

6. CONSIDERATION OF CLAUSES

6.1. Bills of Exchange (Amendment) Bill 2016 – Clauses considered

Mr Shimmins to move.

The Speaker: Turning now to Item 6, Consideration of Clauses. The first Bill is the Bills of Exchange (Amendment) Bill, and I call on Mr Shimmins to move.

Mr Shimmins: Thank you, Mr Speaker.

Hon. Members, I would firstly like to take the opportunity to respond further to a query raised by the Member for Douglas North, Mr Ashford, at the Second Reading. This was whether we would mirror UK regulations in relation to fraudulent activity. I can confirm that we will mirror all secondary legislation that the UK produces in the same way that this Bill is a copy of the UK primary legislation.

The United Kingdom high street banks are represented on the Island and they will expect electronic cheque presentation by or to their branches wherever they may be located. Therefore, we need to ensure that we have the same legal framework to allow the clearing banks in the Isle of Man to clear cheques electronically for the benefit of customers. We are in contact with HM Treasury and the Cheque and Credit Clearing Company Ltd. They are working with financial organisations across the UK on introducing the technological capabilities that are required before the new future cheque clearing model can be fully introduced.

The Cheque and Credit Clearing Company have stated that cheque imaging, when introduced, will have inbuilt security techniques that will help prevent fraud, and innocent victims of fraud who have abided by their account's terms and conditions will be protected as they are now. Indeed, one of the benefits of using electronic imaging technology is that it provides more opportunities to combat fraud and tackle security threats that currently affect cheque users.

A specific timescale for the project to complete will be announced by the UK in due course and we will work alongside the UK implementation dates. Any regulations that we do make under this Bill will have to be approved by Tynwald before they come into operation.

Mr Speaker, turning to the Bill itself, with your permission I will take the first three clauses together. Thank you.

Clause 1 gives the short title to the Act which results from this Bill.

Clause 2 provides for the commencement of the Act which will be through an Appointed Day Order.

Clause 3 is the expiry clause, and once all of the Act's provisions are in operation the Act will expire. This is a method of tidying up the statute books for, once the amendment is complete, the effect continues in operation but the Act itself expires.

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

The Speaker: Hon. Member, Mr Peake.

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

The Speaker: The motion is that clause 1, Short title; clause 2, Commencement; and clause 3, Expiry, stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Electronic paying in of cheques.

Mr Shimmins: Thank you, Mr Speaker.

Clause 4 inserts Part 4A which is made up of six sections numbered from 89A to 89F into the Bills of Exchange Act 1883 to permit the use of the same systems for the handling of cheques presented to a banker on the Isle of Man as apply in the case of cheques presented to UK bankers.

Section 89A would set out the terms under which the cheque might be presented for payment electronically by providing an electronic image on the front and back of the instrument. Provision is included to allow Treasury to make regulations in due course to describe the type of paper instrument which can be presented by an electronic image. For example, these would include the cheque, banker's drafts, postal orders and traveller's cheques.

Regulations will also limit the use of presentment by image in case new types of instrument or new types of dealing with existing types of instrument are developed. For a presentment of payment made by electronic means under this section, then any existing requirements for paper presentation or delivery are disapplied whenever such requirements arise. However, provision is included to ensure that the duties of the bankers involved in presentment and payment are the same as they would be if the paper instrument were presented.

Section 89B defines what types of payment instrument the new proposals can refer to. They are drawn very widely and beyond what are commonly thought of as cheques, as set out in the previous section, but it does not include bank notes.

Section 89C provides that the new method of presentment is not available where a banker imposes terms on a customer which require the customer to provide an image of the instrument for paying in and prevent the customer from providing the instrument itself to the bank.

Section 89D enables Treasury to make regulations requiring the paying banker to provide a copy of the instrument to the payer and that the copy provided is evidence of receipt of payment by the payee.

Section 89E gives the Treasury the power to introduce regulations for compensation if the electronic system fails in any particular instances.

Section 89F contains supplementary provisions about the making of regulations under Part 4A including the need for any regulations under this Part to be approved by Tynwald before they come into operation.

Subsection (3) of clause 4 inserts wording into section 52(4) of the Bills of Exchange Act 1883 to make reference to the presentment of instruments by electronic means.

Subsection (4) omits section 74B of the 1883 Act which provides for alternative means of presentation of cheques for payment by a banker.

Subsection (5) inserts wording into section 87 of the 1883 Act to make reference to the presentment of instruments by electronic means.

Subsection (6) clarifies that the provisions for electronic presentation of instruments apply to any paper instruments presented after the provisions have commenced. That includes the presentation of any instrument created before the date of commencement.

Mr Speaker, I beg to move that clause 4 stands part of the Bill.

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

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

The Speaker: No other Member wishes to speak.

The motion is that clause 4, Electronic paying in of cheques, stands part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

That concludes the clauses stage of the Bills of Exchange (Amendment) Bill 2016.