

## 5. BILLS FOR SECOND READING

### 5.1. Bills for Exchange (Amendment) Bill 2016 – Second Reading approved

Mr Shimmins to move:

*That the Bills for Exchange (Amendment) Bill 2016 be read a second time.*

**The Speaker:** Item 5, Bills for Second Reading. First up is the Bills Exchange (Amendment) Bill 2016.

I call on Mr Shimmins to move.

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

I am pleased to present the Bills of Exchange (Amendment) Bill 2016 which will enable presentment of cheques and other instruments by electronic means.

Hon. Members, earlier this year the UK cheque clearing body approached the Treasury with a request to consider introducing Manx legislation to mirror section 13 of the UK's Small Business, Enterprise and Employment Act 2015. This legislation facilitates the use of electronic imaging to introduce a modernised system for clearing cheques and other paper-based payments.

By mirroring UK legislation, banks in the Isle of Man will be able to clear cheques through the new system and offer a uniform customer service.

The changes promoted through this legislation will take place behind the scenes but there are three main benefits. Firstly, cheques will be cleared more quickly and funds will be available earlier for customers. Secondly, it will give the customer more choice as to how they pay in a cheque, either digitally or in person. Thirdly, it will help ensure the continued relevance and survival of cheques.

The Bill enables Treasury to make regulations to prescribe the circumstances in which presentment by image is permissible, the conditions under which compensation can be claimed, and the specific matters for which a payee's bank will be liable.

Regulations will also prescribe the description of the instruments to which the Bill would apply. These are likely to include cheques, bankers' drafts, bank giro credits and some other less common paper payments.

Once the exact regulations are drafted, they would be subject to consultation with the Isle of Man Bankers' Association and would be based on the corresponding UK regulations to ensure consistency of approach. The latest view from the UK banks is that implementation is planned around October 2017.

Mr Speaker, having outlined the broad principles of the Bill, I hope that Hon. Members will be able to give this Bill their full support.

**The Speaker:** Hon. Member for Ayre and Michael, Mr Cannan.

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

**The Speaker:** The Hon. Member for Douglas North, Mr Ashford.

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

While I am fully supportive of this Bill and I think it is actually a great piece of modernisation that the Island is undertaking, obviously it is a carbon copy, Mr Speaker, of the UK legislation that falls under the Small Business, Enterprise and Employment Act 2015. I was wondering if the hon. mover – in relation to compensation for any fraudulent activity, which I think is section 89(e) – would be able to tell us will we be mirroring any regulations introduced by the UK in this regard? Because as far as I

am aware, although the Treasury may make regulations and provisions, certainly in the UK they do not appear to have actually introduced any yet, which I find rather worrying, because certainly experience of cheque imaging fraud – for instance, in the USA that has now had that for a long time, since 2003 – is actually on the increase.

A study in 2010 showed that cheque imaging fraud in the US accounted for about \$500 million a year, but in a study undertaken by the American Bankers' Institute only last year, in 2015, showed that cheque fraud in the US has now risen to \$7 billion, which is quite a large rise in the space of five years. A lot of that fraud has actually been due to cheque imaging, because what is happening is people are finding a way round the process and actually doing duplicate cheque processing. What they are doing is they are scanning cheques and then they are submitting simultaneously to several different banks, so they are all entering the clearing system but they are all not necessarily clearing at the same time.

What it actually means is it is not being picked up as quickly as it should and since the cheques tend to clear two days via cheque imaging, rather than the standard six, it means moneys are being deposited, potentially even actioned and spent, before the fraud is being identified.

I was just wondering if the Treasury is looking at any regulations to ensure it is clear that where there is fraudulent activity where the actual blame lies and also any potential compensation for the consumer, because as I say, to date, I cannot see it any UK regulations in that area and they have now had this Act in place, I think, since July, from memory.

**The Speaker:** I call on Mr Shimmins to respond to the debate.

**Mr Shimmins:** Thank you, Mr Speaker, and thank you to Mr Ashford for that very good question.

Clearly, it is essential that the system is stable and secure, and inbuilt security techniques and checks will be deployed to help prevent fraud. In a number of aspects, the cheque imaging actually provides a new opportunity to highlight and address potential issues concerning fraud prevention and risk management which affect the cheque users in the system.

The detailed regulations will be pulled together in conjunction with the Isle of Man Bankers' Association and the secondary legislation and regulations, once drafted, will be based on the corresponding UK regulations to ensure consistency of approach.

Let me reassure everyone in the House that this will be a fully tested system, and in terms of compensation, the detail will be in the secondary legislation. We will be working very closely with the banks here and in the UK to ensure that there are no issues.

**The Speaker:** Hon. Members, the motion is that the Bills of Exchange (Amendment) Bill 2016 be read for a second time. All those in favour, say aye; those against, no. The ayes have it. The ayes have it.