

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

Mr Watterson to move.

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

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

Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

I move that on page 11 on line 4 of the long title of the Bill be amended so that the words 'to amend other legislation in connection with bail' may be inserted into the Proceeds of Crime Act 2008. The purpose of the amendment is to permit two new clauses, 70A and 70B to be inserted into the Bill, which addresses a minor, if important error in the legislation, relating to the bail in the Bill Act 1952, and the Police Powers and Procedures Act 1998.

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

Amendment to Long Title

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

The Speaker: Mr Watterson.

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

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

Thank you, Hon. Members.

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

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

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

The Speaker: Mr Quirk.

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

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

Clause 3, Mr Watterson.

Mr Watterson: Mr Speaker, clauses 3, 4 and 5 provide interpretation. Clause 3 provides general interpretation for the terms used in the Act. Clause 4 specifically defines 'financial services'.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 6.

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 7, sir.

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 8 and schedule 1.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 9.

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 10.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 11.

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

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question that clause 11 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 12.

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

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

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

Mr Speaker, I beg to move that clause 13 and schedule 2 do form part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

The Speaker: I put the question clause 16 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 17, please.

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

I beg to move that clause 17 do stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

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

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

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

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

Clause 20.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

The Speaker: I put the question that clause 20 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.

Clause 21.

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

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

Clause 23.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir

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

Clause 24.

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

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

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 25.

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

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

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

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 26.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 27.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 28.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

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

Subsection (5) makes it an offence to fail to comply with the reporting requirements.
I beg to move that clause 30 stand part of the Bill.

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question that clause 30 do stand part of the Bill. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 31.

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

The Speaker: I put the question clause 31 to stand. Those in favour say aye; against no. The ayes have it. The ayes have it.
Clause 32.

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 33, please.

Mr Watterson: Clause 33 provides that if the Treasury informs only certain persons of a designation that it may specify that the information they are given is to be treated as confidential. Subsection (2) expressly prohibits disclosure of the person provided with the information knows or has reasonable cause to suspect that the information is to be treated as confidential.

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

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

Clause 34

Mr Watterson: Clause 34 –

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

Mr Anderson: He is just a bit slow!

The Speaker: Duly seconded.
Clause 34.

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

The Speaker: Mr Quirk.

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

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

Clause 35.

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

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

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

Mr Quirk: I beg to second, sir.

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

Clause 36, 37 and 38, Mr Watterson.

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

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

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

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

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 39, 40 and 41, Mr Watterson.

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 42.

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 44, Mr Watterson.

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

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

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

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

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

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

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

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

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

The Speaker: Mr Quirk.

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

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

Clause 53, Mr Watterson.

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

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

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 57, please.

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

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

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

Clause 59 is supplementary.

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

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

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

Clause 63, please.

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

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

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

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

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

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

Clause 68 provides for codes of practice for the purposes of preventing and detecting the financing of proliferation and terrorism and is drawn from section 27A of the 2009 Act. The difference is that it now refers also to the financing of proliferation. The addition of the power to

make codes in relation to proliferation as well as financing of terrorism is another element in the Island as a responsible jurisdiction insuring its legal powers and standards meet international expectations.

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

Finally clause 70 applies the Acts to the Crown.

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

The Speaker: Mr Quirk.

Mr Quirk: I beg to second, sir.

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

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

Mr Quirk: Thank you, Mr Speaker.

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

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

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

New clauses

Page 49, line 25 after clause 70 insert –

'70A Amendment to the Bail Act 1952

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

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

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

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

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

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

The Speaker: Mr Anderson.

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

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

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

Mr Quirk: Thank you, Mr Speaker.

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

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

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

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

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

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

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

The Speaker: Mr Watterson.

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

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

Mr Quirk: No, sir.

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

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

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

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

Clause 71, Mr Watterson.

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

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

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

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

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

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

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

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

Paragraph 9 substitutes section 82 of the 2003 Act.

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

The Speaker: Mr Quirk.

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

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

Clause 72.

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

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

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

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

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

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

The Speaker: Mr Quirk.

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

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

Clause 73 and schedule 4, Mr Watterson.

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

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

Mr Quirk: My amendment, sir.

The Speaker: Mr Karran.

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

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

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

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

Amendment to clause 73

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

The Speaker: Mr Teare.

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

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

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

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