provides guidance for parliamentary election candidates.

The exact detail of the declaration will be contained as part of the regulation and it is envisaged as being similar to those which Members of the House of Keys and Legislative Council have to complete immediately after election to either of the Branches. I feel this clause would provide a more transparent process for the electorate on the Isle of Man and to make them aware, prior to voting for a candidate, of any interests that may or may not influence their decisions or actions when going into government at a local or national level.

What it means to be transparent is simply be honest about who candidates are as individuals and whether they have any connections to any business, society, political party or other interests when standing. It only seems right that the public has a right to know the full interests of any candidate standing to represent them, providing opportunity for the electorate to have a better informed process when assessing candidates. How many times have we all heard in the public domain during every administration, negative comments about why decisions are made, insinuating that decisions were made due to perceived bias? This clause will remove that doubt for the electorate as it provides transparency from the outset.

Members of all Branches must declare their interests after a successful election to their respective Branch. This clause merely brings that process forward prior to the election.

Some of the most used words in this House, particularly by our current Government, are ‘openness’ and ‘transparency’; and therefore I hope that the Council of Ministers and all Members of Keys will support this new clause to provide that transparency to the people of the Isle of Man.

Mr Speaker, I beg to move New Clause 1 that is standing in my name:

Insertion of New Clause 1
Page 106, in the appropriate place in Part 10 insert the following new clause – «NC1 Duty of candidates to declare conflicts of interest
A candidate for an election must ensure that, when his or her nomination papers are submitted, there is also submitted whichever of the following is appropriate – (a) a declaration specifying and providing details of any interest he or she has which may tend to conflict with – (i) his or her candidature; or (ii) if elected, his or her position as member of the Keys or a local authority (as the case may be); or (b) a written declaration that he or she has no interest of the type described in paragraph (a).».
If Honourable Members vote in favour of NC1, kindly decide on its appropriate location, number it appropriately, and accordingly renumber any succeeding clause or clauses.

The Speaker: Thank you.

I call on Mrs Caine.

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

The Speaker: Thank you very much.

New Clause 1 having been moved and seconded in principle, I then open the floor to speak.

Mr Ashford.

Mr Ashford: Thank you, Mr Speaker.

There is a concern I have around the new clause which is in relation to the fact that I feel it could actually put people off standing. It is fully accepted that Members, once they become a Member of Tynwald, should actually clearly declare all their public interests. But the bit I am concerned about is in relation to candidates. They may well have interests that they intend, if elected, to dispose of, which will no longer be an interest.

I think at a time when we are trying to encourage a diversity of candidates to stand for election, and particularly those who might have wide-ranging business experience, do we really want to be putting it out there that they have to declare all of their interests similar to Members of the House of Keys even before being elected, and in many cases maybe not even being elected?

I think there will be people who will actually think twice about standing if they feel all of their interests are going to be put out there, when they will not even necessarily be elected.

The Speaker: Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

I am just a bit concerned about the wording in this proposed new clause in the sense that ... and it includes Ms Edge’s words of introduction as well where she says ‘might be deemed to be in some way conflicted’. And then actually in subparagraph (a) the wording is:

"a declaration specifying and providing details of any interest he or she has which may tend to conflict ..."

The words ‘may tend’ are very loose. So we both have looseness and subjectivity in this, which leaves me somewhat uncomfortable, Mr Speaker, and inclined to vote against.

Thank you.

The Speaker: We are at this point talking about the new clause in principle rather than in detail, but in principle you can save your remarks for future debate if required.

If no other Member wishes to speak then, Ms Edge, you have the right of reply.

Ms Edge: Thank you, Mr Speaker.

Mr Ashford, Hon. Member for Douglas North is concerned it would put people off. I find that a considerable remark to make when surely transparency is what most people would require from somebody they were electing.

I appreciate what he says with regard to all of their interests. However, I did state in my comments that the actual criteria and the table ... We do have a process within Tynwald that could be a part of the regulation. However, that detail will come within the regulation. So I find it difficult to understand how somebody would vote against greater transparency and openness to the electorate.
And with regard to Mr Robertshaw, clearly if it is just a drafting issue that the word perhaps could be changed to satisfy his need, that is something that could be picked up in another place. So with that, Mr Speaker, I beg to move that the clause stand part of the Bill.

**The Speaker:** I put to the House that New Clause 1 be approved in principle, and I presume that the motion will be carried unless any Member indicates dissent, which they should do now. Dissent having been registered, I call on the Clerks to undertake the vote.

_Voting resulted as follows:_

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<td>Mr Baker</td>
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<td>Miss Costain</td>
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<td>Ms Edge</td>
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<td>Mr Thomas</td>
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**The Speaker:** With 13 in favour, and 10 against, the ayes have it. The ayes have it. I now call on Ms Edge to move the New Clause 1 in detail, please.

**Ms Edge:** Thank you, Mr Speaker.
I beg to move New Clause 1 standing in my name, which is part obviously of this important Bill and I would appreciate if Members could continue to support it; and I just beg to move that the clause stand part of the Bill.

**The Speaker:** Thank you.

**Mrs Caine:** I beg to second.

**The Speaker:** Thank you.

**Mrs Caine:** I beg to second.

**The Speaker:** Thank you.

**Mr Robertshaw:** Thank you, Mr Speaker.
On your advice, just to reiterate my concerns about the wording here. If it is the will of the Hon. House to let this go forward I would beg that LegCo look at this in detail as I think currently the wording is sloppy and needs to be tightened up.

Thank you.

**The Speaker:** Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.
Really, I would just like to echo the concerns that Mr Robertshaw has raised. I fully support the principle of this; I think it makes sense to have people declare anything that they have an interest in that may potentially affect their tenure as a Member of the House. This is similar to guidance that was issued to candidates in the UK. I think in the UK it is only a voluntary
declaration of interest for candidates rather than a mandatory one. But essentially the principle I think is sound.

Where I have concerns is with the wording. So, for example, there is no definition here of the conflict of interest, what the type of interest needs to be declared, whether it is going to be broader than actually what is required for Tynwald Members, which is only a direct pecuniary interest. It is not clear to me whether or not the general regulation-making power in the Bill actually would apply to this clause. The clause itself needs to, I think, specifically reference an ability to make regulations that cover things like what is included in a declaration of conflict – when such declaration has to be made, and all the rest of it.

So, as it stands, I fully support the principle but I would be more comfortable if the House actually said no to this particular clause and the way it is worded, and it comes back like we have already talked about with some of the other clauses, with a much better framework and a better way of framing the clause from another place.

Thank you, Mr Speaker.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

So let’s understand what has happened here. We have got an important principle that has been agreed in principle by the House and before us today we have got a new clause which has been drafted by the Attorney General’s Chamber. Obviously more work is needed in terms of specifying the interest, which could be done in the form of guidance if the general power to make guidance already provided in this Bill is eligible.

Obviously we have now got the time to look for the detail in the other place. But as it stands the principle has been established today, the clause is adequate and I fully support the clause being voted on, differently from Mr Hooper, in this respect.

I would like to congratulate and thank the Hon. Member for Onchan, Ms Edge, for having had the foresight to work with colleagues to actually put on the table something that needs to be there in the Isle of Man Elections law.

The Speaker: Thank you.

Ms Edge to reply.

Ms Edge: Thank you, Mr Speaker; and thank you to the Members that have spoken on this.

With regard to the drafting, yes it was drafted by the Attorney General’s Chambers, and the framing of one word I do not feel should change the principle of what I am actually moving here in this new clause today. I hope that Members will continue to support it; and obviously we have the option in the other place to just tighten up on that wording.

With regard to the Member for Douglas Central, Mr Thomas, and the previous clauses that have been moved on guidance, there is an opportunity at that point for the guidance to be very clear. But I feel that in moving this new clause, it is critical and important to prove that we have an open and transparent Government and elected people; and giving the electorate of the Isle of Man the open opportunity to decide on a fair platform which candidates they would vote for at an election. I do not believe that it would put people off, I think it would possibly encourage more of our electorate to actually go to the polls if they were fully aware of the circumstances of the candidates that they are electing.

And with that, Mr Speaker, I beg to move the New Clause 1 as part of the Bill.

The Speaker: Thank you very much.

I put the motion that New Clause 1 be approved in detail and therefore stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No Member having indicated dissent, the motion therefore carries.
The New Clause 2, Ms Edge.

Ms Edge: Thank you, Mr Speaker.  
I am not going to move this New Clause 2. Having obviously looked at it in more detail, I think it does need further exploration due to the differences with the different types of media – the broadcasting under the Communications Act and codes of practice etc., for newspapers. I do feel it needs more exploration and so I do not intend to move this today.

Thank you, Mr Speaker.

The Speaker: New Clause 2 not being moved, then I call on Mr Thomas to move clauses 153 to 158 and Schedule 6, please.

Mr Thomas, I am just checking we have got you. Clauses 153 to 158 and Schedule 6, please.

Mr Thomas: Sorry about that, Mr Speaker.

Part 10, which comprises clauses 153 to 158, contains miscellaneous and supplemental provisions applicable to the whole Act permitting the Governor in Council, the Cabinet Office and the Council of Ministers to make regulations subject to the approval of Tynwald, in clauses 153, 154 and 155 respectively.

Clause 156 omits section 12 of the Isle of Man Constitution Amendment Act 1919, which I think goes back to something that was requested by the Tynwald Standing Orders Committee.

Clause 157 gives effect to Schedule 6, which sets out modifications to other legislation.

Clause 158 repeals in full the Local Elections Act 1986, the Representation of the People Act 1995 and the Representation of the People (Amendment) Act 2015, and section 66 of the Charities Registration Act.

Mr Speaker, I beg to move that clauses 153 to 158 and Schedule 6 stand part of the Bill.

The Speaker: Thank you.

Dr Allinson.

Dr Allinson: Thank you, Mr Speaker.

I am delighted to second.

The Speaker: Thank you.

We turn to amendment number 60 in the name of Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

This final amendment is a corrective amendment to change the reference from ‘Part 9’ to ‘Part 8’.

I beg to move the amendment:

Amendment to Schedule 6
60. Page 128, fourth column, in the first entry under the heading “Substituted portion”, for “Part 9” substitute «Part 8».

The Speaker: Thank you very much.

Mrs Caine.

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

The Speaker: Thank you very much.
If no Member wishes to speak, I will put first amendment number 60 in the name of Mr Hooper and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, amendment 60 therefore carries.

I put to the House that clauses 153 to 158 and Schedule 6 stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Hon. Members, this seems like an appropriate point for some mature reflection on the Bill. We will return at 2.30 p.m. for the motion to suspend Standing Orders and, if that is approved, Third Reading, and then move on to the Road Traffic Legislation (Amendment) Bill.

But with that, the House stands adjourned until 2.30 p.m. Thank you very much.

The House adjourned at 1.05 p.m.
and resumed its sitting at 2.30 p.m.

Elections (Keys and Local Authorities) Bill 2020 –
Standing Orders suspended to take Third Reading

The Hon. Member for Douglas Central (Mr Thomas) to move:

That Standing Orders, and in particular Standing Order 4.11 (1), be suspended to permit Third Reading of the Elections (Keys and Local Authorities) Bill 2020 to be taken at this sitting.

The Speaker: Fastyr mie, Olteynyn; good afternoon, Hon. Members.

We resume our deliberations of the Elections (Keys and Local Authorities) Bill 2020 and we pick up at that point where Mr Thomas is about to request a suspension of Standing Orders in order to take Third Reading at this sitting.

Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Two reasons primarily why I seek suspension of Standing Orders: the first one is because the Bill has been so well considered in the House of Keys, with the detailed attention applied by so many Members who I will mention briefly at the Third Reading stage, if the Hon. Members of the House of Keys are so willing.

And the second point is that the Bill got slightly behind and it would be excellent if the excellent Members in the other place could actually have as many weeks as possible to turn their attention to it in the detail to which they have already applied the Registration of Electors Bill.

So with that, Mr Speaker, I beg to move that Standing Orders be suspended to take Third Reading at this sitting.

The Speaker: Thank you.

Dr Allinson.

Mr Thomas: Thank you very much, Mr Speaker.

I beg to second.

The Speaker: If any Member wishes to speak ... Otherwise, I will put the motion that Standing Orders be suspended to take Third Reading and I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent having been indicated, Standing Orders are suspended.
Mr Thomas to move:

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

**The Speaker:** I call on Mr Thomas to move Third Reading.

**Mr Thomas:** Thank you, Mr Speaker and thank you to Hon. Members for supporting the suspension of Standing Orders to allow for the Third Reading of this Bill to be taken today.

Mr Speaker, I am also grateful to Hon. Members for their contributions and for working collaboratively with officers and other politicians to bring forward amendments to improve the Bill as a whole. In particular, I wish to thank Mr Hooper, Mrs Caine, Ms Edge, Miss Costain, Mrs Barber and during the course of the sitting today, Mr Callister and Mr Baker, and I am sure Mr Speaker has also been involved.

I also want to thank the seconders of both the amendments and the Bill as I have been moving it.

Very importantly as well, I want to thank the officers involved. We actually had a wonderful birth during the course of the detailed part of this Bill and I was getting emails at three o’clock after what seems like 20 or 25 hours’ work on the first day back from paternity leave from one of the officers. So a big thank you to all of the three officers who have been working all hours diligently, professionally and with excellent results, in my view. Profound thanks to them, without naming them. They know who they are.

Mr Speaker, this Bill consolidates election rules within a single piece of primary legislation, with the intention of providing greater clarity and consistency.

The provisions will not only help to address issues that have come to light during previous elections, they also look to the future by putting in place the foundations for an electoral system that better reflects the needs of a modern democracy in the light of changing society and evolving technology as well.

The Bill represents a genuine desire to put our electors at the very heart of the process and to encourage them to have their say in how our Island is governed.

During the course of the clauses stage today some issues have been left for further reflection, particularly about consequences. For instance, the whole idea of judicial discretion and sentencing guidelines was put on the table by Miss Costain, unsuccessfully in the Keys, but it is an issue that is there now. The whole issue of the state and religion and its separation from politics was also tabled today as something that needed further reflection, as was the notion of the transferability of offences – even the definition of offences between different places and different jurisdictions.

The notion of how the media is involved differentially between different technological bases during elections was also put on the table, although I think it was recognised that the Elections Bill is not the place to tackle that.

Mr Baker had a very helpful intervention which laid out some issues about how elected Members contribute to their society, their community, alongside campaigning to be representatives of their community and that issue needs further reflection.

Finally, through the successful movement of the new clause we have the concept of further development of transparency in respect of declarations of interest before elections for all candidates, which now needs to be explored by our colleagues in the other place.

This Bill is a combination of preserving what is wonderful about our democratic tradition on the Island and also modernising appropriately – for instance, introducing the recall election concept; for instance, the concept of funded requisition meetings and that is about how change
should take place. It should be about combining the best of the old and bringing in something that is worthwhile in terms of modernising trends.

There is also quite a significant transfer from the Department of Infrastructure to the Cabinet Office in terms of the function for local elections.

I think that is what I want to say, Mr Speaker. Hon. Members, I hope you will see fit to support this important, transformational Bill, but also a Bill that preserves the wonderful democratic tradition of this Island into the future.

With that I beg to move, Mr Speaker.

The Speaker: Thank you.

Dr Allinson.

Dr Allinson: Thank you, Mr Speaker.

I beg to second but also express my own gratitude to the mover for the amount of work he has also put into this Bill.

Thank you, Mr Speaker.

The Speaker: Thank you.

Mr Perkins.

Mr Perkins: Am I live Mr Speaker, please?

The Speaker: Yes, you are live now, Mr Perkins.

Mr Perkins: My apologies, I was having meeting problems. Thank you, Mr Speaker.

I believe this legislation is a great step forward in resolving a number of issues that became apparent at the last election. I thank the committee and all of the people who have been involved in putting this Bill together. I believe that … well, I know that the Isle of Man democratic process is held in very high esteem by the Commonwealth Parliamentary Association – as is proven by the number of visitors we get to witness our sittings and our processes. While I have got every confidence that this new legislation will stand the Island in good stead, we must not be complacent.

I therefore strongly recommend we look into inviting the CPA team of international observers to come and observe our next general election, as this will truly benchmark our system and give the international community confidence that we maintain the highest possible standards of democracy.

I look forward to supporting the motion. Thank you very much, Mr Speaker.

The Speaker: Thank you.

Mr Thomas to reply.

Mr Thomas: Thank you, Mr Speaker and to Dr Allinson and Mr Perkins for their interventions. Dr Allinson’s intervention gives me the chance to thank him personally for his huge support along the way for this Bill and its sister Bill, the Registration of Electors, and in general.

Mr Perkins makes a very important point. I believe Jersey had international observers at its last election and they came up with some very interesting conclusions and recommendations thereafter.

Mr Perkins also makes the point that there are some other people I forgot to thank. We need to see this Bill today in its evolution through the Tynwald Committee, through the work of the consultants, through the work of everybody who has contributed to the consultations along the way. I am fully prepared to do that and I want to do that, and put on record thanks, appreciation for all of those individual contributions that must have been … sometimes people must have
thought, ‘Why am I doing this?’ But I tell you, the reason you are doing this is to make the democracy which we have in the Island even better than it currently is. We had some issues that needed to be ironed out and this Bill plays a part in contributing to that. I just hope that we achieve an election in 2021 and thereafter with fuller participation and better participation because of this Bill.

With that, Mr Speaker, I beg to move.

The Speaker: Thank you.

I put the question that the Elections (Keys and Local Authorities) Bill 2020 be read for a third time. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent having been registered, the motion therefore carries.

4.2. Road Traffic Legislation (Amendment) Bill 2020 – Clauses considered

Mr Harmer to move.

The Speaker: We now turn to Item 4.2. on our Order Paper, the Road Traffic Legislation (Amendment) Bill in the name of Mr Harmer. I call on Mr Harmer to move clauses 1, 2 and 3, please.

Mr Harmer: Thank you, Mr Speaker.

Clauses 1 and 2: these clauses give the Bill its short title and provide for it to come into operation on one or more dates appointed by the Department by order.

Clause 3 briefly introduces the amendments made by the rest of the clauses in Part 2.

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

The Speaker: Mr Baker.

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

The Speaker: Unless any Member wishes to speak, I will put the motion that clauses 1, 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 registered, the motion therefore carries.

I call on Mr Harmer to move clauses 4 to 10.

Mr Harmer: Thank you, Mr Speaker.

Clause 4 amends section 3A, causing death by careless driving while under the influence of drink or drugs, by inserting a paragraph 3A(1) that introduces a new basis for the commission of the offence created by that section. That new basis is the presence in one’s body at the time of the incident in question of a specified controlled drug the proportion of which in the person’s blood or urine exceeds the prescribed limit for that drug.

The remaining clauses also deal with drugs driving. Clause 5 inserts a new section 5AA, driving or being in charge of a mechanically propelled vehicle with a concentration of specified controlled drugs above specified limits. This section creates a new offence of driving, attempting to drive or being in charge of a mechanically propelled vehicle on the road or other public place at a time when the person in question has had in their body a specified controlled drug in a proportion exceeding that specified limit.
The section specifies the limit for each of the drugs to which the section relates and also specifies defences available to the accused.

Turning to clause 6, it amends section 5B, by the substitution of ‘preliminary breath test’ for ‘breath test’, this being a more accurate description of the test to which the section relates. The clause concludes by extending subsection (2) to serious driving offences as defined in clause 30.

Clause 7 inserts a new section 5BA, preliminary drug test. This provides for the administering of a preliminary drug test by a constable in specified circumstances. The test is a procedure where a specimen of sweat or saliva is obtained and tested as per the subsection.

Clause 8 amends section 6, provision of specimens for analysis. This clause extends the locations where a requirement to provide a specimen breath may be made by a constable in the course of investigating whether a serious driving offence has been committed. An offence now includes those under section 5AA, driving or being in charge of a mechanically propelled vehicle with a concentration of specified controlled drugs above specified limits. The clause continues by empowering a constable to arrest without warrant a suspected offender who fails to provide a specimen when being required to do so.

Clause 9 amends section 7, choices of specimen of breath, by clarifying which specimens of breath must be used.

Finally, clause 10 amends section 7B, detention of persons affected by alcohol or a drug, by inclusion of an offence under the new section 5AA and clarifies subsection (2).

I beg to move that clauses 4 to 10 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Thank you.

I call on Mr Hooper to move amendments 1 and 2, please.

Mr Hooper: Thank you very much, Mr Speaker.

The first amendment outlines the provisions in respect of drugs testing with those for alcohol breath tests. So the amendment aims to include as a prerequisite for a constable to require somebody to take a preliminary drug test that the constable has a reasonable suspicion that the individual is committing what is referred to currently in the Act as a specified offence. So this refers to the list of driving offences that are set out in the Act itself.

This would be the same prerequisite as applies for alcohol breath test and it makes sense to me to align the two together; not to mention that a constable really should have to have reasonable suspicion that an offence is being committed before being able to require a person to undertake a preliminary drugs test.

It occurs to me as I move this amendment that the language in the Bill may have changed. The language ‘specified offence’ has been amended. I am not quite sure how this did not get picked up in drafting but it may be something to look at following the sitting.

The second amendment is in relation to the preliminary drugs test itself and is designed to ensure that a constable has the power to arrest without warrant a person who they have reasonable cause to suspect has failed a preliminary drugs test. I find it somewhat strange that this power exists in respect of failing an alcohol breath test but was not originally being proposed in the Bill in relation to a preliminary drugs test. Without this amendment, the clause seems to provide that a person could only be arrested without a warrant if they refused to take a drugs test, but not if they took one and breached the prescribed limits.

Finally this section of the amendment adds in a defence for a person who is a hospital patient, in exactly the same way as this defence applies in respect of breath tests. So again aligning the alcohol and drugs provisions.

Mr Speaker, I beg to move amendments 1 and 2:
Amendments to clause 7

1. Page 18, line 16, in subsection (1) of the new section 5BA insert between “applies” and the comma –
   “and a constable reasonably suspects the person in charge of the mechanically propelled vehicle has committed a specified offence whilst the vehicle was in motion”.

2. Page 19, lines 34 to 37, for subsection (10) of the new section 5BA substitute the following –
   “(10) A constable may arrest a person without warrant if –
   (a) if –
   (i) the person fails to undertake a preliminary drug test; and
   (ii) the constable reasonably suspects that the person has a drug in his body or is under the influence of a drug; or
   (b) if as a result of a preliminary drug test he has reasonable cause to suspect that the proportion of drug in that person’s blood exceeds the prescribed limit, but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.”.

The Speaker: Thank you, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker.
I would like to second the amendments.

The Speaker: Thank you very much.
Now, any Member wishes to speak? Okay. In which case, I will put the question that amendments 1 and 2 in the name of Mr Hooper be approved and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, amendments 1 and 2 are carried.

I put to the House that clauses 4 to 10 as amended stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Harmer to move clause 11.

Mr Harmer: Thank you, Mr Speaker.

Clause 11 substitutes new section 7C, use of specimens in proceedings for an offence under section 3A, 5, 5A or 5AA, is extended to proceedings for an offence under new section 5AA, driving or being in charge of mechanically propelled vehicle with concentrations of specified control drugs above specified limits.

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

The Speaker: Mr Baker.

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

The Speaker: If no Member wishes to speak, then I will put the question that clause 11 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 having been registered, the motion therefore carries.

Clause 12, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
Clause 12 amends section 7E which provides definitions. The amendments reflect the changes made early in this Bill in relation to drugs and alcohol.
I beg to move that clause 12 do stand part of the Bill.
The Speaker: Mr Baker.

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

The Speaker: I put the question that clause 12 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clauses 13 to 18, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 13 repeals and replaces section 20, duty of driver or rider of a vehicle on occurrence of an accident.

If an accident occurs where a person other than the driver or rider of the vehicle sustains a personal injury, an animal is killed or injured or any relevant property is damaged, then the driver or the rider of the vehicle must not only stop but keep the vehicle stationary nearby for as long as reasonably necessary to provide information such as name and address to anyone who has reasonable grounds to require it. This extends to include vehicles that are not mechanically propelled.

Clause 14 repeals and replaces section 24, protective helmets. This section extends from motorcycles to vehicles generally in regard to the Department’s power to make regulations about the wearing or sale of protective helmets. Vehicles which may be subject to the regulations include motorcycles, side cars, quadricycles and animals ridden as vehicles, which at present fall outside the scope of the section.

Clause 15 amends section 28, prohibition of driving motor vehicles elsewhere other than the roads. This substitution of new subsection (1) is substantially the same, with the exception that it removes the reference to the Highways Act 1986.

Clause 16 repeals and replaces section 29, use by Department and others of vehicles and appliances on footpaths. This clause authorises the Department or a local authority to use its vehicles and appliances on bridle paths, cycle paths or cycle tracks, in addition, as at present, to their use on footpaths or footways. The section is also extended to statutory undertakers.

Clause 17 repeals and replaces section 30, vehicles prohibited on footways and central reservations. This provision extends prohibition on driving on footways to include riding on them. However, the Department is now empowered to by order exempt prescribed vehicles from this prohibition. This clause will specifically prohibit cycling on the pavement but will enable the Department to permit cycling on pavements in specified locations.

Finally clause 18 repeals and replaces section 33, construction etc, and use. It now contains two subsections, the first of which is identical to the original section 33. The subsection (2) is new, its purpose being to provide that no Tynwald procedure applies to an order made under any of the specified provisions.

I beg to move that clauses 13 to 18 do stand part of the Bill.

The Speaker: Mr Baker.

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

Mr Shimmins: Thank you, Mr Speaker.

I have some concerns on clause 14 which I would like to cover in detail. I also have some concerns about clause 16.

If I look at clause 14 first, no other European country has enacted compulsory cycling helmet legislation for all users, and many of these countries have much higher numbers of cyclists. For
example, in Denmark, where nine out of 10 people own a bicycle, cycling accounts for a quarter of all commuting trips and Danish women cycle more often than men. Forty four percent of Danish secondary pupils cycle to their school, and the capital region of Denmark estimates that there are one million fewer sick days due to the fact that so many of their inhabitants cycle.

Why am I giving these statistics about Denmark? Well, the reality is that in Denmark, in the cities, only 27% of all cyclists wear a helmet. And if you look elsewhere, in Holland, which is widely regarded as the safest cycling country in the world, very few people wear cycling helmets there. Some people do if they are going fast or racing or on steep off-road tracks, but the vast majority do not wear a cycling helmet in the safest cycling country in the world.

We do not have cycle helmet data for the Isle of Man but my observations indicate that over 90% of all cyclists on our roads already wear a helmet. As such, I would like to understand what problem this clause is trying to fix.

Hon. Members, unfortunately in recent years there have been a number of cyclists killed or seriously injured on Manx roads. These victims were wearing cycle helmets. Tragically, their polystyrene hats did not save them. The reality is that for some cycle collisions a helmet offers some protection, but the experience here and elsewhere is that a helmet makes little difference when a cyclist is hit by a car or a lorry driver.

I am not saying not to wear a helmet. I always wear a helmet whilst on the bike and I would encourage other users to do so. Most Manx cyclists already wear a helmet, but they are very conscious that it is not a panacea. Making it illegal to ride a bike without a helmet is not a sensible way forward.

This is a complex question which has been considered by many countries recently as cycling has seen a resurgence in popularity across Europe. No other European country has enacted compulsory cycle helmet legislation for all users.

Australia and New Zealand are the only two major countries in the world which have cycle helmet laws. Unfortunately, they have seen a decline in cycling as a result. In some states of Australia, there has been a 33% decline in cycling to work and a 55% decline in cycling to the shops. So there are big drops in cycling as a result of cycling helmet laws.

May I remind Hon. Members that it is an agreed Programme of Government priority to increase active travel participation. We agree that the health benefits can be transformational. GPs talk about active travel as a wonder drug which is more effective for many than pharmaceuticals. Various studies across the world have concluded that the health benefits from cycling exceed the losses from accidents.

The most interesting paradox in this whole debate is that countries with helmet laws – Australia and New Zealand – have higher rates of injuries per kilometre than countries with low helmet wearing rates. So why is this? I am not really sure, Hon. Members. As I already said, I wear a helmet. But there are some interesting studies which show that drivers tend to give cyclists without helmets more space and time than those cyclists that are wearing helmets. The drivers tend to pass wider and slower for cyclists who are not wearing a helmet. What is clear is that considerate driving improves safety for cyclists more than a polystyrene hat. If the Road Traffic (Amendment) Bill aims to protect cyclists from injuries, then it would be in my opinion much better to focus on overtaking legislation.

You might remember Chris Boardman, the Olympic and Tour de France cyclist. He came to the Island a few times when the International Cycling Week brought many visitors in the past. Chris is now a safety campaigner and he is also the Cycling and Walking Commissioner for Manchester. He is an acknowledged expert in this field. Chris Boardman says he will not promote helmets because it is not in the top 10 things that governments can do to really help keep people cycling safely. It is not even in the top 10.

It might feel counterintuitive, but mandatory helmets are a mistake. There is lots of research which backs this up, and that is why many other governments who have looked at this have backed off and they have not legislated.

So Hon. Members, I suggest that this clause needs a rethink and I will be voting against it.
In terms of clause 16, I would like to understand a bit more from the Minister about the offence of cycling on a pavement. Is he really saying that small children, perhaps in residential estates, should not cycle on the pavement? Is that what we want?

I would appreciate a response on both those points which are important as we look to improve both cycling participation rates but also safety of cyclists on this Island.

Thank you.

The Speaker: Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

Just a few words in support of the Hon. Member for Middle, also known as the Hon. Member for cyclists. I do actually want to support him on clause 14. I think it is a well-intentioned clause. It means well but I think we need to listen very carefully to the words of the Hon. Member, in the sense that they really are not necessary. They are to be encouraged in many circumstances and to be worn, but whether they should be deemed as a legal requirement is altogether another matter.

So I shall be joining the Hon. Member for Middle in voting against clause 14, Mr Speaker. Thank you.

The Speaker: Thank you.

If I could just ask Mr Shimmins if he is also intending to divide separately on clause 16 as well – if you could perhaps put a message in the chat box please, so I know how to deal with that when it comes.

Mr Peake.

Mr Peake: Thank you, Mr Speaker.

I too will be supporting my friend and colleague from Middle. I do not think that legislation is required in this. People do want to wear a helmet and we do not want to put people off. We are in a very important time at the moment to try and encourage people onto cycles and we would be much better off sharing the space considerately and people considering cyclists and people also wearing a cycle helmet when they want to, but also not to legislate it. It would be ridiculous to criminalise people just for the sake of not wearing a helmet on a cycle.

Thank you very much, Mr Speaker.

The Speaker: Thank you.

Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I just really want to try and throw a bit of balance back into what is a rather one-sided debate. The statement that no other countries have these kinds of cycling laws in place is a little bit disingenuous. I think there are a lot of places around the world that have cycling laws in place in respect of helmets. Whether they are effective or not, I think that is definitely a sensible thing to be debated.

It is interesting to note, in some of those remarks there, that cycling wearing a helmet is not even in the top 10 of things – but is it the 11th? Is it the 99th thing we could be doing? Looking on the Cycling UK website, they themselves are opposed to helmets being mandatory but they acknowledge that cycling accounts for around 7% to 8% of head injuries for which children are admitted to English hospitals, but acknowledge that a quarter of these injuries could be to parts of the head that a helmet might protect. So that is 2%, possibly, of all head injuries in English hospitals for children could have been helped with a helmet.

So I do not know if the evidence is quite as clear cut as the Hon. Member for Middle has made out.
The reason that I felt compelled to speak on this is that I have been involved in bike accidents with a car. One of my close friends from my school time was involved in a serious accident with a car and I can assure the Hon. Member that the helmet as a result of that crash was like a watermelon that had been dropped off a skyscraper. I really find it difficult to accept that actually if he was not wearing that helmet, that could very well have been his skull. So I am very hesitant when people who have a clear interest and desire to not promote some of these policies which may work, which may not, but to take such a definitive view at this point I think is somewhat irresponsible.

So I welcome the Department leaving the door open to this in future, but I tend to agree that maybe mandatory is not the right place to go as a first step. So I would appreciate the Minister’s comments on this, but I think the clause that enables this to happen in the future, should the evidence warrant it, should be welcomed.

Mrs Barber: Thank you, Mr President – Mr Speaker, sorry! I’m getting carried away.

Just to add, hopefully, a little bit of balance, my thoughts around this specifically relating to the cycle helmets: one of the things that I think would be a challenge is that children … and I say this as having been one myself, when I was in my early teens, I would put the helmet on faithfully as I left the house and get down the road and take it off, unaware really of why it was so important. My parents certainly drilled it in, and I wonder where the responsibility lies there and are we suggesting then we would pursue parents? How do we go down that road?

I think certainly adults are able to make that decision themselves. From my perspective, I think that the research I have seen – and I was initially someone who would have supported mandatory helmet wearing for cyclists – however having read the research, I am less supportive of that. The reason partly for that is because the person who stands to lose the most is the person who is making the decision and they do not stand to impact any other road user negatively by that person being injured. Therefore I think the vast majority of people who do cycle are responsible, they do wear helmets and I think that we should really focus on education and supporting those people in terms of knowing what purchases to make, making sure people understand why and we should be doing that from a very young age. So for me that is very important.

The other point I would like to make around the cycling on pavements is: one of the things that put me off cycling once and for all was when I could no longer cycle on the pavement and they introduced £20 fines – it was when I lived in the UK – and I just felt that I was never going to be safe on a road so I stopped cycling. Now, I do not want to see that for my children. I want them to feel confident growing up and being able to get used to cycling in a more comfortable environment but also having great respect for people who are walking and using the pavement who do not have the opportunity to enter the road. So I think it is far more about education rather than a very blunt instrument.

So I am not totally against an enabling clause, because I also recognise this can include things like horse riders and so on, but I do think we need to be very cautious about the route we may be going down with this, because I do not think it is so cut and dried as the intention would seem to indicate.

Mr Harmer: Thank you, Mr Speaker.

I would like to contend with the Hon. Member for Middle about the MHK for cycling; it is something I am passionate about, but I would point out that clause 14 is not really for cycling – I think the Member for Douglas East pointed this out – it is more of a general provision and more
appropriate for quads and riders of those that are propelled by horse riding and so forth and a
number of other different vehicles that come into place from time to time. I think it is important
to have that provision so that we can meet the challenges head on.

Obviously any provision will have to be set up fully in regulations. It would have to have detail
and it would have to be approved by Tynwald. But I think it is absolutely right as a very
passionate cyclist, that we make that provision.

Correct me if I am wrong, but actually I do not think it is clause 16 where the Hon. Member
for Middle has some concerns. It is actually clause 17 which is the cycling on pavements. What
that is very much at the moment ... there is a complete grey area and it is neither whether it is
legal or illegal. So actually this is one area that we need to make sure that there is clarity. It
needs to be very clear of what status the pavement is. The legislation is very grey and this allows
it to be very clear what is allowed and what is not.

What the Department will bring forward is obviously regulations to specify that where
pavements ... and where we do want to share space and where they will be permitted. But what
this is not to do is it is not about saying no to all cycling on pavements. Obviously there are some
pavements that are very, very narrow and it is completely inappropriate. But there are other
areas that are part of the Active Travel Strategy, we need to actually specify that you can do. At
the moment it is grey and it could be subject to legal challenge. What I want to do is give
families and small children the confidence that they are able with confidence to cycle on those
pavements.

I certainly was quite used to seeing and being unsure about, personally, cycling on
pavements. I think it is much better to give people the education and the confidence that these
particular pavements are absolutely fine and right for cycling, whereas some where there are
barely inches of width it is absolutely not the right thing for cycling.

Regarding helmets, I think, as I say, it is not really aimed at cycling. It is aimed at a general ... 
the quad bikes and so forth.

So with that, Mr Speaker, I would beg to move all of those amendments and say probably we
should separate clauses 14 and 17.

Thank you, Mr Speaker.

The Speaker: Thank you, Minister.

In which case what I will do in the first instance is I will take clauses 13, 15, 16 and 18. These
are clauses which people have not commented on and I will take those first. So I put first the
motion that clauses 13, 15, 16 and 18 stand part of the Bill and I would presume the motion will
be carried unless any Member indicates dissent, which they should do now please.

No dissent being registered on those, I put next clause 14, which is about helmets. Right, a
division is called: I will call on the Clerks to run the vote.

Voting resulted as follows:

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The Speaker: With 18 for, 5 against, the ayes have it. The ayes have it.

We turn then to the vote on clause 17 and that was about vehicles on footways and central reservations. Again, I will call on the Clerks to run the vote, please. Please take your cue then.

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  
Ms Edge  
Mr Harmer  
Mr Hooper  
Mr Moorhouse  
Mr Perkins  
Mr Quayle  
Mr Robertshaw  
Mr Skelly  
Mr Thomas  
The Speaker

**AGAINST**

Mr Peake  
Mr Shimmins

The Speaker: Hon. Members, with 21 votes for, 2 against, the ayes have it. The ayes have it. Having dealt with that section, I think that takes us up to clause 19. Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 19: this provision will be brought forward only with the agreement of the Department of Home Affairs and the Chief Constable, but remain part of the Bill. It repeals and replaces three sections.

Section 42, constables and authorised examiners – production of driving licences: this extends the power from constables to authorised examiners in the Department in specified circumstances to stop vehicles and require the production of a driving licence. Those circumstances are extended to events taking place in public places as well as roads.

Section 43, constables and authorised examiners – other powers: this extends the power currently only held by constables and authorised examiners of the Department to stop vehicles and require the driver to disclose a name and address and also of the registered keeper.

Section 44, constables – information-gathering and arrest powers for serious driving and riding offences: this section extends powers from two specific offences to any serious driving offence.

I beg to move that clause 19 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: Thank you, Mr Speaker. I beg to second.
The Speaker: If no Member wishes to speak, I will put the motion that clause 19 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 motion therefore carries.

Clauses 20 to 24 inclusive. Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Firstly, clause 20 repeals and replaces section 46, owners of motor vehicles to give information to verify compliance with the requirement of compulsory insurance or security. It makes no substantive change, having redrafted any consequences of expressions that are now included in clause 30.

Clause 21 inserts a new section 47AA, enforcement of fines and vehicle duty. This clause makes provisions in line with the existing sections 47A and 47B of the Road Traffic Act 1985.

The main features of this new section 47AA are as follows: a constable or a person appointed by the Department or by a court is empowered to seize and remove a motor vehicle if they have reasonable grounds for believing that its owner owes a fine, in respect of a motoring offence, the payment of which has been outstanding for at least 35 days. A person appointed by the Department is given like power when he or she comes upon a motor vehicle on the road and has reasonable grounds for believing that a current vehicle licence has not been displayed on the vehicle for over a month. A motor vehicle may not be released until the fees, charges or costs incurred in its seizure and retention have been paid together with the fine or vehicle duty, as the case may be. If no such payment is made in full within 35 days, the vehicle may be disposed of and the proceeds used to meet the outstanding payment. The Department has the power to make further provisions by regulations regarding removal, retention or storage of seized vehicles and for their release, forfeiture or disposal.

Clause 22 amends section 47B, removal, retention, disposal and release, etc. of seized vehicles. This clause substitutes a new section 47B(2) placing a bar, except with the leave of the court, on civil claims arising in connection with the seizure of vehicles.

Clause 23 repeals and replaces section 47C offences. A person commits an offence if they remove a notice, release a vehicle from an immobilisation device, obstruct a person exercising the function in relation to a seized vehicle or if they provide evidence that they know to be false or misleading.

Finally, clause 24 amends the interpretive provisions with section 47D by adding therein the defined terms.

I beg to move that clauses 20 to 24 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Thank you.

I now turn to amendment number 3 and Mr Perkins to move.

Mr Perkins: Thank you, Mr Speaker.

This amendment proposes to re-number, or should I say re-letter, the lines in the Bill for ease of denotation. On page 35, lines 10, 13 and 16: for the respective numbering denoted as (i), (ii) and (iii) substitute respectively (a), (b) and (c) for simplification.

I beg to move this amendment standing in my name:

Amendments to clause 24
3. Page 35, lines 10, 13 and 16.: for the respective numbering (i), (ii), (iii) substitute, respectively, (a), (b), (c).
The Speaker: Mr Moorhouse.

Mr Moorhouse: I beg to second the amendments.

The Speaker: Thank you very much.

Now, does anyone wish to speak? No? In which case I put the amendment number 3 in the name of Mr Perkins and I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the ayes, aye ayes and aye aye ayes have it!

I then put to you that clauses 20 to 24 inclusive do stand part of the Bill as amended by amendment 3, and I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, clauses 20 to 24 inclusive stand part of the Bill.

Clauses 25, 26 and 27, Mr Harmer.

The Speaker: Thank you, Mr Speaker.

Clause 25 amends section 48, forgery of documents, etc. This provision includes the forgery of a professional driver’s card.

Clause 26 amends section 49, false statement and withholding material information. This provision substitutes a new section 49(4) which makes no substantive change, together with a new section 49(5) in respect of a professional driver’s card.

Finally, clause 27 repeals and replaces section 50, issue of false evidence of insurance or security. This simply substitutes a new section 50 in order to reflect the interpretative provisions of clause 30. Again, no substantive change has been made.

I beg to move that clauses 25 to 27 stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second.

The Speaker: If no Member wishes to speak, I put the motion that clauses 25, 26 and 27 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 has been registered. The motion therefore carries.

Clause 28, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 28 inserts a new section 53A, driving disqualification where vehicles are used for the purposes of crime. This provides for a driving disqualification where a vehicle was used for the purposes of crime.

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

The Speaker: Mr Baker.

Mr Baker: I beg to second.

The Speaker: If no Member wishes to speak, I put the motion that clause 28 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.

Clause 29, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
Clause 29 amends section 68, certain vehicles not to be treated as motor vehicles. This provision substitutes new section 68(1) which enables the Department to specify by regulations mechanically propelled vehicles that are not motor vehicles for the purpose of the Act. This provision will cover new technologies vehicles, such as Segways and e-scooters.

I beg to move that clause 29 do stand part of the Bill.

**The Speaker:** Mr Baker.

**Mr Baker:** I beg to second.

**The Speaker:** Thank you, Mr Baker. If no Member wishes to speak I will put the motion that clause 29 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 has been registered. The motion therefore carries.

Clause 30, Mr Harmer.

**Mr Harmer:** Thank you, Mr Speaker. Clause 30 substitutes a new section 72, general interpretation provisions. This new section defines general interpretive expressions and inserts definition for ‘authorised insurer’ and requires that such a person must be authorised to carry on motor insurance businesses anywhere in the British Isles, Gibraltar or an EU member state, and must provide relevant information to the Motor Insurers’ Bureau database.

Certain new definitions are inserted that arise in conjunction with amendments made elsewhere by the Bill.

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

**The Speaker:** Mr Baker.

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

**The Speaker:** Thank you. If no Member wishes to speak, I will put the question that clause 30 stand part of the Bill and I presume that the motion will be carried and unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clauses 31 and 32, Minister.

**Mr Harmer:** Thank you, Mr Speaker. Clause 31 inserts three new sections. Section 73A, safety regulations: this section enables the Department to make safety regulations with respect to road traffic, road transport or related matters.

Section 73B, regulation of professional drivers: this provides for the regulation of persons who drive vehicles of prescribed classes for professional purposes.

Section 73C, liability of directors of body corporate: this provides that where a body corporate is convicted of contravening construction and use regulations, its directors are in certain specified circumstances guilty of the same offence and are liable personally for the penalty prescribed for it.

Clause 32 amends section 74, power to make, and Tynwald control over, regulations, orders, etc.: the inclusion of a new section 74(3)(b), which extends Tynwald approval to orders made under specified sections and otherwise omits references to provisions that are either repealed by this Bill or confer no power to make orders.

I beg to move that clauses 31 and 32 do stand part of the Bill.
Mr Baker: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

If no Member wishes to ... Oh, Mr Perkins.

Mr Perkins: Thank you, Mr Speaker.

I would just like to request some clarification on clause 31 from the Minister, please; and the new section 73A. There is a bit where it says ‘appropriate consultation with the OFT’. Does that mean that the OFT could ultimately object to the regulations if it feels it does not have the ability to enforce them?

It seems a bit woolly to me. Obviously the OFT will comply with what they are asking, but it is very difficult because our experience is with white consumer goods rather than vehicles. If it was a crash helmet that is substandard, yes of course we would be delighted to intervene. But with regard to the mode of transport, etc. commercial vehicles are included, it quotes the Consumer Protection Act aimed at consumer goods and we have no experience outside this area, certainly with vehicles.

So I would just ask the Minister if he could please clarify that clause.

The Speaker: Thank you.

Mr Harmer: Thank you.

Yes, I can clarify that. Basically, in essence, it is recognised that this is just with respect to safety and it is recognised that the Department shall work with the Office of Fair Trading to ensure there is no repetition of enforcement powers in relation to safety and related issues. So what this provision does is purely about safety and makes sure that we do not overstep or go to areas that are defined by the OFT.

With that I beg to move.

The Speaker: Now, I understood from Mr Perkins’ comments that he was seeking clarification rather than requesting a separate vote. So I will put the motion that clauses 31 and 32 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 motion therefore carries.

Clause 33, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 33 amends Schedule 2, construction and use of vehicles and equipment in various ways. Firstly, regulations under paragraph 1(1) are empowered to provide that the testing and inspection of a vehicle may include its being driven or drawn and may take place on the premises where it was situated, but without the consent of the owner of the premises, if it is reasonably suspected that the vehicle was involved in an accident.

Secondly, paragraph 1 is further amended to allow regulations on the construction and equipment of vehicle provisions to allow for vehicles and the conditions under which they may be used by disabled persons.

Thirdly, intentional obstruction of a person authorised to test or inspect a vehicle under regulations is made an offence.

Fourthly, provisions of the ADR – which is the European Agreement concerning the International Carriage of Dangerous Goods by Road – that are applied by regulations but which are subsequently amended or replaced in later editions of the ADR will apply automatically in
the Island with substantially the same modification that are made to the original provisions by the regulations.

Finally, the power in paragraph 6(i) to prohibit the driving of unfit vehicles is extended to those tested, inspected or examined under the Road Transport Act 2001.

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

The Speaker: Mr Baker.

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

The Speaker: If no Member wishes to speak, I will put the question that clause 33 stand part of the Bill and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clauses 34 and 35, Mr Harmer.

Mr Harmer: Thank you.

Clause 34 extensively amends Part I and Part II of Schedule 3. As far as Part I is concerned, regulations under paragraph 2 are empowered to provide that motorcyclists taking a driving test must wear prescribed clothing.

Paragraph 2 is amended to include enabling provisions requiring that a person completes a prescribed minimum number of hours of supervised training before they can take a driving test.

Paragraph 4 makes certain substantive changes. A declaration accompanying an application for a driving licence must now state, in a case where an applicant is not suffering from a relevant disability, whether the applicant is suffering from a prospective relevant disability, as defined.

Provision is inserted requiring the Department to include in a licence the driving conditions to which the holder is subject in a case where the Department is satisfied that the person in question is suffering from a disability that presents a danger to the public if these conditions are not complied with. If the Department is satisfied that a person is suffering from a prospective relevant disability, it may grant a licence for a shorter period.

It is made an offence, firstly, to make a false declaration to obtain a licence; secondly, to drive a motor vehicle contrary to any limitation or condition included in a licence; and finally, to omit to return a licence to the Department when required to do so under the provisions included in paragraph 4.

New paragraphs 4A and 4B are inserted — the first requires that an application to renew a licence to drive large passenger or heavy goods vehicles or combinations must be accompanied by a certificate from a medical practitioner that the applicant is fit to drive them; and the second requires that an applicant for a licence who is aged 75 or over must have passed a prescribed eyesight test.

Paragraph 5 is amended to enable the prescribing of the fees payable to medical practitioners under the paragraph. It also requires such persons to have regard to the medical advice issued by the Driver and Vehicle Licensing Agency in Great Britain when exercising their functions under it.

Paragraph 6 is amended so that the prescribed restrictions to which a provisional licence holder is subject are extended to persons driving a vehicle by virtue of a provisional entitlement conferred by a full licence. It is made an offence to contravene any of the prescribed restrictions.

Paragraph 6 also empowers regulations that prescribe the clothing to be worn by motorcyclists taking a course of compulsory basic training.

Provision is inserted in paragraph 6B to the effect that newly qualified drivers shall at an earlier date cease to be subject to the restrictions applying to them if they pass a prescribed course of driving instruction.
Paragraph 9 is substituted to provide for the revocation of a licence if an eyesight test is failed and also inserts an offence of not returning a revoked licence forthwith to the Department when required to do so.

In paragraph 10, terminology in subparagraph (1) is modified and in subparagraph (2) is omitted.

Now turning to the amendment of Part II, which is disqualification, paragraph 11(1A)(b) and (3) are amended, and (3C) inserted, so as to cater for disqualification in connection with an offence under the new section 5AA(1)(a) and (2), drug driving provisions.

Provision is inserted in paragraph 12 reducing from 12 points to 6 points or over the number of penalty points leading to the disqualification of a provisional or newly qualified driver or to the revocation of the licence, as the case may be. The effects of the disqualification or the revocation are specified.

Paragraph 20(4), which relates to the delivery of a licence to a court, is extended to persons prosecuted for an offence involving discretionary disqualification. Paragraph 20(8) is substituted so as to specify the period during which an endorsement on a licence remains effective when a licence holder has been convicted of certain offences involving drink or drugs.

Paragraph 22 is modified to enable the Department to amend Schedule 3 by regulations subject to Tynwald approval.

Other amendments to Schedule 3 are made which are ancillary, consequential or incidental by nature.

Now turning to clause 35, it makes drafting improvements to Schedule 4, driving instruction. No substantive change is made there.

I beg to move that clauses 34 and 35 stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Thank you.

Turning to amendment 4 on your Order Paper, Mr Perkins.

Mr Perkins: Thank you, Mr Speaker. I would like to amend page 52, lines 22 and 27: in sub-clause 19, for the respective numbering (i) and (ii) please substitute respectively letter (a) and letter (b) for the purposes of good housekeeping.

Thank you, Mr Speaker.

Amendment to clause 34
4. Page 52, lines 22 and 27, in sub-clause 19, for the respective numbering (i), (ii) substitute, respectively, (a), (b).

The Speaker: Thank you.

Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker, I would like to second.

The Speaker: Thank you.

Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
In terms of clauses 34 and 35, and whilst we are on the subject of driving licences and instruction, I would like to draw to the attention of the Minister that the driving test does not contain any guidance or test on how to safely overtake a cyclist.

This is a serious omission. Unfortunately this is a real life danger with poor overtaking of cyclists, a feature every day on Manx roads. Tragically not long ago, a man with a young family was killed whilst cycling to his place of work by a driver who had just passed their driving test. That test did not contain any guidance on how to safely overtake a cyclist.

Will the Minister review the content of the Manx driving test and instruction to ensure that this important content is added?

Mr Robertshaw: Thank you, Mr Speaker.

I wonder whether the Minister could just describe in a little more detail the difference between a prescribed disability and another disability which together become relevant disability and in turn could in certain circumstances become a prospective relevant disability. It is quite complicated and a little clarity would be appreciated in his summing-up remarks, Mr Speaker.

Thank you.

The Speaker: Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

Really I was just going to come in on those comments made by the Hon. Member for Douglas East. The Minister did talk a lot about disability and different types of disability here. I note that further on in the Bill, the Minister is repealing a section of the Equality Act in relation to disability. I just want to check that the changes that this Bill is making in respect to disabilities have actually been run by the Government’s Equality Adviser and actually everything in here is going to be okay.

The Speaker: I call on Mr Perkins if he wishes to say anything in regards to his amendment?

Mr Perkins: No thank you, Mr Speaker.

The Speaker: In which case I call on the mover to reply.

Mr Harmer: Thank you, Mr Speaker.

Regarding overtaking of cyclists, I completely agree with the Member for Middle regarding that. It is in the Highway Code but unfortunately often it is not always observed. However, in the previous clause – in clause 31 – it does allow the Department to make safety regulations and safe overtaking of cyclists would be and can be one of those regulations actually considered. So that would fall into there. Obviously further consideration in terms of tests and really making us all cycle aware, I fully endorse and fully support that and that will be able to be done.

In terms of and just taking Mr Hooper’s point last, yes, one of the one of the key issues here is that very much in the scrutiny of this Bill, two things that have happened are both Brexit and equality legislation and this has been pulled through and referenced to the Equality team with respect to that legislation, so it does actually comply fully with that.

Regarding the sort of disabilities that Mr Robertshaw was talking about, a relevant disability is any condition which is even prescribed in regulations or any disability where driving is likely to be a source of danger to the public. Prospective disabilities are any medical condition that because of their progressive or intermittent nature may develop into relevant disabilities in time – for example, Parkinson’s disease and early dementia. A driver with a prospective
disability may be granted a driving licence for up to three years, after which the renewals require further medical review.

With that, Mr Speaker, I beg to move.

The Speaker: Thank you.

I put the first amendment in the name of Mr Perkins. I presume that that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

I put to you clauses 34 and 35 as amended and presume that the motion will be carried unless any Member indicates dissent, which they should do now. Again no dissent being indicated, the motion therefore carries.

I call on Mr Harmer to move clauses 36 to 39.

Mr Harmer: Thank you, Mr Speaker.

Clause 36 amends Schedule 5, third-party liabilities. There a number of changes, including enabling the Department to make regulations regarding the use of information obtained from the Motor Insurance Bureau Database. This clause also repeals provisions considered redundant and substitutes interpretive provisions and improves definitions.

Clause 37 amends Schedule 6, prosecution and punishment of offences. The amendments to the table are a consequence of other changes in the Bill, such as the changes in relation to drug driving. Fines have been converted from values to levels to ensure that fines remain relevant and appropriate. New entries are inserted in consequent provisions elsewhere in the Bill and others are amended on grounds that they are mistakenly working or otherwise. The penalties for certain offences are also increased.

Clause 38 amends Part IV of Schedule 6, alternate verdicts. This amendment is to add relevant penalties consequent on clause 5, drink and drug driving.


On that basis I beg to move that clauses 36 to 39 do stand part of the Bill.

The Speaker: Thank you.

Mr Baker.

Mr Baker: Thank you, Mr Speaker.

I beg to second.

The Speaker: Thank you.

Now I call on Mr Hooper to move amendments 5 and 6, please.

Mr Hooper: Thank you very much, Mr Speaker.

These amendments are relatively straightforward. Both amendments are to align the penalties of the Bill it is proposing in relation to failing a drugs tests and driving under the influence of drugs with those for alcohol, and also to ensure that a custodial sentence is an option available to the courts for these new offences, in the same way it is for current similar offences under the Act.

In light of comments made in the previous debate around potentially somebody being locked up for speeding, it has given me cause to review some of the penalties that this Act brings in and also that already exist under the Road Traffic Act and the Road Traffic Regulations. I actually struggled to find anywhere where someone could be convicted and sentenced to a prison term for speeding and it does make me wonder, in line with some of these changes that I am proposing here, whether the Department really does have a handle on what offences actually exist and what the various penalties are, and maybe a more thorough review is called for seeing...
as it seems to be unclear in people’s minds as to exactly what some of the punishments can be for driving offences on the Island.

Thank you, Mr Speaker. I beg to move:

Amendments to clause 37
5. Page 63, subsection (37), in the table that appears immediately below line 6, for the fourth column entry in respect of “5AA(1)(a) and (2)” substitute «6 months or level 4 on the standard scale or both».

6. Page 63, subsection (37), in the table that appears immediately below line 6, for the fourth column entry in respect of “5AA(1)(b) and (2)” substitute «3 months or level 4 on the standard scale or both».

The Speaker: Thank you.

Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker. I would like to second the amendment.

The Speaker: Thank you.

Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

I welcomed the Minister’s comments around clause 31 and the introduction of new safety regulations.

But I also look at the offences list and the penalties that are contained in clause 37, and I just wanted to make Hon. Members aware that in November last year the Irish government and parliament agreed a new law to help reduce the number of cyclists who have been killed or seriously injured by car or lorry drivers.

So now in Ireland if a driver dangerously overtakes a cyclist they face an automatic fine of €120 and three penalty points. This move followed a number of extensive discussions on various policy options which were debated in the public arena, and they were brought forward jointly by the Irish police, the Department of Transport, the Road Safety Authority and the Attorney General who was very interested in actually how difficult this was with some of the earlier proposals but then became very supportive of this measure. The Irish police hope that the increased penalties for dangerous overtaking, alongside the very creative educational measures in terms of marketing and a PR campaign will change driver behaviour because the Irish authorities understand that the biggest risk facing cyclists is aggressive drivers.

Also, on speaking, I should just confirm for Hon. Members that cyclists are not legally obliged to wear a helmet in Ireland.

So I guess the question I would like the Minister to consider is will he adopt a similar measure to the Irish dangerous overtaking regulation and fixed penalty offence here on the Isle of Man?

The Speaker: I firstly call on Mr Hooper to see if he wishes to respond with regard to his amendment?

Mr Hooper: No.

The Speaker: No, thank you very much.

Minister to reply.

Mr Harmer: Thank you, Mr Speaker.
From the questioner regarding overtaking cyclists, as I said, I do think it is an area that does need to be looked at; particularly in the Highway Code it is not permitted. We did look at Irish legislation and whether it could be easily transferred. Unfortunately it does not look to be as simple because they have different common law etc. However, that is something obviously that needs to be looked at. What I would also say is that education – which was one of the points there – is going to be absolutely vital and continues to be vital to make sure that there is that safety.

So with that, I beg to move clause 37 in my name.

The Speaker: I put the motion that amendments 5 and 6, in the name of Mr Hooper, be approved. I will presume that that motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

I then put to you clauses 36, 37, 38 and 39, as amended. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Mr Harmer, clauses 40 and 41.

Mr Harmer: Thank you, Mr Speaker.

Clause 40 briefly introduces the amendments made by the rest of the clauses in Part 3. And clause 41 amends the section traffic regulation orders, firstly, by repealing a redundant provision, secondly, by enabling traffic regulation orders to provide for the charging of fees and finally by exempting vessels being used by the emergency services from complying with traffic regulation orders in an emergency unless the order specifically provides otherwise.

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

The Speaker: Mr Baker.

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

The Speaker: Thank you very much.

If no Member wishes to speak, I will put the question that clauses 40 and 41 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated, the motion therefore carries.

Clause 42, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 42 amends section 2, overnight and weekend waiting of certain vehicles while substituting new subsection 1 and 2 which enable the Department by regulation to define vehicles clearly in modern terms and language and to also clearly define geographically where restrictions apply.

I beg to move that clause 42 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Now, if no Member wishes to speak, I will put the question that clause 42 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 motion therefore carries.

Clauses 43 to 45 inclusive, Mr Harmer.
Mr Harmer: Thank you, Mr Speaker.

Clause 43 inserts a new section 2B provision or restriction of use of vehicles on roads in certain classes, the purpose of which is to regulate the use of caravans on the Island’s roads, which the Department was instructed to do by Tynwald. The section enables orders subject to Tynwald approval to be made prohibiting or restricting the use of vehicles on or off roads, either throughout the Island or in prescribed locations.

Clause 44 substitutes a new section 37, temporary prohibition or restriction of traffic on roads. This provision enables the change to be made from temporary prohibition or restriction of traffic on the road subject to Tynwald approved regulations.

Clause 45 inserts a new section 9A, temporary alternative school crossing, this makes provision for alternative school crossing locations where currently prescribed permanent locations cannot be used for a temporary period, such as during roadworks.

Mr Speaker, I beg to move that clauses 43 to 45 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Now, if no Member wishes to speak I will put the motion that clauses 43, 44 and 45 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 motion therefore carries.

Mr Harmer, clauses 46 to 49.

Mr Harmer: Thank you, Mr Speaker.

Clause 46 amends section 11, regulation of off-street parking places. The change means that a registered owner or keeper of vehicle used in the commission of a specified offence may be deemed liable for the offence. This is, however, only where there is insufficient evidence to establish whether the resident owner or keeper of the vehicle was the driver when it was used to commit the offence. The onus is then placed on the registered owner or keeper to prove on balance of probabilities that they were not the driver at the relevant time. On so proving the registered owner or keeper is entitled to an acquittal.

Clause 47 substitutes a new provision in section 14, designation of on-street parking places. Firstly, this enables the removal of the vehicles from designated on-street parking places in an emergency and secondly, relates to civil claims in regard to the exercise of Departments or Chief Constable’s function under this section.

Clause 48 amends section 14A charges at and regulations of on-street parking places, this enables overstay charges to be prescribed in cases where the initial period of parking has been preceded.

And finally, clause 49 amends section 14B, offences relating to designated parking spaces. This makes it an offence to leave your vehicle in a suspended designated parking space.

Mr Speaker, I beg to move that clauses 46 to 49 do stand part of the Bill.

The Speaker: Thank you.

Mr Baker.

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

The Speaker: Thank you.

I call Mr Perkins to move amendments number 7 and 8, please.

Mr Perkins: Thank you, Mr Speaker.
Amendment to clause 46: on page 67, lines 32 and 33, in the insertion of the specified sub-clause (1), for the respective numbering (i) and (ii) please substitute the letters, respectively, (a) and (b).

And coming to clause 47, on page 68, lines 26 and 28, in the insertion of specified sub-clause (1), for the respective numbering (i), (ii), again please substitute, respectively, the letters (a), (b).

Thank you, Mr Speaker.

Amendment to clause 46
7. Page 67, lines 32 and 33, in the insertion specified in sub-clause (1), for the respective numbering (i), (ii) substitute, respectively, (a), (b).

Amendments to clause 47
8. Page 68, lines 26 and 28, in the insertion specified in sub-clause (1), for the respective numbering (i), (ii) substitute, respectively, (a), (b).

The Speaker: Mr Moorhouse.

Mr Moorhouse: Thank you, Mr Speaker. I would like to second.

The Speaker: Thank you.

If no one wishes to speak, I will put first the amendments in the name of Mr Perkins, amendments number 7 and 8, and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the amendments therefore carry.

I therefore put clauses 46 to 49 stand part of the Bill, as amended. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clause 50, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 50 amends section 17, emergency traffic signs. This enables emergency traffic signs to be placed on roads in extraordinary circumstances, such as the use of explosives at a quarry or in other prescribed circumstances.

I beg to move that clause 50 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second.

The Speaker: Thank you.

If no Member wishes to speak, I will put the motion that clause 50 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clause 51, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 51 inserts a new section 19A, unlawful defacement of traffic signs and street furniture. This makes it an offence to deface traffic signs or other street furniture. On conviction a court may, in addition to imposing a penalty, order an offender to pay any cost incurred as a result of the defacement.

I beg to move that clause 51 do stand part of the Bill.
The Speaker: Mr Baker.

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

The Speaker: Thank you.

I put the motion that clause 51 stand part of the Bill, and I will 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 52 and 53, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 52 amends section 22, speed limits general. This imposes an increased maximum fine for speeding in a residential area, road works area, or school zone.

Clause 53 substitutes a new section 27, exemption from speed limits. This exempts the fire brigade and police and ambulance services from speed limits, as well as the coastguard and civil defence for specific reasons, and adds clarity to the provision.

I beg to move that clauses 52 and 53 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: If no Member wishes to speak, I put the motion that clauses 52 and 53 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 54, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 54 amends section 28, badges for display on motor vehicles used by disabled drivers. This enables regulations that the disabled persons’ badges issued by a jurisdiction outside the Island can be recognised here. The offence of failing to produce a badge for inspection will now apply on or off roads and is extended to a request made by a traffic warden or parking controller or constable.

I beg to move that clause 54 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: If no Member wishes to speak, I will put the motion that clause 54 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 55, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Mr Harmer, have we lost you?

Mr Harmer: I am here. Technology!

Clause 55 inserts a new section 28A, wrongful use of disabled persons’ badge. This makes it an offence to misuse a disabled persons’ badge.

I beg to move that clause 55 do stand part of the Bill.

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

The Speaker: Now, if no Member wishes to speak, I will put the motion that clause 55 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. In which case, no dissent being received, the motion therefore carries.

Clause 56, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 56 substitutes a new section 33A, parking controllers. This enables the Department to appoint parking controllers to exercise the functions of a constable under Schedule 5A in relation to offences specified by the Department by order.

The Department will also be empowered to employ, as parking controllers, employees of an employer, i.e. third parties, and to delegate its powers of appointment to local authorities.

I beg to move that clause 56 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Thank you.

If no Member wishes to speak, I will put the question that clause 56 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 57, Mr Harmer.

Mr Harmer: Thank you.

Clause 57 inserts a new section 33B, use of ANPR technology. This provides for the use of automatic number plate recognition (ANPR) technology by the Department or the Chief Constable for the purposes of detecting, preventing or facilitating the prosecution of traffic offences and other offences pertaining to or involving the use of a motor vehicle.

I beg to move that clause 57 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Thank you.

If anyone wishes to speak? Otherwise, I will put the question that clause 57 stand part of the Bill, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clause 58, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

Clause 58 inserts a new section 35B, certain vehicles not to be treated as motor vehicles. This provides for certain vehicles such as technology vehicles – such as electric scooters – not to be treated as motor vehicles.

Such vehicles will be defined in regulations to be approved by Tynwald.

I beg to move that clause 58 do stand part of the Bill.

The Speaker: Mr Baker.
Mr Baker: I beg to second.

The Speaker: Thank you very much.
If no Member wishes to speak, I will put the question that clause 58 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 registered, the motion therefore carries.
Clause 59, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
Clause 59 supplements the interpretative provisions in section 38.
I beg to move that clause 59 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second.

The Speaker: Thank you.

Mr Perkins, amendment number 9, please.

Mr Perkins: Thank you, Mr Speaker.
Amendment number 9 refers to page 77, line 3 and line 8 for the respective numbering (i), (ii) please substitute, respectively, the letters (a) and (b).
I beg to move:

Amendment to clause 59
9. Page 77, lines 3 and 8, for the respective numbering (i), (ii) substitute, respectively, (a), (b).

The Speaker: Mr Moorhouse.

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

The Speaker: Thank you very much.
If no Member wishes to speak, I will put first the amendment number 9 in the name of Mr Perkins be approved, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being received, the motion therefore carries.
Clause 59, as amended. I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.
Clause 60, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
In view of the complexity of Schedule 5, liability of vehicle owners in respect of certain fixed penalty offences, and 5A, fixed penalties, clause 60 enables the Department to make regulations to amend them.
Any such regulations are subject to Tynwald approval.
I beg to move that clause 60 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second.
The Speaker: Thank you.
If any Member wishes to speak? Otherwise I will put the question that clause 60 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Mr Harmer, clause 61.

Mr Harmer: Thank you, Mr Speaker.
Clause 61 amends the section 39 power to make orders and regulations by supplementing regulations and orders that require Tynwald approval.

I beg to move that clause 61 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Thank you.
If any Member wishes to speak? Otherwise I will put the question that clause 61 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clause 62, Mr Harmer.

Mr Harmer: Thank you.
Clause 62 substitutes a new Schedule on temporary notices. This provides alternative options to publicise temporary notices, enables the Department to substitute, revise and update the provisions in place of an existing provision, subject to Tynwald approved regulations.

I beg to move that clause 62 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: Any Member wishes to speak? Otherwise I will put the question that clause 62 stands part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clause 63, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
Clause 63 substitutes a new Schedule 2 procedure for making certain orders that may be prescribed. The Department may make regulations prescribing the procedure to be followed when making orders in relation to the Schedule.

I beg to move that clause 63 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: Thank you, Mr Speaker.
I beg to second.
The Speaker: I put the question that clause 63 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 64, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
Clause 64 amends Schedule 4, penalties for offences under this Act. This prescribes the maximum fines for new offences inserted by the Bill, and increases the maximum fines for speeding up to level 3, which is £2,000.

I beg to move that clause 64 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker: I beg to second, Mr Speaker.

The Speaker: Thank you.
If any Member wishes to speak, otherwise I will put the question that clause 64 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 65, Mr Harmer.

Mr Harmer: Thank you.
Clause 65 amends schedule 5A, fixed penalties. This specifies a number of new fixed penalty offences, the nature of which is in keeping with those already specified.

I beg to move that clause 65 do stand part of the Bill.

The Speaker: Thank you.
Mr Baker.

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

The Speaker: I put the question that clause 65 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 66, Mr Harmer.

Mr Harmer: Thank you Mr Speaker.

I beg to move that clause 66 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: If any Member wishes to speak? Otherwise I will put the question that clause 66 stand part of the Bill and 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 67 to 72, Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
Clauses 67 to 72 are amendments to the Local Government (Miscellaneous Provisions) Act 1984.

Clause 67 briefly introduces the amendments made by the rest of the clauses in Part 4.

Clause 68 amends section 2, power to remove vehicles, and consequences of provisions made later in this Part.

Clause 69 inserts a new section 3A, power to remove vehicles causing offence. This enables an appropriate authority to remove a vehicle from a road or public place in a specified circumstance if, having received a complaint, it is satisfied that the vehicle is in such a neglected condition that its presence makes it offensive to the public to remain there.

Clause 70 amends section 4, custody of vehicles, as a consequence of clause 68.

Clause 71 substitutes four new sections, 5 to 8. The four new sections are: section 5, enforcement of fines and vehicle duty and the payment of fees, charges and costs; section 6, retention, disposal and release etc. of vehicles; section 7, indemnity; section 8, interpretation.

These four sections clarify and provide definitions in relation to the enforcement of fines and retention to those vehicles. They make similar provision to those contained in clauses 22 and 23; and in section 47B which is amended by them, interpretative provision is also made.

Finally, clause 72 repeals Schedule 1, the result of which will enable an appropriate authority to move a parked vehicle, or a constable to require the moving of the vehicle by the person in charge of it, if any statutory prohibition or restriction is being contravened.

Mr Speaker, I beg to move that clauses 67 to 72 do stand part of the Bill.

Mr Baker:

Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

Mr Baker:

I beg to second.

The Speaker: Now, if any Member wishes to speak to any of those clauses? Otherwise I will put the question that clauses 67, 68, 69, 70, 71 and 72 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 motion therefore carries.

Clause 73, Mr Harmer.

Mr Harmer:

Thank you, Mr Speaker.

Clause 73 amends the Licensing and Registration of Vehicles Regulations 2015 to enable the Department to provide information held on the vehicle licence and register to prescribed officials and to any person appearing to the Department to have reasonable cause for making that application.

I beg to move that clause 73 do stand part of the Bill.

The Speaker: Mr Baker.

Mr Baker:

I beg to second.

The Speaker: Thank you.

I put the question that clause 73 stand part of the Bill, and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Clause 74, Mr Harmer.

Mr Harmer:

Thank you, Mr Speaker.

Clause 74 lists four different primary enactments and the extent to which each of them is repealed.
I beg to move that clause 74 do stand part of the Bill.

The Speaker: Mr Baker.

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

The Speaker: I put the question that clause 74 –

Oh, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I know that the Minister commented earlier about the disability provisions in the Act but going through the Equality Act itself and looking at this particular provision that is being repealed, this is the provision within the Equality Act that, subject to any regulations and any exemption, the operator of a private hire vehicle must comply with a request to carry a disabled person and an assistance dog or wheelchair. And again I just am not clear where in this new Bill that provision is being replicated, so I cannot see that provision being replicated within this Act.

I would just appreciate some clarity from the Minister as to where that regulation, that law that is being repealed, is going to sit going forwards? I cannot see it in the Act before us.

The Speaker: Minister to reply.

Mr Harmer: Thank you, Mr Speaker.

I will have to come back to the Member. But as I say this Bill has been through the whole equality process and so forth.

Thank you, Mr Speaker.

The Speaker: Mr Hooper, you wish to interject?

Mr Hooper: Yes, please, Mr Speaker.

Unfortunately, I do not think it is good enough. We are repealing a piece of Equality law here, a very specific piece of Equality law, and the Minister needs to be able to satisfy this House that the law that is being repealed is being adequately replaced. I think it would be entirely and completely irresponsible of this House to agree to a clause repealing a piece of legislation that is quite important, without absolute clarity that either the legislation is no longer required or it is being replaced in an adequate form elsewhere.

I am very uncomfortable with being asked to approve these repeals without knowing for certain what the situation is.

Mr Harmer: Mr Speaker?

The Speaker: Yes, Minister.

Mr Harmer: I can confirm they are within the Equality Act.

Thank you, Mr Speaker.

The Speaker: In which case I put the question that clause 74 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now. Dissent being indicated, I call on the Clerks to run the vote.

If you could just wait, and take your cue from the Clerk starting the vote. Thank you.

Voting resulted as follows:
The Speaker: Thank you.
With 17 votes for, 6 against, the ayes have it. The ayes have it.

Road Traffic Legislation (Amendment) Bill 2020 –
Standing Orders suspended to take Third Reading

The Hon. Member for Glenfaba and Peel (Mr Harmer) to move:

That Standing Orders, and in particular Standing Order 4.11 (1), be suspended to permit Third Reading of the Road Traffic Legislation (Amendment) Bill 2020 to be taken at this sitting.

The Speaker: I turn now to Mr Harmer to see if he wishes to move suspension of Standing Orders to allow Third Reading.

Mr Harmer: Thank you, Mr Speaker.
I would like to move that Standing Orders be suspended to permit the Road Traffic Legislation (Amendment) Bill 2020 to have its Third Reading today.

The Speaker: Mr Baker.

Mr Baker: I would like to second that request, Mr Speaker.

The Speaker: Okay, if anyone wishes to speak to that motion?
Mr Robertshaw. I am afraid we still cannot hear you, Mr Robertshaw.

Mr Robertshaw, we are still unable to hear you. Roger, could you perhaps try unmuling Mr Robertshaw’s mike from this end?
I will bring Mr Shimmins first and we will try and sort out Mr Robertshaw’s audio.
Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.
I know this is one of quite a number of Bills which are going through with compacted readings in the same sitting, and I just wonder is this now time to start looking at a shortened summer recess? Is this not ample evidence, from what we have seen over the last few weeks, that really this House should be sitting in July, perhaps have a break in August, and then come
back in September? That would perhaps enable this legislation to be considered in a more considered way.

Thank you.

The Speaker: Thank you, Mr Shimmins.

We will try again to see if we can get Mr Robertshaw. Mr Robertshaw, are you able to join us now? No. I am sorry, we are going to have to pass. I am terribly sorry, Mr Robertshaw.

Minister to reply.

Mr Harmer: Thank you, Mr Speaker.

This Bill has been long in its gestation period starting from 2016, a full consideration in LegCo. I think of all the Bills this is the one you cannot say has been rushed. It has taken through both Brexit and obviously the Equality legislation.

In addition to that, I was hoping to move it last Friday but I was aware of the Member for Ramsey and his amendments, which I gratefully received and put through today.

So, Mr Speaker, I think this has been a Bill that has been four years in the making; and, with that, I think it is right to now move to the Third Reading.

Thank you, Mr Speaker.

The Speaker: Thank you.

The motion is that Standing Orders be suspended to permit the Third Reading 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.

Road Traffic Legislation (Amendment) Bill 2020 – Third Reading approved

Mr Harmer to move:

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

The Speaker: I call on the Minister to move Third Reading.

Mr Harmer: Thank you, Mr Speaker.

Firstly, I would like to thank all the Members for supporting the Bill and also the interest that they have shown in this important legislation. I would especially like to thank Mr Perkins and Mr Hooper for their amendments to the Bill. And it has been clear, as I said before, the Bill has been scrutinised in great depth, and I thank the Members of LegCo that first had the Bill and scrutinised it there as well.

I have asked for Standing Orders to be suspended and obviously this Bill is much overdue. I will reflect on saying that the main things have been covered earlier in the debate.

The Bill has 74 clauses and it is aimed to update existing provisions and simplify complex provisions but retaining Tynwald approval, and to reduce red tape.


The Bill creates clarity around drug driving and links to the levels and methods of testing that have developed over many years in England, Wales and most recently Scotland.

It allows the Department to consider how new technologies such as Segways and electric scooters be regulated and treated; something that I can see being important to enable cheap
personal transport at this time, particularly when you think of COVID. It also looks to improve safety regulations and ensure that new drivers undertake a longer period of practice prior to them taking the test, better preparing them for the road.

Advanced number plate recognition will also enhance detection and the prosecution of motoring offences; and fixed penalty notices will be used to simplify and speed up the process of addressing certain offences through new regulations that will be approved by Tynwald.

All in all, the Bill makes a material improvement to our highways and legislation. It modifies really important parts and puts in really good provisions around drug driving, regarding safety legislation, and regarding abandonment of vehicles. So I think materially this will have a very positive effect for our Island.

As such, I commend the Bill to this House, and I beg to move the Bill for Third Reading.

**The Speaker:** Thank you.

**Mr Baker:** Thank you very much, Mr Speaker. I beg to second.

**The Speaker:** Mr Robertshaw, did you want to come in at this point?

I am afraid we are still not hearing Mr Robertshaw.

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

Just two, hopefully very straightforward, questions here on this Bill as a whole. So just towards the end of clauses there, when the Minister confirmed the provisions that are being removed from the Equality Act, I think I heard him say they are still in the Equality Act. I am not clear exactly on how that is the case. I am not clear exactly on how repealing a section of an Act but not replacing it means the provision still exists. So if he could provide some more clarity, please, on exactly where those provisions in respect of protections for disabled access to vehicles are going to stay? They very well may be in this new Bill, in some regulations somewhere, but I just have not come across it and I cannot see any specific provision that enables this to be protected.

My second question for the Minister really is about some of these offences in the Bill. So we have just seen this Bill go through and just agreed a clause that increases the maximum penalty for a speeding fine to be a level 3 fine, no custodial sentence. But in remarks made earlier on in the sitting in response to an amendment to another Bill, the Minister very specifically referenced custodial sentences capturing speeding fines. And so I am a little bit unclear really on what the situation is here. What is going on? Was the Minister indicating in his earlier remarks that he was intending to change the penalties for speeding fines, but that has not made it through to the Bill? Was he just misunderstanding the situation around custodial sentences and what penalties actually are in place in respect of speeding fines? I am just really confused. So if the Minister could provide some more clarity on that as well...?

**The Speaker:** Mr Hooper, you broke up at the end there, if you could just repeat your final comments?

**Mr Hooper:** Apologies, Mr Speaker.

Again, my final remarks were around the issues of speeding fines and just that earlier on in the sitting the Minister made reference to speeding fines as being captured within what was referenced as a custodial sentence. But in the amendment that is inside this Bill the clauses very specifically maximise the penalty as being a level 3 fine only, no custodial sentences applied.
So again I just wanted some clarity on what exactly the Minister was referring to earlier on in the case of speeding fines, because it seems like he may have been implying his intention was to make changes that have not been fed through to this Bill.

The Speaker: Thank you.
Now, third time lucky? Mr Robertshaw.

Mr Robertshaw: I do hope so, Mr Speaker.

The Speaker: Aah, yes. Well done!

Mr Robertshaw: I apologise for that. I am afraid my iPad is in a bit of a sulk this afternoon; so apologies.

In his closing remarks, Mr Speaker, could the Minister please highlight with regard to clause 56, where that clause gives specific power to parking controllers to exercise the functions of a constable under Schedule 5A? Could he highlight, please, what those powers are? I should have brought it up, my apologies, at clause 56 but I omitted to do so. But I do think it is important to understand what powers the parking controllers are going to enjoy, particularly because they may very well be outsourced employees. So we are giving, effectively, outsourced employees the powers of a constable and I would like to know more about that, please.

The Speaker: Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker.
And just to add to what Mr Hooper said earlier on, could the Minister in his closing remarks please summarise exactly what the consequences and impact of the repeal of the Equality Act paragraph 5 of Schedule 23 are? What will happen next in respect of the Equality Act to do with the matters covered in that repealed paragraph of a Schedule of the Equality Act?
Secondly, would the Minister outline whether there is any impact and, if so, what that impact is on any proceedings under way under the Equality Act?
Thirdly, could the Minister outline in his closing remarks exactly and specifically how the Equality Adviser and the Equality Champion and any other part of the Equality Act process have been involved in drawing up that repeal?
Thank you, Mr Speaker.

The Speaker: Thank you.
I call on the mover to reply. Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
In terms of Mr Robertshaw’s discussions regarding parking controllers, obviously that function is by order in certain regards, that it is regarding parking offences and to allow bodies such as local authorities to be able to take those particular functions; and that may be better in terms of a local authority being able to manage what they can and cannot do. So that is really the intent behind that.

My comments regarding the legislation for the Elections Act that Mr Hooper was talking about. My comment was with regard to, let’s say, speeding fines or whatever, because there was talk from the Hon. Member for Garff about other jurisdictions, and really it was more of a general point regarding an offence that could potentially be a custodial offence, even if they got a fine. That was the point I was trying to make. I do not intend to put any custodial sentences around speeding, so I would like you to be sure of that.

All of the Department involved in the last two or three years, are at full level in detail with the Equality Act —
Mr Robertshaw: Mr Speaker, will the Minister give way?

The Speaker: I was going to bring you in at the end, it just seems a better way of doing it rather than the constant interruption. But, Minister, are you content to take an interjection from Mr Robertshaw?

Mr Harmer: Yes, of course.

The Speaker: Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker; thank you, Minister.

I am not sure you have answered the question, Minister. The question specifically was: what powers were you transferring from constables to parking attendants? Not how that ultimate power might be implemented through local authorities.

Could you be more specific with regard to those powers, sir, please?

Thank you.

The Speaker: Minister to resume.

Mr Harmer: Thank you, Mr Speaker.

In respect of those powers we do it by order. At the moment there is no current intention to, but as the need arises that would then have to go to Tynwald. So that was regarding that.

And just finally on the Equality Act, this has been through belts and braces with all of the Equality advisers. I am assured that all the provisions are in the Equality Act.

With that, I think this is an important Bill that provides APNR technology, safety regulations, and provisions on abandoned vehicles and drugs. And with that I commend the Bill to this House.

Thank you, Mr Speaker.

The Speaker: I put the question that the Road Traffic Legislation (Amendment) Bill 2020 be read for a third time. I will presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Hon. Members, that concludes a rather busy day of clauses for us all; and I thank you for your forbearance. The House of Keys will now stand adjourned until Friday at half past two in Tynwald Court.

Thank you.

The House adjourned at 4.27 p.m.