

## 2. Beneficial Ownership Bill 2017 – Second Reading approved

Mr Henderson to move:

*That the Beneficial Ownership Bill 2017 be read a second time.*

**The President:** Item 2: Beneficial Ownership Bill 2017.

I call on Mr Henderson to move the Second Reading, please.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

As Hon. Members will recall, my First Reading introduction to this Bill was intentionally more in-depth than usual in order to provide Council with as much detail on this important subject as possible. Given the extent of the background that I provided, I would like to focus my brief comments at Second Reading on some of the points which were raised during the previous debate.

The Hon. Member, Mr Turner, raised the point that as the Exchange of Notes was signed by the previous administration it should not bind the current administration, particularly if adherence to its implementation means that our legislation has had to be rushed. Although the timetable is tight, I would like to just restate my view that I do not believe that we have proceeded with undue haste. Also, the Exchange of Notes was signed by the Isle of Man Government. It is only right and proper that we should honour it and the timetable set out within it.

In approving this Bill for introduction into the Branches, the current Council of Ministers has agreed to the commitment given by the Isle of Man to the United Kingdom last April. The Isle of Man has a strong record of honouring our international commitments and it is vital that we continue to do so on this important matter. The ongoing developments in the UK Parliament bear testimony to this importance, particularly the stout defence of our position by the UK Government based on our commitment to introduce a central register of beneficial ownership.

The Hon. Member also raised concerns about corresponding developments in overseas territories. As I confirmed, those overseas territories with financial centres signed an Exchange of Notes with the UK committing them to the same timetable of progress as ours. Like us, these territories have to progress their internal arrangements to establish a central Database of Beneficial Ownership accessible to UK law enforcement and intelligence agencies under the terms of the Exchange of Notes by 30th June 2017.

The Treasury has been monitoring the position in the Overseas Territories. The Cayman Islands have recently published legislation paving the way for their central beneficial ownership register. Also, last month the British Virgin Islands introduced a new electronic platform for the sharing of beneficial ownership information which will go live in June.

Although it has been difficult to ascertain from publically accessible means exactly what is happening across all of the territories in question, we have no reason to believe at this stage that each of the territories which signed an Exchange of Notes will not honour their commitment. Indeed, it is clear from what the UK Government has been saying in Parliament that it too is proceeding on this basis.

Finally and briefly, Eaghtyrane, I would like to mention the comments made by the Hon. Member, Mr Coleman, who advised that he was content with the solution which the Treasury has proposed in response to concerns about the Bill which were raised by industry.

As Hon. Members will be aware, there are amendments tabled to clause 6 of the Bill which Treasury is confident will allow for industry's concerns to be addressed. I will say more about Treasury's proposals in this regard when we discuss this clause shortly, Eaghtyrane.

I would also like to add that I will be asking the Hon. Council for permission, following the clauses stage, to see if I can follow up with the Third Reading. I just want to make Hon. Members aware of my intentions there as I do not want to take anyone by surprise. I did outline the reasons for this

when I progressed the First Reading. I do hope you will be able to give me that flexibility at that time.

Eaghtyrane, I beg to move that the Bill be read for a second time.

**The President:** Mr Attorney.

**The Attorney General:** Mr President, I beg to second and reserve my remarks.

**The President:** I put the motion that the Beneficial Ownership Bill 2017 be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

### **Beneficial Ownership Bill 2017 – Clauses considered**

**The President:** We turn to the clauses stage.

Clause 1, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 1 is purely formal and gives the short title to the Act which will result from this Bill.

Eaghtyrane, I beg to move clause 1 stands part of the Bill.

**The President:** Mr Corkish.

**Mr Corkish:** Mr President, I beg to second and reserve my remarks.

**The President:** Clause 1 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 2.

**Mr Henderson:** Eaghtyrane, clause 2 provides for the commencement, and the Act will come into operation on such day or days as the Treasury may by order appoint.

Eaghtyrane, I beg to move that clause 2 stands part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put the motion: clause 2. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 3 sets out the Bill's key interpretive definitions including those of 'external intelligence or law enforcement agency' and 'permitted purposes'.

The clause also defines 'registrable beneficial owner', which is a key concept in the Bill. It is only registrable beneficial owners who have to submit their required details onto the central Database.

In addition, the clause allows the Treasury, by order, to amend four definitions: those of 'beneficial ownership information sharing agreement', 'external intelligence or law enforcement

agency', 'permitted purpose' and 'registerable beneficial owner', including the percentage referred to within that definition.

Any order made under this clause must not come into operation without Tynwald approval.

Eaghtyrane, I beg to move that clause 3 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** Mr Anderson.

**Mr Anderson:** Thank you, Mr President.

Could the mover at some stage try to allay my fears about the wrong sort of people getting this information? Obviously we have got a list of those who are able to get a list of beneficial owners; however, can I be reassured of what the penalties are for people leaking information to the press or whoever? Because no doubt there will be opportunities seen here for people to find out information that they should not have and put it in the public domain.

**The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I cannot give an exact penalty in figures, but there are severe penalties for leaking information built into this and – how can I say it? – caveats to protect that information. All who use it or have access to use it will be fully aware of the repercussions if that is leaked or used in some inappropriate way.

I think as we go through the clauses stage, Eaghtyrane, you will see where it is outlined who is defined and who is not defined and the appropriate legislation will apply if they deviate from that.

**The President:** I put clause 3. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 4 sets out the meaning of 'beneficial owner'.

The approach in the Bill has been to adopt a broad workmanlike definition of beneficial ownership based on the Exchange of Notes with the UK and drawing upon other international definitions. The Treasury can revise the meaning of 'beneficial owner' by order subject to Tynwald approval.

This definition is intentionally extremely broad. It seeks to capture all of those individuals – natural persons, flesh and blood persons who actually exist – who hold any defined interest, however small and through whatever means, in the legal entity concerned, or who are able to exercise control by whatever means of the entity concerned. It is essential that all such beneficial owners are identified at the outset so that these, or those individuals who are registerable beneficial owners, can be determined.

We have taken a different path to the UK – which has a much more detailed definition and set of criteria in its corresponding legislation – but this has been done deliberately to provide as much flexibility as possible. The Isle of Man is a finance centre that differs in many ways from the UK in terms of the ownership and management structures of legal entities. There are other mechanisms in the Bill – powers for Treasury to make regulations which can exempt entities from the Bill and order-making powers to amend definitions – which, when considered with the ability to issue guidance, will help put the meat on the bones of the definition.

As noted, the clause allows for the Isle of Man Financial Services Authority to issue guidance on the meaning of certain terms, including ‘beneficial owner’, ‘control’ and ‘registrable beneficial owner’. It is important to highlight the scope of the FSA’s guidance-making powers: it can only issue guidance in relation to certain definitions. Whilst these definitions are important within the context of the Bill, the Bill does not give the FSA the *vires* to re-write or overwrite the primary legislation. It is ultimately for Tynwald to lay down the *vires* and powers that may be needed to give effect to this Bill.

This clause was amended by the House of Keys, Eaghtyrane. The FSA’s guidance will now have to be laid before Tynwald once it has been issued. Given the importance of this guidance, I can confirm to Hon. Members that a draft version has been circulated to the Association of Corporate Service Providers for a preliminary review and the FSA is considering which other stakeholders to actively engage with as it finalises the guidance in draft form.

Eaghtyrane, I beg to move that clause 4 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 4. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 5 establishes the scope of the Bill by prescribing the legal entities to which it applies.

In order to fulfil our obligation under the Exchange of Notes to capture the widest possible range of corporate and legal entities incorporated in the Isle of Man, the Bill covers a company to which the Companies Acts 1931 to 2004 apply and a company to which the Companies Act 2006 applies. The Bill also covers a limited liability company to which the Limited Liability Companies Act 1996 applies; a limited partnership to which section 4B of the Partnership Act 1909 applies – that is limited partnerships with legal personality – and a foundation within the meaning of the Foundations Act 2011.

This clause also sets out the entities which, by virtue of the foregoing, might be deemed to fall under its scope but will not. This short list includes entities which are listed on a stock or investment exchange recognised by the Treasury. Under the Companies (Beneficial Ownership) Act 2012, the Treasury already publishes a list of recognised exchanges for a similar purpose. This list will be reviewed and re-published with any necessary modifications.

The clause allows the Treasury, by order and with the approval of Tynwald, to add to, remove or otherwise revise the list of legal entities to which the Act applies. This order-making power is important given the commitment made by the Treasury Minister in the House of Keys in respect of certain collective investment schemes.

By way of background for Hon. Members, it may be helpful if I confirmed that the collective investment schemes were exempt from the version of the Bill which was consulted upon. However, the consultation period provided an opportunity for further internal reflection on the Bill and as a result the decision was made to include collective investment schemes within the Bill’s scope.

I am afraid this is the nature of attempting to deal with highly complex financial structures when faced with a diversity of views. There will inevitably be some chopping and changing and revision of those views.

Treasury remains of the view that collective investment schemes as a whole do not and should not receive the benefit of an exemption from the Bill’s requirements. Reduced to their core, collective investment schemes are simply Isle of Man companies or trusts which fall outside the scope of this Bill, whose purpose is to invest capital to seek return for their investors. The Exchange

of Notes does not carve out collective investment schemes and nor, in the main, does the UK's regime.

Notwithstanding our stated position for collective investment schemes as a whole, we are aware of an issue within anti-money laundering and countering the financing of terrorism legislation that is particularly problematic for some collective investment schemes and which could have a similar impact in this Bill. That issue relates to the problem some schemes are encountering when they have large regulated institutional investors such as pension funds or other collective investment schemes as their investors and they rely on the regulated institutional investor for customer due diligence. In certain limited circumstances we are aware that the underlying beneficial ownership information is not readily available from these institutions' investors.

While a concession was built into the AML/CFT Code to alleviate this issue – commonly known as the 'Acting on Behalf of Concession' – we understand that certain schemes continue to have difficulties even in complying with this concession.

Therefore, in spite of this concession, the requirements of the Beneficial Ownership Bill could produce problems similar to those mentioned above for certain collective investment schemes which have regulated institutional investors. We therefore recognise the need to address these problems alongside addressing the similar AML/CFT issue. That being said, I must stress that there has not been a decision to provide a broad, sweeping exemption from the requirements of the AML/CFT Code and it would be equally inappropriate to provide that same sort of broad, sweeping exemption in this Bill. The Isle of Man has various categories of scheme type along a spectrum that starts at typically retail and moves to typically institutional. For many of the schemes meeting the requirements of this Bill is seen to be achievable.

There is one scheme type in particular that was designed to be used by institutional investors, and that is the Specialist Fund. Therefore it may be appropriate, upon further consultation, for institutional schemes of this nature to benefit from an exemption. The exact details of the boundaries of that exemption and the conditions which may be applied will require further research, and therefore the Treasury has committed to using its powers in clause 5 of the Bill to produce an order to provide for an appropriate exemption to deal with the situation facing collective investment schemes with institutional investors.

Eaghtyrane, I can confirm that the fund industry is aware of the intention to produce an order and has indicated that such an order addresses their concerns in respect of the type of funds which I have highlighted.

Eaghtyrane, I beg to move clause 5 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** Clause 5: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 6, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 6 creates the requirement for entities covered by the Bill to have a nominated officer. The officer must be either a natural person resident in the Island or the holder of a licence issued under section 7 of the Financial Services Act 2008 which permits the holder to carry on the regulated activity of providing corporate services. A legal entity can have more than one nominated officer where their functions and liabilities under the Bill are joint and several.

The Bill's savings provision at clause 45 seeks to simplify the process for appointment of a nominated officer. They allow nominated officers appointed under the 2012 Act and registered agents under, for example, the 2006 Companies Act to automatically become nominated officers

under this Bill, subject to the legal entity recording the nominated officer's written consent of their agreement to continue in post.

As Hon. Members know, the requirement to have a nominated officer has been strongly opposed by sections of industry primarily on the grounds of it being, in their view, an unnecessary administrative burden and a position not replicated in other jurisdictions.

Eaghtyrane, the Hon. Member, Mr Coleman, has tabled two amendments to this clause and I am pleased to indicate that Treasury is supportive of these amendments. I will say more about Treasury's proposed way forward once they have been moved at that point.

So, Eaghtyrane, I move that clause 6 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** Mr Coleman.

**Mr Coleman:** Thank you, Mr President.

I would like to thank the Hon. Member for confirming his support for the amendments. I look forward to his further comments on how Treasury plans to put the amendments into effect, assuming of course that they are agreed by both Branches.

The hon. mover noted that the requirement in the Bill for all entities to appoint a nominated officer has been opposed quite vigorously by sections of industry, particularly the Association of Corporate Service Providers.

As I stated during the First Reading debate, I shared these concerns as did other Members of the Legislative Council. I am pleased that the Treasury Minister met us and having accepted the concerns which were surfacing, undertook to work towards a solution.

The amendments before us today are the first step to facilitating the solution which the Hon. Member has indicated he will say more about in his response. I would like to focus my brief remarks on the amendments themselves. I am, however, happy to confirm that I find the solution acceptable, as does the Association of Corporate Service Providers.

Taken together the amendments create a power for the Treasury, by order and subject to the approval of Tynwald, to exempt a legal entity or class of legal entities from the requirement to appoint a nominated officer without limiting the ability of an order to amend or modify the application of the Act or to include such consequential or other provisions as the Treasury considers necessary or expedient.

Any order made pursuant to the amendments may disapply provisions in Part 2 of the Bill in relation to a legal entity to which this Act applies or to a nominated officer.

Mr President, these proposed changes create the flexibility within the Bill which Hon. Members of Council have sought. I look forward to hearing the Treasury's next steps and I beg to move the amendments standing in my name:

*Amendments to Clause 6*

*1. On page 19, line 5, after 'nominated officer', add 'unless exempt under subsection (5).'*

*2. After line 15 on page 19, insert:*

*'(5) The Treasury may by order exempt a legal entity or a class of legal entities from the requirement under subsection (1).*

*(6) An order under subsection (5) may amend or modify the application of this Act and may include such consequential, incidental, supplementary, transitional or transitory provision as the Treasury considers necessary or expedient.*

*(7) Without limiting subsection (6), an order under subsection (5) may disapply a provision of this Part in relation to a legal entity to which this Act applies or to a nominated officer.*

*(8) An order under subsection (5) must not come into operation unless it is approved by Tynwald.’  
Renumber the succeeding subsections and the cross reference on page 19, line 17, accordingly  
Page numbers and line references are references to the reprinted version of the Bill which incorporates the amendments made in the Keys.*

**The President:** Mr Crookall.

**Mr Crookall:** Thank you, Mr President.

I beg to second and can I just echo the sentiments of Mr Coleman in thanking Treasury and Mr Henderson for facilitating a meeting between us and the Members that were concerned on behalf of the industry and for listening to industry.

Thank you.

**The President:** Mr Turner.

**Mr Turner:** Thank you, Mr President.

I support the amendment; I think it is a good step. Certainly to look at the concerns that were raised we had considerable correspondence from the industry regarding this particular matter.

Of course it gives Treasury the power; what remains to be seen is exactly what they do with it. That is something I am sure Hon. Members and indeed industry will be looking closely at, and the mover of the Bill indicated he would be giving a little more detail to that shortly.

I do have a couple of comments to make with regard to clause 6; however, it also includes a bit of clause 7 so I am going to raise those points during the discussion of clause 7. But I support the amendments that Mr Coleman has moved.

**The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

In response to the Hon. Member, Mr Coleman’s amendments, I would like to thank him for doing that. The Government’s overriding policy objective has been to ensure that there is a single point of responsibility for compliance with the core spine of the Bill, submitting beneficial ownership to the central register. The position of nominated officer, which was established in the 2012 Beneficial Ownership Act, was viewed as the most appropriate way of achieving this objective.

As I have previously indicated, since the Bill was given its Third Reading by the House of Keys discussions have continued between officers and industry, particularly the Association of Corporate Service Providers, in an attempt to address these ongoing concerns. The Hon. Member, Mr Coleman, confirmed during First Reading that the Association has indicated that it is content with Treasury’s proposed solution and I am happy to say that this is the Treasury’s understanding of their position too.

Consideration of these amendments gives me the opportunity to provide further details about the Treasury’s proposed way forward. If endorsed by the other place, the Treasury will utilise the flexibility created by the amendments to come forward with an order to exempt certain legal entities from the requirement to appoint a nominated officer.

It is proposed that the order would apply to legal entities in receipt of corporate services provided by holders of a Class 4 licence as prescribed by the Regulated Activities Order 2011. In effect it will cover those entities in receipt of corporate services provided by a licensed corporate service provider.

For the entities covered by the order and therefore exempt from the requirement to appoint a nominated officer, it is proposed that the responsibilities in the Bill which currently rest with the

nominated officer would be transferred to the licensed corporate service provider providing those corporate services. The order would be moved so that it came into operation at the same time as the Act, subject to Tynwald approval.

To give effect to the order, the following provisions in the Bill would not apply to legal entities covered by it: Division 1 of Part 2; clause 45, Savings; the definition of 'nominated officer' in clause 3(1); and paragraph 8(2)(a) of Schedule 1.

Elsewhere across the Bill the order would make clear that references to 'nominated officer' would be read as references to the corporate service provider providing the Class 4 corporate services to the legal entity. I ask Hon. Members to bear this in mind with my subsequent references to 'nominated officer' when we discuss other clauses in the Bill.

So, for example, looking at Part 2 of the Bill the effect of the order would mean that the relevant corporate service provider has responsibilities in clause 9, taking receipt of information from legal owners; in clause 12, changes to required details; in clause 13, preserving those details; and in clause 14, being involved in the issue of a notice where the corporate service provider believes the legal owner has failed to comply with clauses 9 or 12 or made a false statement.

Eaghtyrane, in giving support to the amendments and outlining how Treasury proposes to move the matter forward, I have to add one small rider: although we are content that the exemption from the requirement to appoint a nominated officer along the lines which I have outlined is an acceptable and workable solution, Treasury may have to review the parameters of the exemption in the light of any compliance issues which could arise in future. To be clear, I am not trying in any way to pre-empt the use of the exemption, I merely want to restate the importance of maximising the accuracy of the information on the Database. It would be remiss of Treasury not to review any part of the Bill or secondary legislation made under it which may undermine the accuracy of the information submitted onto the Database.

Eaghtyrane, I trust that Hon. Members will find this proposed solution to industry's concerns acceptable and would urge them to support the amendments.

**The President:** Hon. Members, clause 6. I first put the amendments in the name of Mr Coleman. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6, as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

If I might be bold enough, Eaghtyrane, I would just like to add a little further information to Mr Anderson's previous query on what protections are in place in case there is an inappropriate disclosure of information. I can advise that we are looking at custodial sentences of not exceeding two years and indeed fines not exceeding £5,000. So there are some strict caveats in place on that, and who can and who cannot. Certainly the other one on tipping-off information, that is also an offence which will carry similar severe penalties.

With that, Eaghtyrane, on clause 7 we require relevant entities to appoint a nominated officer and notify the Department of Economic Development of the appointment within one month of the section coming into force. However, under clause 45 those entities which make use of the savings provision in relation to the appointment of a nominated officer do not have to give notice of appointment.

In order to keep the information up to date, entities must give notice to DED within one month of a change in the details of their record of a nominated officer, a change in the officer and the subsequent appointment of a nominated officer. In all cases the notice must specify the date on which the appointment of any changes was made.

The DED has the power to charge a fee to legal entities which fail to comply with the timeframes in this clause. It is intended that the Department will look to introduce a late filing fee similar to



existing arrangements for other returns; however, any such fee would require Tynwald approval before it is introduced.

A legal entity which fails to comply with this section commits an offence.

Eaghtyrane, I beg to move.

**The President:** Mr Corkish.

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

**The President:** Mr Turner.

**Mr Turner:** Thank you, Mr President.

Of course we know – we have had the background as to why we are here, dealing with this Bill – the finance and investment industry worldwide has been, over the years, riddled with various dubious goings on: money-laundering, tax evasion and all sorts of other things. But one thing I would like to comment on, on this particular issue, is the appointment of a nominated officer – declaring an interest as a small business owner.

Something I have championed is small businesses. They are the life blood of Britain and indeed the Isle of Man. I have asked Questions in another place about small businesses. They are also the biggest employers. They are husbands and wives, they are friends and partners who run small businesses, and obviously what is filtering down to those small businesses is the added bureaucracy being imposed on them because of the goings on of some of the bigger institutions and the wealthy.

What I would like to know when I read clauses 6 and 7 is that ... Clearly many of these small businesses are incorporated, most probably under the 1931 Act if they are limited companies, and this is obviously an additional requirement. So I would like to know what the Department is going to be doing to make that process as least bureaucratic as possible, because it says in the appointment that the legal entity must, when they have appointed the officer, give notice to the Department within a month of coming into operation. It goes on about 'the notice must be in such form as the Department requires' etc.

The question I am asking is ... It is all very well for corporate service providers who are doing this day in, day out, but the majority of companies on the Island, that are in effect everyday people, are small businesses, as I said, employing less than five people. They do not have corporate departments dealing with all of this; they obviously have their accountants. What is the Department going to do to make this process painless for small businesses? And is it going to be tied in with, for example, annual returns so that this is not an additional form, process, filing, and, if they get it wrong, slapped wrists and fines? Will the Department undertake to make this process as straightforward as possible, in particular for small businesses on the Island?

**The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

In answer to the Hon. Member Mr Turner's query, yes, the Department will be working on practical assistance with small businesses. It is interesting to note that, under the current 1931 Act, small businesses have to have a nominated officer already – just to make that point – so that is already something they have to do anyway. DED are working on practical guidance now and it intends to write to all businesses directly to tell them what they have to do in easy, readable terms.

It is also my understanding that any return to be made under the auspices of this Act can be made with the returns already, as the Hon. Member has indicated, so it should not need to be a second, separate exercise. It may require an extra form, as prescribed by DED, to go with that, but again my understanding is – and we have to work through this – the form will be relatively easy to fill out and it would take approximately a minute or a couple of minutes at most to fill out the required

details. It is not a long-winded, complicated process that covers reams of paper – far from it. We are trying to make it as easy as possible to maximise the accuracy of information in the first place.

I hope that is sufficient explanation, Eaghtyrane.

**Mr Turner:** And the fees will go up!

**The President:** I put clause 7. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

If I might just add to the previous query, it is hoped in the very near future that the information will all be able to be submitted online as well, which will make it even more easy, and certainly for small businesses.

But returning to clause 8, this requires all relevant entities to keep a record of their nominated officer, including written confirmation of the officer's consent to the appointment.

In the case of a nominated officer who is a natural person, the officer's name and home address on the Island must be recorded. For nominated officers who have legal personality but are not natural persons, a record must be kept of the officer's corporate firm or name and the officer's registered office or place of business in the Island.

A legal entity which fails to comply with this section commits an offence.

Eaghtyrane, I beg to move clause 8.

**The President:** Mr Corkish.

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

**The President:** Clause 8: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 9.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 9 imposes a duty on legal owners, shareholders in a basic company structure, to ascertain the beneficial owner of their interest in the legal entity.

If a legal owner of a company or other entity covered by the Bill receives a written notice from a nominated officer, they must respond within one month with the required details of each beneficial owner of the interest which they legally own, accompanied by relevant verifying information.

Following post-consultation discussions with industry, the clause was amended to remove the express requirement to obtain the required details of all beneficial owners, regardless of the size of their interest. In making the change, the intention is that in many circumstances nominated officers who have obligations under the AML/CFT Code will now be able to better rely upon the work that they must already undertake to satisfy the Bill's requirements in relation to non-registrable beneficial ownership. A nominated officer would not need to send a notice to a legal owner if they are already satisfied that a beneficial owner is non-registrable.

The requirements in respect of nominated officers who have no obligations under the AML/CFT Code remain unchanged; the Bill is the mechanism to ascertain the required details of the beneficial owner and in all cases the required details of registrable beneficial owners are needed for submission onto the Database.

A legal owner who fails to comply with this section commits an offence, although it is a defence to show that they took reasonable steps to avoid the commission of an offence. It is also an offence if a legal owner recklessly or knowingly makes a false, deceptive or misleading statement to a nominated officer.

The DED may make regulations to further provide for the giving of notices and the Treasury, subject to Tynwald approval, can by order amend the specified timeframe.

Eaghtyrane, I beg to move that clause 9 stands part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 9. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 10 places obligations on persons in the chain between a legal owner and the beneficial owner and on the beneficial owner themselves to assist the legal owner to fulfil their obligations to ascertain the beneficial owner of their interest. This obligation is relevant given that ownership can be traced through any number of persons or arrangements of any description.

Failure to comply with this section is an offence, although as with clause 9 it is a defence to show that the person took reasonable steps to avoid the commission of an offence.

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

**The President:** Mr Corkish.

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

**The President:** I put clause 10. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 11 sets out the details in respect of each beneficial owner that are required to be submitted onto the central Database.

The Exchange of Notes requires the Database to hold adequate, accurate and current beneficial ownership information. With this obligation in mind, the House of Keys, with the full support of Treasury, accepted an amendment to remove the gender, occupation and place of birth from the required details of beneficial owners.

In supporting the amendment, however, the Treasury Minister made one proviso. The clause allows for the Treasury, by order and with the approval of Tynwald, to amend the required details. If circumstances change in the future, the Treasury may have to move such an order to amend the required details under this clause.

Eaghtyrane, I beg to move that clause 11 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 11. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 12 provides that where a legal owner is required to give notice to a nominated officer of the required details of the beneficial owner of their interest, they must also give notice to the nominated officer if they know or have reasonable cause to believe that a change in required details has occurred.

Notice has to be given within one month of the legal owner learning of the change or when they first have reasonable cause to believe that the change has occurred. The notice must detail the changes and be accompanied by information from a reliable and independent source which verifies them.

A legal owner who fails to comply with this section commits an offence.  
Eaghtyrane, I beg to move clause 12 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 12. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 13.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 13 prescribes obligations on the nominated officer in respect of the preservation of required details and information.

Nominated officers must ensure that all required details and the information which verifies them are maintained and preserved. The required details must be maintained so as to be capable of disclosing the beneficial ownership of the legal entity at any time. The details and verifying information must be preserved for a minimum of five years from the end of the period to which the information relates, and longer if there is an ongoing investigation.

In the event of an entity ceasing to exist, the person who was nominated officer immediately before one of the above occurring must comply with the requirements of this section.

The five-year retention period in the clause coincides with the current standard under the AML/CFT Code. It should be noted that there are other international standards, both set and evolving, which may be relevant to the length of time for which records need to be preserved in the future.

Failure by a nominated officer to comply with this section is an offence.  
Eaghtyrane, I beg to move clause 13.

**The President:** Mr Corkish.

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

**The President:** I put clause 13. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 14 provides for further consequences for legal owners of the failure to disclose beneficial ownership.

The consequences become relevant if a nominated officer is of the opinion that a legal owner has, without reasonable excuse, failed to provide relevant details or changes thereto or has made a misleading statement.

Once notified by a nominated officer, the entity must serve notice on the legal owner and the beneficial owner of their interest to inform them that a notice has been received and that action might be taken. The recipient has 14 days to make representations to the entity, which must be considered by the entity.

After due consideration, the legal entity may take such action as it thinks fit in respect of the legal owner's interest in the entity. The actions are specified in the clause and include, for example, limiting voting rights.

If it takes any action, the legal entity must inform the FSA within two weeks of so doing. The legal owner can appeal to the High Court.

Eaghtyrane, I beg to move clause 14.

**The President:** Mr Corkish.

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

**The President:** I put clause 14. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 15 provides for the disclosure of beneficial ownership information by a nominated officer where they receive a notice from one or more competent authorities. The clause is adapted from the Companies (Beneficial Ownership) Act 2012.

The provision relates to information which is not on the central Database; for example, in relation to non-registrable beneficial ownership information as well as supporting information in relation to all beneficial owners.

Competent authorities must state in the notice what information is required and that it is required for a permitted purpose. If the notice relates to a registrable beneficial owner, a nominated officer has seven days to reply to a notice. In all other cases, the response time is 30 days.

If a nominated officer fails to comply with this section they commit an offence.

Eaghtyrane, I beg to move clause 15.

**The President:** Mr Corkish.

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

**The President:** I put clause 15. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

This places restrictions on the further disclosure of information provided by a nominated officer to competent authorities via a notice.

Information cannot be further disclosed except for a permitted purpose; it can be used by the recipient as evidence in criminal, civil and regulatory proceedings.

I beg to move that clause 16 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 16. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 17.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 17 applies specifically to disclosure of information obtained from a nominated officer by the Financial Intelligence Unit when responding to requests from an external intelligence or law enforcement agency.

In such circumstances, disclosure is permitted if it is made in response to a request made by a relevant agency in the furtherance of the agency's functions and in a manner required by the FIU.

As the disclosure of beneficial ownership information by the FIU under this Bill is in addition to its statutory functions as set out in the Financial Intelligence Unit Act 2016, the section of that Act which deals with restrictions on disclosure needs to be disapplied by this clause.

Eaghtyrane, I beg to move that clause 17 stands part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 17. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 18.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 18 makes it an offence for a person who knows or suspects that a notice has been issued under clause 15 and who discloses to any other person information or any other matter connected to the issue of the notice which may prejudice any criminal, civil or regulatory investigations or proceedings.

Within defined parameters, disclosure by an advocate or legal adviser is not an offence and it is a defence to prove that a person did not know or suspect that the disclosure was likely to be prejudicial.

Eaghtyrane, I beg to move clause 18.

**The President:** Mr Corkish.

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

**The President:** I put clause 18. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 19.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 19 creates the Isle of Man Database of Beneficial Ownership Information, with a duty on the Department of Economic Development to establish and maintain it and for the Database to contain the required details and any changes thereto of all registrable beneficial owners.

Eaghtyrane, I beg to move clause 19.

**The President:** Mr Corkish.

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

**The President:** I put clause 19. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 20 provides that a nominated officer must take all reasonable steps necessary to ascertain whether a legal entity has a registrable beneficial owner. Under the clause, the nominated officer must submit the required details of the registrable beneficial owner, details of any relevant changes and, where the legal entity has no registrable beneficial owner, a statement to confirm that fact.

As noted when we considered clause 11, the Exchange of Notes requires the Database to hold adequate, accurate and current beneficial ownership information. Clause 20 sets out the timeframes for the submission of information onto the Database. For those entities already in existence when the Act comes into force, the information must be submitted in the first instance either by the date on which the entity's next annual return falls due following the nominated officer receiving the required details from the legal owner or 30th June 2018, whichever is the earlier.

As some nominated officers may not be able to align the first submission of information to the date on which the annual return is due because of the time required to meet obligations elsewhere in the Bill, submission of information must be as soon as reasonably practicable.

The clause also sets out the timeframe for submission of relevant changes and covers circumstances for legal entities which come into existence after this section comes into operation.

There are offences in this clause for nominated officers and other persons for failure to comply with its provisions. Given the central importance of submitting beneficial ownership information, this clause also contains an obligation to rectify any instances where information has not been submitted and prosecution proceedings commenced.

Eaghtyrane, I beg to move that clause 20 stands part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 20. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 21.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 21 allows nominated officers, where the beneficial owner consents, to submit required details of beneficial owners other than registrable beneficial owners onto the Database.

The provision aims to provide flexibility in circumstances where, for their own reasons, beneficial owners are content to have their details submitted onto the Database even though the Bill does not require them to be.

Eaghtyrane, I beg to move that clause 21 stands part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 21. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 22.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 22 requires beneficial ownership information to be submitted online, mirroring similar provisions in the Income Tax Act 1970.

The default position under the Bill is the submission of registrable beneficial ownership online through the Government website. The Government Technology Service is working with partners to design and build the necessary system, and work in this regard is at an advanced stage.

There is provision for entities to apply to the DED for an exemption from this requirement, and it is an offence to fail to comply unless an exemption is granted. There is also an appeal mechanism against any resultant decision by the DED.

Eaghtyrane, I beg to move that clause 22 stands part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 22. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 23.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 23 specifies that access to the Database, and the further disclosure of information obtained from it, is only permissible in accordance with Part 3 of the Bill.

Eaghtyrane, I beg to move that clause 23 stands part of the Bill.

**The President:** Mr Corkish.

**Mr Corkish:** I beg to second and reserve my remarks, Mr President.

**The President:** Mr Turner.

**Mr Turner:** Thank you, Mr President.

Can I just ask the mover ...? It relates to the access to the Database 23 and also to the previous submitting online. I assume that those submitting the data will not just be able to submit the data but will be able to also see their own data to ensure it is up-to-date? Like you mentioned the Income Tax system, so you can retrieve your own information that is on the Database, (**Mr Henderson:** Yes.) but obviously this is about who accesses the wider Database.

**The President:** Mr Henderson.

**Mr Henderson:** The answer is yes, Eaghtyrane.

**The President:** Thank you.

I put clause 23. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 24.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 24 establishes the power for the Department of Economic Development to allow access to the Database by such means and in such manner as it determines.

The DED can, by regulations, make further provision about access to the Database other than in relation to the persons or bodies who may access it. Access in this regard is controlled by Treasury under clause 26.

Eaghtyrane, I beg to move.



**The President:** Mr Corkish.

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

**The President:** I put clause 24. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 25.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 25 confirms that the DED is not liable for the accuracy of information submitted onto the Database.

There is a requirement for legal entities to include on their annual returns a statement that all the information submitted for entry on the Database is up to date and correct.

Eaghtyrane, I beg to move.

**The President:** Mr Corkish.

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

**The President:** I put clause 25. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 26.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 26 sets out the parameters for persons who may access the Database, both in terms of who can access it and for what purposes.

In addition to the competent authorities listed in clause 15 who are able to access the Database for a permitted purpose, a small number of other persons or bodies also have access, albeit mostly on a more restricted basis. Tight control over access to the Database is crucial to reassure beneficial owners whose details are contained within it.

Eaghtyrane, I beg to move.

**The President:** Mr Corkish.

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

**The President:** I put clause 26. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 27.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 27 specifies the restrictions on further disclosure of information accessed from the Database. The exact nature of the restrictions differs slightly depending upon the purposes for which access is permitted.

Information accessed by a competent authority must not be further disclosed except for a permitted purpose and, in the case of the FIU, disclosure also has to be in accordance with clause 28. For all competent authorities, information disclosed may be used by the recipient in criminal, civil or regulatory proceedings.

For the DED and Gambling Supervision Commission, the information cannot be further disclosed except for the limited purposes for which they can access the Database.

A person who fails to comply with this section commits an offence.  
Eaghtyrane, I beg to move.

**The President:** Mr Corkish.

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

**The President:** I put clause 27. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 28.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 28 permits the disclosure of information from the Database by the FIU when responding to external requests from intelligence and law enforcement agencies with which we have a beneficial ownership sharing agreement. To be clear, this is just the UK at the moment.

It is through this clause that the sharing arrangements and the Exchange of Notes can be put into effect with the FIU required to respond to requests from such agencies in furtherance of the agency's functions within the timeframe set out in the notes – 24 hours typically and within one hour in urgent cases.

Section 25 of the Financial Intelligence Unit Act 2016 which deals with further restrictions on disclosure does not apply to information disclosed under this clause.

Eaghtyrane, I beg to move clause 28.

**The President:** Mr Corkish.

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

**The President:** Clause 28: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 29.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 29 creates a provision in respect of tipping-off resulting from access to the Database. Accordingly, a person commits an offence if they know or suspect that information on the Database has been or is going to be accessed and they disclose prejudicial information connected with such access.

Within defined parameters disclosure by an advocate or legal adviser is not an offence and it is a defence to prove that a person did not know or suspect that disclosure was likely to be prejudicial.

Eaghtyrane, I beg to move.

**The President:** Mr Corkish.

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

**The President:** I put clause 29. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 30.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 30 confers the oversight functions of the FSA.

Schedule 1 sets out additional powers; for example, in respect of inspections and investigations and requests for information. The FSA will be responsible for assessing compliance with the Act by relevant persons including a nominated officer and a legal entity.

It is important to recall that the oversight role of the FSA is required by the Exchange of Notes with the UK, so it is something which we have had to introduce within the new regime.

It is also the case that the Bill confers powers on the FSA only in relation to compliance with this Act. It creates no additional powers under any other piece of legislation, some of which provide the FSA with more powers than are conferred by this Bill.

The existence of these powers should be seen in context; for example, there are areas where compliance with the Bill will cover similar ground to compliance with the AML/CFT Code. The FSA has indicated that it will take a similar, pragmatic approach to oversight of this Act as it does to oversight of that Code. Wherever possible, depending upon the seriousness of any breach and taking a risk-based approach the FSA will seek to focus on remedial actions to assist relevant persons in complying with their obligations under the Bill.

Importantly, the Bill provides the FSA with flexibility in its oversight role; for example, although there are criminal penalties in relation to a number of offences in the Bill, there are also powers for the Authority to impose civil penalties on relevant persons. The Authority can do so if it is satisfied that relevant persons have committed an offence in connection with oversight; if they have contravened certain provisions in the Bill – for example, the preservation of required details – or if they have furnished it or the Department of Economic Development with false or misleading information. In such circumstances the relevant person who has contravened the section in question can be penalised by the imposition of a civil penalty rather than one of the criminal sanctions outlined in the Bill.

Eaghtyrane, I beg to move that clause 30 and Schedule 1 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** Clause 30 and Schedule 1: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 31.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 31 provides for an entity to be struck off a relevant register if there is reasonable cause to believe that it has failed or is failing to comply with its obligations under the Act. The striking off provision is included as a backstop power and it should be viewed as such, particularly in the context of the Bill's other offences and penalties.

Schedule 2 sets out the necessary legislative amendments required to facilitate this clause.

Eaghtyrane, I beg to move.

**The President:** Mr Corkish.

**Mr Corkish:** I beg to second and reserve my remarks again, sir.

**The President:** I put clause 31 and Schedule 2. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 32.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 32 provides the legal authority for the Treasury, DED and FSA to make regulations under the Act. The Treasury is able to make regulations for the general efficacy of the Act, which could provide for the exemption of certain bodies from the effect of specified provisions. Prior to making any regulations the Treasury must consult the FSA and the DED.

The clause allows for regulations; for example, to permit a person to exercise discretion in respect of any matters specified in the regulations and require compliance with standards or the adoption of practices recommended or specified from time to time. All regulations under this clause require Tynwald approval.

Eaghtyrane, I beg to move clause 32.

**The President:** Mr Corkish.

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

**The President:** Clause 32: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 33.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 33 permits the DED to set fees in respect of the legal entity's requirement to notify the Department of the appointment of a nominated officer and in respect of the nominated officer's obligation to submit beneficial ownership information.

It is anticipated that fees charged under this clause will operate in a similar manner to the current late filing fees charged by the Companies Registry. An order to introduce fees requires Tynwald approval.

Eaghtyrane, I beg to move clause 33.

**The President:** Mr Corkish.

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

**The President:** Mr Turner.

**Mr Turner:** Well here it is! This is what I was irking at earlier on: fees!

So we create all the bureaucracy; we make all the agreements; then we lamp more fees on the businesses. Surely to add this extra information should not be incurring businesses with extra fees! This is just another excuse to charge businesses more.

The filing fees and returns here are already excessively more expensive than the UK and lots of other jurisdictions and we are just putting a load more on them. I do not think, for the information that is meant to be given, which he said would be alongside the returns, they can justify charging more fees for this when they are already charging more than many other jurisdictions. It is just another excuse!

**The President:** Mr Crookall.

**Mr Crookall:** Thank you, Mr President.

Just to note there: it does say 'the Department *may*' – (**Mr Turner:** May!) 'may', and it does have to come to Tynwald first, but I take on board Mr Turner's comments.

**The President:** May I add a comment? On page 6 of the explanatory memorandum is set out the financial implications for Government over three years, which come to well over £200,000. Is it the intention that these set-up costs will be recouped through the fees in any way?

**Mr Henderson:** Eaghtyrane, can you just repeat your query for me, just so I have got the full context of it?

**The President:** In the explanatory memorandum, on page 6, the financial implications are set out, as is normal for any Bill. Over a three-year period, for establishment of staff plus other costs, it comes to well over £200,000 – the costs of implementing this legislation in other words. Is it intended that the fee structure will recoup any of that cost?

**Mr Henderson:** Righto, Eaghtyrane; I will give it my best shot on the various queries; however, I would like to ask your permission in a moment whether I could ask one of our officers to add further –

**The President:** What a good idea.

**Mr Henderson:** – background, especially to what you are asking because it is quite complicated for myself. I have got the upshot of it, but I think a more in-depth ...

**The President:**

We will invite the officer.

Good morning, and if you could state your name and position please, when we are plugged in.

**A Member:** Testing, testing!

**Mr Turner:** One, two; one, two!

**Mr Anderson:** You should be electrified now!

**Mr Quayle:** Mr President, my name is Stuart Quayle. I am Director of Policy and Legislation for the Treasury. Good morning, Mr President, Hon. Members.

I just want to reiterate a point that the Hon. Member, Mr Crookall, made: this is a permissive power that the DED has, so no decision has yet been made on fees and certainly the money that has been spent or allocated, as set out in the explanatory memorandum, has not been predicated on the basis that it will be recouped by fees, and that money has already been allocated and spent.

There are only a couple of provisions that the fees would be charged under the Bill: for the notice of appointment for nominated officer and the compulsory submission of registrable beneficial ownership information.

Speaking to colleagues in DED, they are very much looking at it using the model that they already have for late filing fees for other company law filing for use under this Bill, and they say that actually acts as an incentive for filing to be done in a timely basis. So it is entirely in the gift of DED what fees they charge, and it does have to come back to Tynwald for approval and debate at a later stage.

**The President:** Mr Henderson.

**Mr Henderson:** Could I just ask, Eaghtyrane, if Mr Quayle could outline that this is actually aiming at the late filing of papers rather than the point I think Mr Turner was driving at that just for putting your submission in on time you were going to get charged additionally on that? I think we are aiming it to discourage late filing, so it is not an additional ...

**Mr Quayle:** Yes, that is certainly my understanding of how it will work in operation.

**The President:** Mr Turner.

**Mr Turner:** Yes, Mr President. It might well be the intention, but of course the power is there and we all know what happens when you give a Department the power to charge fees. They say, 'Well, we have got no plans to charge fees' and then in it comes. We have now got fees for everything from tree felling to all sorts of other things that they have had the powers to do.

I think it is quite interesting that everything is going computerised yet we need more staff. I would have thought, with the automation of these processes, you should be needing, surely, less staff if a lot of the inputting is being done by the businesses themselves.

It is just a comment, Mr President, that once you give a Department the power to charge the fees, ultimately the fees do come.

**The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I think Mr Turner is being somewhat deliberately mischievous here with some of that. It is not applicable to clause 33. However, I think we have established beyond doubt what the intention of this is to achieve in the charging of fees, and it is not the introduction of general charging all over the place or to hamper small business. It is, rather, an incentive to encourage timely information.

If I can leave it at that, Eaghtyrane, I beg to move.

**The President:** And we are obliged to Mr Quayle for your assistance to Council. Thank you.

I put clause 33. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 34, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 34 creates an appeal route to the Financial Services Tribunal against decisions made by the DED in respect of whether a nominated officer is exempt from the requirement to submit beneficial ownership information online. The Tribunal can also hear appeals against the imposition of civil penalties by the FSA. A decision of the Tribunal is binding, although a further appeal lies to the High Court on a point of law.

Eaghtyrane, I beg to move.

**The President:** Mr Corkish.

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

**The President:** I put clause 34. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 35.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 35 clarifies that when an offence is committed by a legal entity – for example a company rather than by a natural person; so that is to say when it is a body corporate committing an offence rather than a flesh and blood person – and it is proved that one of the entity's officers was complicit, the officer – the natural person – as well as the legal entity is guilty of the offence and is liable to the penalty provided for the offence.

Eaghtyrane, I beg to move clause 35.

**The President:** Mr Corkish.

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

**The President:** I put clause 35. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 36.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 36 specifies that a requirement imposed under this Bill has effect despite any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

Therefore, a disclosure made or the sharing of information in accordance with the Bill does not breach any obligation of confidence or any other restriction on the access to or disclosure of the accessed information, subject to the Data Protection Act 2002.

Eaghtyrane, I beg to move that clause 36 stands part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 36. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 37.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 37 provides that the Data Protection Act 2002 is not affected by this Bill, so nothing in this Bill authorises a disclosure in contravention of that Act of personal data which is not exempt from its provisions.

Eaghtyrane, I beg to move clause 37.

**The President:** Mr Corkish.

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

**The President:** I put clause 37. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 38.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 38 makes explicit that the existing exemption under the Freedom of Information Act 2015 for information – the disclosure of which is restricted by law – applies to information prohibited from disclosure under this Bill.

The effect of this clause is that applications will not be able to obtain information from the Database via a Freedom of Information request to the DED.

Eaghtyrane, I beg to move that clause 38 stand part of the Bill.

**The President:** Mr Corkish.

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

**The President:** I put clause 38. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 39.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 39 provides that nothing in the Act compels the production or divulgence by an advocate or other legal adviser of an item subject to legal privilege, but an advocate or legal adviser may be required to give the name and address of any client.

Eaghtyrane, I beg to move clause 39.

**The President:** Mr Corkish.

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

**The President:** Clause 39: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 40.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

This clause ensures that the operation of this Act does not limit or otherwise restrict any other statutory provision concerning beneficial ownership and sets out some examples thereof.

Eaghtyrane, I beg to move clause 40.

**The President:** Mr Corkish.

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

**The President:** I put clause 40. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 41.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 41 provides that the operation of a power or duty in this Bill to disclose information does not affect the operation of any other power or duty to disclose information which exists in this Bill or any other enactment or any restriction on such disclosure.

Eaghtyrane, I beg to move.

**The President:** Mr Corkish.

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

**The President:** I put clause 41. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 42.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 42 requires that legal entities must include a statement of compliance in annual returns. The statement must confirm that the legal entity and its nominated officer have each complied with their respective obligations; the required details in respect of any registrable beneficial owners have been submitted; and all information submitted is up to date and correct. Because the statement is solely in relation to obligations under this Act, it must be countersigned by the nominated officer.



Schedule 3 sets out the necessary legislative amendments to facilitate the statement of compliance in annual returns as required by the clause.

Eaghtyrane, I beg to move clause 42.

**The President:** Mr Corkish.

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

**The President:** I put clause 42 and Schedule 3. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 43.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 43 provides for the online submission of annual returns for companies. Unfortunately, the online filing of annual returns is not yet technologically feasible and work to enable its future delivery will commence in earnest once the central Database of Beneficial Ownership has been established. To be clear, this clause will not be brought into force until the technology is in place to facilitate it. Schedule 4 sets out the necessary legislative amendments and will be brought into force alongside clause 43.

Eaghtyrane, I beg to move clause 43.

**The President:** Mr Corkish.

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

**The President:** I put clause 43 and Schedule 4. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 44.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 44: this clause extends the remit of the Financial Services Tribunal to cover appeals under this Bill further to clause 34, and adds this Bill to the list of other Acts which confer functions on the FSA. As noted earlier, the only additional powers granted to the FSA by this Bill are in relation to the oversight of this Bill.

Eaghtyrane, I beg to move clause 44.

**The President:** Mr Corkish.

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

**The President:** I put clause 44. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 45.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 45 provides for the continuation of appointment, subject to the written consent of the officer, of nominated officers appointed under the Companies (Beneficial Ownership) Act 2012. It also provides for a similar position in respect of registered agents under the Companies Act 2006 and associated Acts.

A nominated officer who carries their appointment through to the new Act must comply with the Act as if they were appointed under it.

Eaghtyrane, I beg to move clause 45.

**The President:** Mr Corkish.

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

**The President:** I put clause 45. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Finally, clause 46, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

The final clause, and, Eaghtyrane, if I could just revert to some earlier queries from Mr Turner in relation to clauses 6 and 7 and small companies: it is the 2012 Companies (Beneficial Ownership) that creates the requirement to have a nominated officer. I just wanted to clarify that. The 2012 Act covers most 1931 companies, which are mainly the locally owned, small businesses. Nominated officers appointed under the 2012 Act can transition over to being nominated officers under this Bill. I just wanted to clarify that, Eaghtyrane.

The final clause, Eaghtyrane, clause 46, repeals the Companies (Beneficial Ownership) Act 2012 and the Companies (Beneficial Ownership) (Exemptions) Order 2013.

Eaghtyrane, I beg to move clause 46.

**The President:** Mr Corkish.

**Mr Corkish:** Mr President, finally I beg to second and reserve my remarks, sir.

**The President:** I put clause 46. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

That concludes the clauses stage of the Beneficial Ownership Bill.

**Beneficial Ownership Bill 2017 –  
Standing Order 4.3(2) suspended to take Third Reading –  
Motion carried**

**The President:** I call Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

Eaghtyrane, I have given yourself and Hon. Members advanced warning of my intention to move the motion on the Order Paper to suspend Standing Order 4.3(2) to enable the final reading of this Bill to be taken today.

As Hon. Members know, the timetable for progressing this important Bill has been extremely tight – perfectly manageable, but tight. Given the amendments which have just been approved, the Bill has to return to the House of Keys for consideration, thus adding a further parliamentary stage to the process.

In order to give industry as much certainty as possible ahead of the introduction of the new central Database on 30th June 2017, the Treasury is very keen, if possible, for the Bill to have completed its legislative passage by 11th April. If the 11th April target is missed, Eaghtyrane, then the next sitting is not until 2nd May 2017. Obviously completing its passage by 2nd May makes Royal Assent by 30th June very ambitious, even without factoring in the secondary legislation which has to be drafted and approved to give full effect to the new regime.

Eaghtyrane, I beg to move that Standing Order 4.3(2) be suspended to enable the remaining stage of this Bill to be taken today.

**The President:** Mr Corkish.

**Mr Corkish:** I beg to second, Mr President.

**The President:** Mr Turner.

**Mr Turner:** Thank you, Mr President.

We did have an inkling this was coming; the Member mentioned it at a previous sitting. But I think we should be sending a message to Government Departments that there is a parliamentary timetable and when they are going away agreeing all these things with whoever, they should be mindful of the fact of the parliamentary timetable instead of just agreeing to things and assuming they can just come to the Branches and have multiple readings done at the same sitting.

On this occasion we have had quite a lengthy discussion about the concerns of industry. Mr Coleman moved the amendment earlier and industry appear to be happy with it, so I am not going to vote against the suspension of Standing Orders on this occasion – although it does grate me somewhat – because I think it would just be pointless when they are trying to get this through. But I do think that the more this provision is ... I will not say abused because obviously it is in the hands of Members whether they support it or not, but Departments coming and expecting they can meet timetables by having multiple readings in the same session when they are fully aware of the parliamentary timetable I do not think is on. But on this occasion we have gone through the Bill in quite some detail; we have answered the controversial points which we hope are satisfactory to industry, so I will support it in an effort to get this through. But I think we should be sending the message to Departments that it is not really acceptable.

**The President:** Thank you.  
Mr Anderson.

**Mr Anderson:** Thank you, Mr President.

Just taking a counterview on this really: I think we have made an important amendment to this Bill and therefore it has to go back to another place; that being so, the timetable is compromised, so therefore I think we should unanimously accept this.

**The President:** I put the motion that Standing Order 4.3(2) be suspended to enable the remaining stages of the Bill to be taken today. Those in favour, say aye; against, no. The ayes have it. The ayes have it.