

**1. Credit Unions (Amendment) Bill 2017 –
Second Reading approved**

Mr Henderson to move:

That the Credit Unions (Amendment) Bill 2017 be read a second time.

The Acting President: We turn to our Order Paper to Item 1, the Credit Unions (Amendment) Bill and I call upon Mr Henderson to move the Second Reading.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

5 The Credit Unions (Amendment) Bill 2017 updates the Credit Unions Act 1993 and allocates responsibility for credit unions' regulatory matters to the Isle of Man Financial Services Authority, which I shall refer to forthwith as 'the FSA'.

As mentioned at First Reading, the Bill is in one Part, comprising 41 clauses, and it has four goals which together seek to ensure adequate protection for consumers.

10 Firstly, the Bill adds to the Credit Unions Act, which I shall refer to as 'the Act', all the constitutional matters relating to credit unions from the Industrial and Building Societies Act 1892. This means that the amended Act will address credit unions' incorporation matters in a similar way as company law does for companies. This means the disengagement of credit unions from the 1892 Act, and places incorporation matters firmly within the 1993 Credit Unions Act, which will come under the auspices of the Department for Enterprise, referred throughout this amendment Bill as 'the Department' and specifically named at clause 37 in the Bill. If this Bill is successful, then this will be transposed into the Credit Unions Act 1993, at section 29, the Interpretation Section, or simply put – the glossary of terms and meanings within the Bill so there will be no doubt as to which Department is meant.

20 Secondly, the Bill removes all regulatory matters from the Act and provides for these to be addressed in and under the Financial Services Act 2008. Changes to secondary legislation under the Financial Services Act, which would be introduced subsequently and be subject to consultation, would make credit unions 'licence holders' of the FSA.

25 Thirdly, the Bill enables, but does not mandate, a credit unions' savings compensation scheme to be established by Treasury under the Financial Services Act. Such a scheme would be the subject of separate secondary legislation.

Finally, the Bill updates the remaining sections of the Act so that it will provide constitutional and governance legislation for credit unions that is both effective and modern.

30 Bringing credit unions into the FSA's existing regulatory framework will improve the FSA's enforcement and regulatory powers over credit unions to a level consistent with those it has for other regulated activities. The detailed framework would be implemented by secondary legislation, which would be subject to public consultation, and brought into effect upon the Bill's enactment.

35 The Island's first credit union was authorised in 2016. Although the costs of the amending legislation may be considered disproportionate for a sole credit union, the FSA believes this Bill is essential in order to adequately protect the members of that credit union, any future credit unions and the island's reputation. Transitional arrangements to address the existing credit union will be discussed with that entity.

40 The FSA believes that consumers will not be disadvantaged by the proposed changes to the Act, and will indeed be better protected.

Negligible income to the Island is anticipated from credit unions, but there are expected to be social benefits for the public and for Government. In the medium-term these benefits could outweigh the costs of the legislation.

45 Apart from regulatory matters, key aspects of the Bill are: to permit children and corporate bodies to save with, but not to borrow from, a credit union. As at present, adult individuals may

both save with and borrow from a credit union within specified limits; to permit a credit union to issue 'deferred' shares in addition to 'ordinary shares', subject to certain constraints; and to enable the Treasury to establish a dedicated savings compensation scheme, should it determine to do so.

50 The Bill makes no changes to the limits for savings or loans, but it provides the FSA with the ability to amend these limits, by order, with Tynwald's approval.

New powers provide credit unions with the ability to appeal against relevant decisions of the FSA and of the Department of Economic Development, now known as the Department for Enterprise, which body also has significant powers in the Act.

55 In 2015 the FSA carried out a pre-drafting consultation on its policy proposals, which indicated overwhelming support for credit unions in the Island. The draft Bill was also the subject of a full public consultation earlier this year and the few comments that were received have been considered and some changes were made as appropriate.

60 The Bill also makes a minor consequential amendment to the Company and Business Names etc Act 2012 in respect of names of credit unions.

There is no indication that the Bill will place any additional administrative or financial burden on Government or industry. Indeed, it is expected that the Bill will reduce the administrative burden on both the FSA and on any credit unions.

65 Lhiass-eaghtyrane, I beg to move that the Credit Unions (Amendment) Bill 2017 now be read a second time.

The Acting President: Hon. Members, the motion is that the Bill be read a second time –

70 **Mr Coleman:** I have got to second it.

The Acting President: Mr Coleman, sorry.

Mr Coleman: I beg to second, Mr Acting President.

75 **The Acting President:** Thank you, Mr Coleman.

Hon. Members, the motion is that the Credit Unions (Amendment) Bill be read a second time. Those in favour, please say aye; those against –

80 **The Clerk:** Just check in case anybody else wants to speak.

The Acting President: Nobody is.

Mr Anderson: Not at this stage.

85 **Mr Coleman:** They daren't!

Mr Henderson: Something coming on clauses then!

90 **The Acting President:** Those in favour of the Bill being read a second time, please say aye; those against, no. The ayes have it. The ayes have it.

**Credit Unions (Amendment) Bill 2017 –
Clauses considered**

The Acting President: We now come to the clauses stage and I call upon Mr Henderson to move clause 1.

95 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.

In my opening gambit in introducing clause 1, as indicated in the Second Reading, the Credit Unions (Amendment) Bill 2017 amends the Credit Unions Act 1993 so as to require credit unions to be licensed and subject to regulation under the Financial Services Act 2008.

100 The Bill also breaks the Credit Unions Act's reliance on the Industrial and Building Societies Act 1892, which I shall call the '1892 Act', by providing all credit unions' incorporation and constitutional matters under the Credit Unions Act 1993, and herein after referred to as the Credit Unions Act.

105 The Department has previously mentioned it means the Department for Enterprise, which is defined at section 37 of this Amendment Act, in turn amending section 29 of the Credit Unions Act, the interpretation clause.

Lhiass-eaghtyrane, clause 1 provides for the short title of the Bill. I beg to move that clause 1 stands part of the Bill.

The Acting President: A seconder?

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Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Thank you, Mr Coleman.

115 Hon. Members, the question is that clause 1 do stand part of the Bill. Those in favour, say aye; those against, no. Clause 1 do stand part of the Bill.

Mr Henderson, clause 2.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

120 Clause 2 provides for the Bill's commencement. The Bill will come into operation on days specified in orders made by the Isle of Man Financial Services Authority, which I shall refer to as 'the FSA'. Transitional and saving provisions are also provided for.

Lhiass-eaghtyrane, I beg to move that clause 2 stands part of the Bill.

Mr Coleman: I beg to second, Mr Acting President.

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The Acting President: The question is that clause 2 do stand part of the Bill. Those in favour, say aye; those against. Carried.

Mr Henderson, clause 3.

130 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.

Clause 3 states that the Credit Unions Act is amended in the manner specified in the succeeding clauses.

Lhiass-eaghtyrane, I beg to move that clause 3 stands part of the Bill.

135 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 3 do stand part of the Bill. Those in favour, say aye; those against, no. Clause 3 is carried.

Mr Henderson, clause 4.

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Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 4 repeals and replaces the existing section 1. It provides for the incorporation under the Credit Unions Act of 'bodies corporate' which are 'credit unions'.

145 This replaces the current arrangement by which 'societies' are first incorporated under the 1892 act and are then registered as credit unions under the Credit Unions Act. In this way, the proposed section 1 breaks the reliance of the Credit Unions Act on the 1892 Act.

The proposed section 1 describes the 'common bond' that is required of persons wishing to be members of any particular credit union. It also sets out the objects, additional qualifications for admission to membership, and other procedural requirements for incorporation of a credit union.

150 A credit union's objects, in draft section 1(4), differentiate it from other financial entities and include: the promotion of thrift – which indicates prudent use of money, providing sources of credit at a reasonable rate, use of members' savings for their mutual benefit, and educating members in the wise use of money.

155 The clause also provides that a credit union is a separate legal entity upon incorporation, but that it must obtain a licence under the Financial Services Act 2008 in order to carry on business.

Lhiass-eaghtyrane, I beg to move that clause 4 stands part of the Bill.

The Acting President: Mr Coleman.

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Mr Coleman: I beg to second, Mr Acting President.

The Acting President: The question is that clause 4 do stand part of the Bill. Those in favour, please say aye; those against, no. Carried.

165 Mr Henderson, clause 5.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

170 Clause 5 repeals and replaces section 2 of the Credit Unions Act. It explains that a society whose objects are wholly or substantially those of a credit union must be incorporated under the Credit Unions Act instead of under the 1892 Act.

The proposed section 2 further provides that any registration or incorporation of such a society under the 1892 Act is void.

Lhiass-eaghtyrane, I beg to move that clause 5 stands part of the Bill.

175 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

180 **The Acting President:** The question is that clause 5 do stand part of the Bill. Those in favour, say aye; those against, no. Clause 5 is carried.

Mr Henderson, clause 6.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

185 Clause 6 inserts into the Credit Unions Act the new sections 2A and 2B.

Section 2A provides for appeals to a court of summary jurisdiction in respect of decisions of the Department for Enterprise, formerly the Department of Economic Development, which is referred to as 'the Department', and permits the court to confirm the decision of the Department or make such other direction or determination as it thinks fit.

190 Section 2B provides for appeals in respect of decisions made by the FSA, in accordance with section 32 of the Financial Services Act 2008.

Lhiass-eaghtyrane, I beg to move that clause 6 stands part of the Bill.

The Acting President: Mr Coleman.

195 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: The question is that clause 6 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it.

Mr Henderson, clause 7.

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Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 7 amends section 3 of the Credit Unions Act by deleting the reference to 'society' in subsection (1), as this term will be redundant in the amended Act.

205 The clause also increases the maximum fine in subsection (2) for 'holding out' as a credit union, from £2,500 to £5,000.

The reference to the Industrial and Building Societies (Amendment) Act 1955 is removed from subsection (4), as that Act will no longer be applicable to credit unions.

Lhiass-eaghtyrane, I beg to move clause 7.

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The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Mr Anderson.

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Mr Anderson: Thank you.

I wonder if the mover could just explain the explanation of this phrase 'holding out', referred to in clause 7, please.

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The Acting President: Mr Henderson.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

225 I think it is referring to ... in fact, I know it is referring to anybody who is – if I can use the phrase –'fraudulently' trying to act as a credit union or trying in some way to act other than a credit union but using the name as a front of their operations.

Mr Anderson: Thank you.

The Acting President: No other questions, Hon. Members?

230 The question is that clause 7 do stand part of the Bill. Those in favour, say aye; those against, no. Clause 7 is carried.

Mr Henderson, clause 8.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

235 Clause 8 repeals and replaces section 4 of the Credit Unions Act. The proposed section 4 is substantially similar to the existing one, which relates to rules of credit unions. The main change is to require rules, or amendments to rules, to be registered under the Credit Unions Act in order for them to be valid.

240 The new section 4 describes how the rules should be registered, and provides for appeals against decisions not to register these. It also provides that the rules of a credit union must be made available to members of the public.

Lhiass-eaghtyrane, I beg to move clause 8.

The Acting President: Mr Coleman.

245 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 8 do stand part of the Bill. Those in favour, say aye; those against, no. Clause 8 therefore carries.

Mr Henderson, clause 9.

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Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 9 amends the Credit Unions Act by inserting a new section 4A, which relates to documents held by the Department. The new section enables any person to inspect a copy of such a document and requires copies of specified documents to be certified by the Department, both on payment of a prescribed fee.

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Additionally, the clause provides that these certified copies should be considered of equal quality as the original documents and be admissible in evidence in all proceedings.

Lhiass-eaghtyrane, I beg to move that clause 9 stands part of the Bill.

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The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

The Acting President: The question is that clause 9 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it.

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Mr Henderson, clause 10.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane [...]

I have got ahead of myself, I will restart clause 9 for the interests of clarity. (**Several Members:** Clause 10.) Sorry, Lhiass-eaghtyrane, the pages have stuck!

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Clause 10 amends section 5 of the Credit Unions Act.

The new subsection (1) permits bodies corporate and unincorporated societies to become members of credit unions. This is in addition to 'individuals' which are the only permitted members at present. However, bodies corporate and unincorporated societies may save with credit unions, but may not borrow from them.

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Clause 10 also qualifies the 'shares' mentioned in section 5 as being 'ordinary shares', as opposed to 'deferred shares'. Deferred shares are a concept that the Bill introduces into the Credit Unions Act.

Additionally, clause 10 proposes that members' maximum interest, or savings, in a credit union may be expressed as a percentage of a monetary amount instead of a fixed amount. The maximum limit is currently £5,000.

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Clause 10 also adds two new subsections. Subsection (10) limits members' liability in respect of both deferred and ordinary shares. Subsection (11) permits the FSA to make orders that amend provisions relating to the rules of a credit union; as well as the maximum number of non-qualifying members of a credit union.

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Lhiass-eaghtyrane, I beg to move clause 10.

The Acting President: Mr Coleman.

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Mr Coleman: I beg to second, Mr Acting President.

The Acting President: The question is that clause 10 do form part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 11.

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Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

300 Clause 11 repeals and replaces section 6 of the Credit Unions Act in relation to the maximum number of members of a credit union. The new section 6 says the maximum number will be determined by the FSA and specified in the Financial Services Rule Book, which is made by the FSA. The minimum number of members is kept at 21.

Lhiass-eaghtyrane, I beg to move clause 11.

The Acting President: Mr Coleman.

305 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: The question is, Hon. Members, that clause 11 do stand part of the Bill. Those in favour, say aye; those –

310 **Mr Coleman:** I do not wish to correct you, Mr Acting President, but this is clause 10.

The Acting President: I thought it was clause 11.

Several Members: Clause 11.

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The Acting President: Clause 11. Hon. Members, I move that clause 11 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 12.

320 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane. I hope I can cause less confusion with this one!

Clause 12 amends section 7 of the Credit Unions Act, to enable the FSA to provide, by order, that credit unions may issue ‘deferred’ shares in addition to ‘ordinary’ shares, and to impose conditions relating to the issue of ‘deferred’ shares.

325 The clause requires that any such conditions must be specified in writing to the credit union, or group of credit unions, concerned. The amendments also provide that ‘ordinary’ shares are not transferable, whereas ‘deferred’ shares are transferable.

Lhiass-eaghtyrane, I beg to move that clause 12 stands part of the Bill.

330 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

335 **The Acting President:** Hon. Members, the question is that clause 12 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 13.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 13 inserts two new sections into the Credit Unions Act, namely sections 7A and 7B.

340 Section 7A permits an adult member of a credit union to nominate a person or persons to receive property of theirs that is held by the credit union at the time of their death, subject to specified conditions and restrictions. The nomination is revocable and credit unions are required to keep a register of all such nominations. In respect of such nominations, there is an exception to the prohibition on the transfer of ordinary shares.

345 Section 7B addresses a nominator’s marriage or civil partnership, which automatically revokes a nomination in normal circumstances.

Section 7B also sets out how the credit union may transfer the property to the nominees.

Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

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Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 13 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

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Mr Henderson, clause 14.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

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Clause 14 repeals and replaces section 8 of the Credit Unions Act. The proposed section 8 prohibits credit unions from accepting 'deposits' from any person, with the term 'deposit' having the same meaning as in the Regulated Activities Order 2011.

Credit unions may accept savings from members, that is shareholders, but may not carry on the class 1 regulated activity of deposit taking.

If the prohibition is contravened, this will not affect any civil liability arising in respect of the money placed with the credit union.

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Lhiass-eaghtyrane, I beg to move that clause 14 stands part of the Bill.

The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

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The Acting President: Hon. Members, the question is that clause 14 do stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 15.

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Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 15 repeals and replaces section 9 of the Credit Unions Act and enables persons under the age of 18 years to be members of a credit union unless the rules of the credit union provide otherwise.

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Minors, that being those under 18, may only save with the credit union and may not borrow. Also, minors cannot vote, nor be members of a committee, nor serve as a trustee, manager or treasurer of a credit union, although 16-to-18-year-olds may execute instruments.

Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

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Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 15 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

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Mr Henderson, clause 16.

The Acting President: Mr Henderson, clause 16.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

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Clause 16 repeals and replaces section 10 of the Credit Unions Act and sets out a credit union's powers to borrow and invest money. Provision is made for detailed requirements on borrowing and investing to be specified by the FSA in the Financial Services Rule Book.

Lhiass-eaghtyrane, I beg to move.

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The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 16 do stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.

405 Mr Henderson, clause 17.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 17 repeals and replaces section 11 of the Credit Unions Act and inserts a new section 11A.

410 The proposed section 11 permits a credit union to make loans to adult members for provident and productive purposes, either with or without security, and upon such terms as may be provided in the rules of the credit union.

The maximum term of a loan remains at five years if a loan is secured and two years if it is unsecured.

415 As in the current Credit Unions Act, the maximum loan amount is £5,000 in excess of a member's total paid-up shareholding.

The maximum rate of interest remains at 1% per month on the loan amount outstanding – this rate to include administrative and other expenses.

420 The FSA is given the power to prescribe, by order, and subject to Tynwald approval: a different rate of interest for loans; different maximum periods for loans; and a different maximum loan amount.

Section 11A enables a member to request that a loan be treated as secured, if their paid-up ordinary shareholding in the credit union exceeds their loan. This is subject to specified criteria relating to the borrower's liabilities.

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

The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

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The Acting President: Hon. Members, the question is that clause 17 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 18.

435 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.

Clause 18 inserts a new section 12A into the Credit Unions Act, which permits any body corporate to hold ordinary or deferred shares in a credit union, if its constitutional documents permit this.

Lhiass-eaghtyrane, I beg to move clause 18.

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The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

445 **The Acting President:** Hon. Members, the question is that clause 18 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 19.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

450 Clause 19 repeals and replaces section 13 of the Credit Unions Act.

The proposed section 13 permits a credit union to change its name by special resolution with the written approval of the FSA and the Department. This is subject to specified conditions and restrictions and to the registration of the new name by the Department.

Lhiass-eaghtyrane, I beg to move.

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The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

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The Acting President: Hon. Members, the question is that clause 19 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 20.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

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Clause 20 repeals and replaces section 14 of the Credit Unions Act.

The proposed section 14 requires credit unions to submit annual financial statements to the FSA and to the Department. It also requires credit unions to maintain general reserves.

In addition, the section empowers a credit union to pay a dividend to its members.

The provisions of the section are subject to detailed requirements as may be prescribed in the Financial Services Rule Book.

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Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

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Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Mr Anderson.

Mr Anderson: Thank you, Mr Acting President.

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Could I just ask the mover: it says that the credit union must maintain a general reserve; who sets the level of general reserve and how is that determined?

Mr Henderson: I am anticipating that it will be the FSA through its Rule Book that will do that, but having said that, to put a little more detail on my overall understanding of it, I would ask, Lhiass-eaghtyrane, if our officer from the FSA, who is present at the Bar, might be able to answer a little more in depth and be able to speak at the Bar? We have Mrs Woolard present in case we have any in-depth queries.

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The Acting President: I am happy that Mrs Woolard ...

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Mrs Woolard, thank you.

Mr Henderson: It just saves the passing of notes around, Lhiass-eaghtyrane, as well to make it a bit easier.

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Mrs Woolard: Hello, I am Susan Woolard, Policy Adviser at the Financial Services Authority and I have worked on this Bill so hopefully I can answer most of your questions.

In respect of this particular question, it is not something that has been decided yet but I am fairly sure from memory that it is something that will be covered by the Financial Services Rule Book.

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The Acting President: Thank you, Mrs Woolard.

Mr Anderson.

Mr Anderson: Could I just ask do you know how they determine the level?

505 **Mr Coleman:** It is the liability.

Mrs Woolard: I do not know off hand, I am afraid.

Mr Anderson: Does it depend on the –?

510 **Mrs Woolard:** That is something to be handled by the supervisory team.

Mr Anderson: Okay.

I did not know if it was on the number of members or what. *(Interjection by Mr Coleman)*
Sorry?

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Mr Coleman: Probably liability.

The Acting President: Perhaps then, Hon. Members, we can seek further clarification on that and come back to Council. *(Interjection by Mrs Woolard)* Thank you, Mrs Woolard.

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The question is that clause 20 – *(Interjection by the Clerk)* It has been seconded.

Hon. Members, the question is that clause 20 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 21.

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Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 21 repeals section 15 of the Credit Unions Act.

Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

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Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 21 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.

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Mr Henderson, clause 22.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 22 repeals and replaces section 16 of the Credit Unions Act with new provisions that also relate to protection of members' savings.

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The new provisions permit the Treasury to make regulations establishing a scheme for compensating savers in credit unions in cases where credit unions are unable, or likely to be unable, to satisfy any claims made against them.

Such regulations are linked to Financial Services Act 2008 provisions; they are subject to consultation with the FSA, amongst others; and they must be approved by Tynwald in order to come into operation.

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If no such regulations are in operation, the section provides that a credit union may not be incorporated unless there are alternative arrangements in place that the FSA has approved.

Lhiass-eaghtyrane, I beg to move clause 22.

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The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

555 **The Acting President:** Hon. Members, the question is that clause 22 do stand part of the Bill.
Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Clause 23, Mr Henderson.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.
560 Clause 23 repeals and replaces section 17 of the Credit Unions Act and provides for
inspection of the affairs of credit unions.

The new section describes that an inspection is commenced on application to the court by
the FSA, or by a fifth of the members of the credit union. It also says that the court may then
either appoint inspectors for the purpose, or call a special meeting of the credit union. Relevant
procedural provisions are also included.
565 Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

570 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 23 do stand part of the Bill.
Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 24.

575 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.
Clause 24 amends section 18 of the Credit Unions Act by deleting the reference to the 1892
Act and substituting a reference to the Financial Services Act 2008.

The relevant section deals with powers to appoint an inspector into the affairs of a credit
union.
580 Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

585 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 24 do stand part of the Bill.
Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 25.

590 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.
Clause 25 repeals and replaces section 19 of the Credit Unions Act and inserts a number of
new sections, namely sections 19A, 19B, 19C, 19D and 19E.

The proposed section 19 sets out duties and obligations of credit unions, including: the
requirement for a registered office in the Island; that periodic statements of assets and liabilities
595 must be prepared and audited by an auditor that is qualified to a standard specified in company
law; and that credit unions' members and creditors are entitled to receive copies of account
statements.

Section 19A sets out additional duties and obligations of credit unions, which include a
statement about the auditor's qualification, as well as the duty to submit annual returns to the
600 Department, and to make them available for inspection by any member or interested person.
Credit unions are also required to supply copies of annual statements to any member or
interested person free of charge.

Section 19B creates offences in respect of information.

Section 19C addresses documents that credit unions are required to submit to the
605 Department and specifies where they shall be deposited.

610 Section 19D sets out privileges of credit unions, including that a credit union is a limited liability body corporate with a separate legal personality from that of its members, which can sue and be sued in its own name. Additionally, a credit union may own property and it may recover money due to it from a member, which constitutes a debt. Specific provisions relating to contracts on behalf of a credit union are also included.

Section 19E enables credit unions to charge appropriate fees for providing ancillary services to members, such as issuing means of payment on their behalf.

Lhiass-eaghtyrane, I beg to move that clause 25 stands part of the Bill.

615 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

620 **The Acting President:** Hon. Members, the question is that clause 25 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 26.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

625 Clause 26 repeals and replaces section 20 of the Credit Unions Act and addresses the winding up and dissolution of credit unions. It sets out the circumstances and the means for a credit union's winding up or dissolution, including aspects of the procedure, and it sets out the consequences of winding up and dissolution.

Lhiass-eaghtyrane, I beg to move.

630 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

635 **The Acting President:** Hon. Members, the question is that clause 26 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 27.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

640 Clause 27 inserts a new section 20A which empowers the Department to order the disposal of valueless documents after dissolution. The Department must first consult with the FSA and a specified period must elapse before disposal.

Lhiass-eaghtyrane, I beg to move.

645 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

650 **The Acting President:** Hon. Members, the question is that clause 27 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 28.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

655 Clause 28 repeals and replaces section 21 of the Credit Unions Act. The proposed section 21 permits a credit union to amalgamate with, or to transfer its engagements to or from, another credit union. The transfer or amalgamation must be registered in order to take effect.

Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

660 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 28 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 29.

665 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.

Clause 29 repeals and replaces section 22 of the Credit Unions Act and expressly prohibits the conversion of a credit union into a company.
Lhiass-eaghtyrane, I beg to move.

670 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

675 **The Acting President:** Hon. Members, the question is that clause 29 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 30.

680 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.

Clause 30 repeals and replaces section 23 of the Credit Unions Act and expressly prohibits the conversion of a company into a credit union.
Lhiass-eaghtyrane, I beg to move.

685 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 30 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 31.

695 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.

Clause 31 amends section 24 of the Credit Unions Act. It addresses a credit union's accounts and requires that these be displayed to the public.
Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

700 **The Acting President:** The question is that clause 31 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 32.

705 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.

Clause 32 repeals section 25 of the Credit Unions Act, which related to undischarged bankrupts, as equivalent provisions are in the proposed section 1.
I beg to move, sir.

710 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

715 **The Acting President:** Hon. Members, the question is that clause 32 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 33.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

720 Clause 33 amends section 26 of the Credit Unions Act by adding that transactions that are carried out by a credit union, and that are permitted by the Credit Unions Act or the Financial Services Act 2008, do not constitute deposit taking business.
I beg to move.

The Acting President: Mr Coleman.

725 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Mrs Poole-Wilson.

730 **Mrs Poole-Wilson:** Yes, thank you, Mr Acting President.

Just a question on the sense of how the amendment reads when it falls into section 26 of the 1993 Act. The question is really that the words, 'this Act or the Financial Services Act 2008' appear after the word 'rules' in clause 26 and I wonder whether it should read that those words appear after the words 'for the purposes of' at the end of clause 26? I wonder if the hon. mover
735 could clarify that, please?

The Acting President: Mr Henderson.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

740 I think what we may like to do is take the query away, Lhiass-eaghtyrane, and come back with an observation or recommendation following that when we have examined it further. Unless we are willing to make a comment on it now, in which case I would call the officers to make such comment? But I have a feeling that we would like to take it away, Lhiass-eaghtyrane, and come back with a further comment at Third Reading.

745 **The Acting President:** Are you happy, Hon. Members, that that is taken away and clarification given at the later Reading? (**Members:** Agreed.) Thank you.

Hon. Members, the question is that clause 33 do stand as part of the Bill. Those in favour say aye; those against, no. With the rider that that confirmation ... Clerk, can we do that when we
750 are seeking clarification?

The Clerk: Mr Acting President, yes, it is always possible for the Member moving the Bill to bring back further clarification. The clause has now been agreed to be part of the Bill, so if the Council wishes to amend the clause further at Third Reading it can do so –

755 **The Acting President:** It can be done.

The Clerk: But it requires a slightly higher majority; it requires six votes.

760 **The Acting President:** Thank you for your clarification, Clerk. Are we happy then that clause 33 do stand part of the Bill? It has been proposed and seconded.

Thank you.

Mr Henderson, clause 34.

765 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.

Clause 34 repeals and replaces section 27 of the Credit Unions Act in relation to offences.

The proposed section 27 specifies circumstances in which both a body corporate and an officer of that body corporate may be tried for committing an offence.

It also provides for a general defence in connection with offences.

770 Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

775 **The Acting President:** Hon. Members, the question is that clause 34 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 35.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

780 Clause 35 inserts sections 27A, 27B, 27C, 27D, 27E and 27F after the new section 27.

Section 27A provides that an offence is committed if a person holds themselves out to be a credit union and commences business without first being incorporated as a credit union. An offence is also committed if a credit union fails to file a required return, or files a return knowing it to contain false or misleading information. Section 27A also provides that the members of the committee of management are personally liable if a credit union issues shares in excess of the limits prescribed by the Credit Unions Act.

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Section 27B makes it an offence to falsify documents such as a balance sheet of a credit union, or a record of members' savings.

Section 27C makes officers of a credit union personally liable if they fail to use the name of the credit union in various documents including cheques.

790

Section 27D provides for recovery of penalties imposed under the Credit Unions Act, which may be recovered in a court of summary jurisdiction.

Section 27E provides for a fine of up to £2,500 per person on conviction of any offence for which the Credit Unions Act does not expressly provide a penalty in another section.

795

Section 27F makes provision for determination of disputes. The mechanisms provided include forms of alternative dispute resolution, the Department, and the court, the latter of which is empowered to enforce an award.

Lhiass-eaghtyrane, I beg to move.

800 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 35 do stand part of the Bill.

805 Those in favour say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 36.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

810 Clause 36 repeals and replaces section 28 of the Credit Unions Act. The proposed section 28 contains additional provisions for the making of secondary legislation by the Department or by the FSA.

The section addresses consultation requirements and specifies the relevant Tynwald procedures, as well as mandating that prescribed forms are to be made available on the website of the FSA, the Department, or the Treasury, as may be appropriate.

815 Regulations and orders made by the FSA are subject to Tynwald approval.
Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

820 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Mr Crookall.

Mr Crookall: Thank you, Mr Acting President.

825 A slight amendment on behalf of the hon. mover of this, which begins on page 41 on the bottom, line 37 and goes through to line 3 on page 42, which is in section 4:

*Page 41, omit line 37 through to line 3 on page 42 and substitute the following –
'(a) orders made by the Authority under this Act (except an order under section 30(3)); and
(b) any public document made by the Department (except regulations made under subsection (1), which shall be laid before Tynwald as soon as practicable after they are made).'*

Thank you, Mr President.

Mr Cretney: I beg to second.

830 **The Acting President:** Thank you, Mr Cretney.

The question is the amendment be made. Those in favour say aye; against, no.

Then, Hon. Members, the question is that clause 36 as amended do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 37.

835

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.

Clause 37 amends section 29 of the Credit Unions Act by defining several new terms that the Bill introduces and by removing a few terms that are no longer relevant.

840 Lhiass-eaghtyrane, I understand that the Hon. Member, Mr Crookall, will be moving an amendment to revise the meaning of 'Department' from 'Department of Economic Development' to 'Department for Enterprise', following that Department's recent change of name.

Lhiass-eaghtyrane, I beg to move.

845 **The Acting President:** Mr Coleman.

Mr Coleman: I beg to second, Mr Acting President.

The Acting President: Mr Crookall.

850

Mr Crookall: Thank you, Mr Acting President.

Again, just for clarification, in section 29, it is:

Page 42, in lines 21 and 22, omit 'the Department of Economic Development' and substitute 'the Department for Enterprise'.

Thank you.

Mr Cretney: I beg to second.

855 **The Acting President:** Thank you, Mr Cretney.
Hon. Members, the question is that clause 37 as amended do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 38.

860 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.
Clause 38 amends section 30 of the Credit Unions Act by repealing that subsection that cites the 1892 Act as this is no longer relevant.
Lhiass-eaghtyrane, I beg to move.
The Acting President: Mr Coleman.

865 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 38 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
870 Mr Henderson, clause 39.

Mr Henderson: Gura mie eu, Lhiass-eaghtyrane.
Clause 39 amends the Credit Unions Act by repealing Schedule 1 and replacing it with an unnumbered Schedule.
875 I beg to move that clause 39 stands part of the Bill.

The Acting President: Mr Coleman.

880 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 39 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
Mr Henderson, clause 40.

885 **Mr Henderson:** Gura mie eu, Lhiass-eaghtyrane.
Clause 40 repeals Schedule 2 to the Credit Unions Act as this is no longer relevant.
Lhiass-eaghtyrane, I beg to move.

The Acting President: Mr Coleman.

890 **Mr Coleman:** I beg to second, Mr Acting President.

The Acting President: Hon. Members, the question is that clause 41 do stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it.
895 Hon. Members – (**Mr Henderson:** Lhiass-eaghtyrane?) Yes, Mr Henderson.

Mr Henderson: If I may raise a procedural issue. I must apologise to my hon. colleague, Mr Cretney, for delaying the progression of his presentation, but I just want to ask in the light of Hon. Member, Mrs Poole-Wilson's enquiry with regard to a possible amendment in relation to the insertion of more correct wording to the relevant section, I said we would refer it back to the legal drafters and so on, and we could come back here next week and there could be room for a possible amendment at that time, at the Third Reading.

I believe we may not be quorate next week to achieve that, Lhiass-eaghtyrane, and I am conscious this will delay the Bill's passage, as such, with regard to trying to achieve that. So I was

905 just wondering if we could have any advice from the Clerk as to what would be the best way to progress this possible amendment in a timely fashion and ensure that the Bill may not be held up due to not being quorate etc. if an amendment was brought forward.

The Acting President: Mr Anderson.

910

Mr Anderson: Mr Acting President, if I could just ask the Clerk before he answers, maybe we could all have a sitting of the Legislative Council before the Tynwald sitting because it would not be a very long sitting, if that was necessary anyway? Is that possible?

915

The Acting President: Mr Clerk.

The Clerk: Many things are possible, Mr Acting President.

920

I was not aware that there was a problem with the quorum for next week. I think in a month from today, 6th March, there will not be a quorum, but the five Members whose terms of office are drawing to a close, for whatever reason, are still with us next Tuesday, 13th February, so I was expecting there to be a sitting on that day.

Mr Henderson: So, Lhiass-eaghtyrane, the Clerk is not aware of any issues with being quorate for next week? *(Interjections)* Okay.

925

The Acting President: Are you happy with that, Mr Henderson?

Mr Henderson: Yes, thank you, Lhiass-eaghtyrane. I am grateful for that comment.

930

The Clerk: Unless, Mr Acting President, five voting Members currently in the room know that they are not here next week.

Mr Anderson: Anything is possible. *(Laughter)*

935

Mr Coleman: That is more in the Bishop's hands than mine! He might know more about me than –

The Acting President: So just for further clarification then, are we leaving this matter until next week?

940

Several Members: Yes.

Mr Henderson: Have we got enough voting –?

945

Mr Coleman: Yes.

The Acting President: – as we are advised that we will be quorate?

Mr Henderson: Yes, and we have got six to do the vote, if necessary.

950

The Acting President: We have done the maths.

The Clerk: Yes. None of us can see the future, Mr Acting President.

955

Mr Cretney: Yes, a week is a long time in politics.

The Clerk: But there is no intelligence to suggest that we will not be a quorate. *(Laughter)*

The Acting President: I am glad you carried on after 'no intelligence'! Thank you.

Mr Henderson: Thank you for your indulgence, Lhiass-eaghtyrane.

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The Acting President: That concludes Item 1 on our Order Paper, Hon. Members.