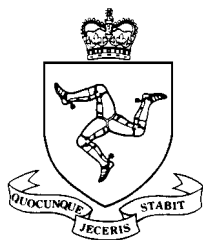


LEGISLATIVE COUNCIL Y Chooneil Slattyssagh



ORDER PAPER Claare Obbyr

DOUGLAS
Tuesday 22nd November 2022
at 10.30am

1. Capacity Bill 2022

This Bill was amended in the Keys. An updated version of the Bill including the Keys amendments is [available \[Explanatory Notes\]](#).

Tabled amendments are in the attached concatenated list.

Clauses Stage

– Miss August-Hanson

JOANN CORKISH
Clerk of the Legislative Council
Cleragh y Chooneil Slattyssagh

CAPACITY BILL 2022

CONSIDERATION OF CLAUSES

LIST OF AMENDMENTS

AMENDMENT TO CLAUSES (GENERAL)

1. Where a clause or part of a clause is derived from other legislation, on the line after the heading to each such clause add a note of relevant derivations.

(Mr Mercer)

AMENDMENT TO CLAUSE 25

2. Page 19, line 33 to page 20 line 3, for subsections (6) and (7) substitute —

«(6) The functions of the Attorney General under this Act may be transferred in accordance with the *Government Departments Act 1987* and, for that purpose, Schedule 2 to that Act shall apply as if the Attorney General were a Government Department.

Tynwald procedure – approval required.».

(Mr Mercer)

AMENDMENTS TO CLAUSE 28

3. Page 22, for lines 8 to 35 (inclusive), substitute —

«(1) The Department must make regulations in respect of a register of delegates.

(2) Such regulations must require such a register to be established and maintained by the Chief Registrar.

(3) Without limiting subsection (1), such regulations may make provision about —

(a) searches of the register;

(b) applications and applicants for searches;

(c) fees in respect of searches;

- (d) the disclosure of information contained on the register;
 - (e) the issue of a certificate of the result of a search and the information which may be contained in such a certificate.
- (4) Before making regulations under this section the Department must consult the Chief Registrar.».

(Mr Mercer)

AMENDMENT TO CLAUSE 33

4. Page 24, line 37, before “the” insert «for».
5. Page 25, after line 5, insert —
- «(d) for the charging of fees in respect of the Department’s functions under section 29.».

(Mr Mercer)

AMENDMENT TO CLAUSE 51

6. Page 35, line 31, for “the National Assembly for Wales” substitute «the Welsh Parliament (Senedd Cymru)».

(Mr Mercer)

AMENDMENT TO CLAUSE 52

7. Page 36, lines 31 to 33, omit the words from “and a body” to “activity” (inclusive).

(Mr Mercer)

AMENDMENTS TO CLAUSE 53

8. Page 37, line 2, for “under” substitute «made under a provision of».
9. Page 37, line 3, for paragraph (a) substitute —
- «(a) modify the provision under which they are made;»
10. Page 37, line 7, for subsection (2) substitute —

«(2) Regulations referred to in subsection (1) may modify any other enactment where that is necessary or expedient for the purposes of, in consequence of or for giving full effect to, those regulations.».

11. Page 37, lines 8 and 9, for subsection (3) substitute —

«(3) Regulations referred to in subsections (1) and (2) are subject to section 30 of the *Legislation Act 2015* (approval required).».

(Mr Mercer)

AMENDMENT TO SCHEDULE 4

12. Page 57, after line 18, insert the following new paragraph —

«[NP1] Medicines Act 2003

(1) Section 38 of the *Medicines Act 2003* is amended as follows.

(2) In subsection (1), for paragraph (c) substitute —

« (c) a receiver has been appointed for him under Part 7 of the *Mental Health Act 1998* in respect of his affairs (including that business) who is, by virtue of Schedule 3 to the *Capacity Act 2023*, to be treated as if he were a delegate for the purposes of that Act;

(d) a delegate is appointed for him under Part 2 of the *Capacity Act 2023* to make decisions for him in respect of the control and management of that business and the carrying on of any profession in respect thereto; or

(e) he has appointed a donee (or donees) under the *Powers of Attorney Act 1987* or Part 2 of the *Capacity Act 2023* to manage his property and financial affairs including those in respect of that business.».

(3) In subsection (3) —

(a) in paragraph (d) —

(i) after “(1)(c)”, insert «or (d)»;

(ii) after “receiver”, insert «or, as the case may be, the delegate»;

(b) for paragraph (e), substitute —

« (e) in a case falling within subsection (1)(e), 3 years from the date of registration of the instrument appointing the donee (or, as the case may be, donees);

- (f) in any case, such longer period as, on the application of the representative, the Department having regard to all the circumstances of the case, may direct.».
- (4) In subsection (4) —
- (a) at the end of paragraph (b), omit “and”;
- (b) at the end of paragraph (c), insert “(including a receiver who is, by virtue of Schedule 3 to the *Capacity Act 2023*, to be treated as if he were a delegate for the purposes of that Act)”;
- (c) after paragraph (c), insert—
- «(d) in a case within subsection (1)(d), means the delegate; and
- (e) in a case within subsection (1)(e), means the donee (or any one or more of them where more than one has been appointed).».

(Mr Mercer)

[Number NP1 accordingly.]

13. Page 57, after line 18, insert the following new paragraph —

«[NP2] **Safeguarding Act 2018**

- After section 5(12)(a) of the *Safeguarding Act 2018* insert —
- (aa) P lacks capacity for the purposes of the *Capacity Act 2023* and a lasting power of attorney in respect of P is registered in accordance with that Act or an application is made under that Act for the registration of such a power in respect of P;
- (ab) an order under section 23 of the *Capacity Act 2023* has been made by the High Court in relation to P’s health and welfare or P’s property or affairs (or both), or such an order has been applied for;».

(Mr Mercer)

[Number NP2 accordingly.]