

**4.2. Anti-Money Laundering and Other Financial Crime  
(Miscellaneous Amendments) Bill 2018 –  
Clauses considered**

Miss Bettison to move.

**The Speaker:** Now we turn to Item 4.2 on our Order Paper, the clauses of the Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Bill 2018 and I call on Miss Bettison to move clauses 1 and 2.

5 **Miss Bettison:** Thank you, Mr Speaker.

Clauses 1 and 2 form Part 1 of the Bill and set out the title and commencement provisions. It is envisaged the Act would be brought into operation by Appointed Day Order very soon after the announcement of Royal Assent.

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

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**The Speaker:** Mr Malarkey.

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

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

Clauses 3 and 4, Miss Bettison.

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**Miss Bettison:** Mr Speaker, clauses 3 and 4 amend sections 157 of the Proceeds of Crime Act 2008 and 68 of the Terrorism and Other Crime (Financial Restrictions) Act 2014 respectively, so as to extend the Department's power to make codes relating to combatting money laundering and the financing and proliferation of terrorism. The intended effect is to enable requirements relating to systems, procedures, record keeping, controls and training to be applied to a trustee who is resident in the Island but who is not carrying on business in the regulated sector and to trustees who are not resident in the Island but are nevertheless trustees of a trust governed by the law of the Island.

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

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**The Speaker:** Mr Malarkey.

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

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**The Speaker:** The question is that clauses 3 and 4 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 5 and 6, Miss Bettison.

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**Miss Bettison:** Thank you.

Mr Speaker, I am moving clauses 5 and 6 together because clause 5 introduces detailed measures to amend the Criminal Justice Act 1991 and consequentially clause 6 repeals sections 13 and 15 of the Fraud Act 2017, because what they did is covered by the new provisions introduced through clause 5.

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I mentioned during my Second Reading speech the priority of the safety and wellbeing of our community and the fact that organised and financial crime, in particular, knows no borders. The measures introduced by clause 5 and set out in new Part 2A of the Criminal Justice Act 1991 consist of new sections 26ZA to 26ZH and make explicit the power to prosecute predicate cases domestically where parts of the offence or offences were committed abroad.

Mr Speaker, Hon. Members, I am sure you will be pleased to know I do not propose to describe what each new section does as those are adequately set out in the explanatory notes to the Bill.

50 Whilst not identified by Moneyval, the measures contained within new Part 2A have been brought forward through this Bill because they remove potential obstacles to prosecution where not all aspects of an offence took place on the Island. It is also considered such measures will add value to the work being done to address other issues identified by Moneyval overall. Combatting crime, however and wherever committed, contributes to our own safety and wellbeing as a community.

55 Mr Speaker, I beg to move that clauses 5 and 6 stand part of the Bill.

**The Speaker:** Mr Malarkey.

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

**The Speaker:** The question is that clauses 5 and 6 stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Clauses 7, 8 and 9, Miss Bettison.

65 **Miss Bettison:** Part 4 of this Bill consists of clauses 7, 8 and 9, which deal with penalties for failure to comply with certain requirements and address a matter identified by Moneyval. Fines are expressed as level 5 on the standard scale on summary conviction. Consistency in legislation is also introduced regarding penalties for failure to produce information to law enforcement agencies to bring them to the same level as that presently given to regulators.

70 The Anti-Terrorism and Crime Act 2003, the Financial Intelligence Act 2016 and the Proceeds of Crime Act 2008, are amended so persons can be convicted on information and may be liable to an unlimited fine rather than the current fine after summary conviction of £5,000. This brings the law enforcement legislation in line with section 41(1) of the Financial Services Act 2008. This is important otherwise, as Moneyval noted, there is no deterrent factor if a small or relatively speaking small fine was applied to a very large financial institution such as a major bank.

75 Mr Speaker, I beg to move that clauses 7, 8 and 9 stand part of the Bill.

**The Speaker:** Mr Malarkey.

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

**The Speaker:** I put the question that clauses 7, 8 and 9 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

85 Clause 10, Miss Bettison.

**Miss Bettison:** Clause 10 amends the Gambling (Amendment) Act 2006 so as to alter a cross-reference within section 8(1) of that Act which relates to matters which may be stayed pending appeal and, in Schedule 4, to make the decisions of the Gambling Supervision Commissioners under the provisions of the Gambling (Anti-Money Laundering and the Countering the Financing of Terrorism) Act 2017 subject to appeal.

90 Mr Speaker, I beg to move that clause 10 do stand part of the Bill.

**The Speaker:** Mr Malarkey.

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

**The Speaker:** The question is that clause 10 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

100 Clause 11, Miss Bettison.

**Miss Bettison:** Mr Speaker, clause 11 amends the Foundations Act 2011 to require a copy of the foundation rules to be provided to the Registrar from which any information by which a person could be identified has been redacted. This also requires the Registrar to make a copy of those rules available for public inspection. Section 41 of the Foundations Act 2011 is amended in relation to the documents to be kept at the foundation and section 45 is amended to include foundation rules.

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

110 **The Speaker:** Mr Malarkey.

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

**The Speaker:** Mr Hooper.

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

I must apologise for bringing this up so late in the process, I have already had a conversation with the hon. mover of the Bill about this. In section 11 of this Bill here it would require that a copy of the foundation rules be filed; only redacting the identifiable information for a person. One of the requirements of the Foundations Act, section 15 of the Act, requires that any assets dedicated to a foundation are also included in the rules. So this Bill, as tabled, would require that any assets that a foundation has had dedicated to it are then publically available for the world to see, which I believe is not the intention of the Bill and it is also not a requirement for Moneyval.

120 Now, the Department of Home Affairs and the hon. mover have been very engaging on this and have already agreed that they will be requesting that an amendment be made in the Legislative Council and the reason for that is to try and not delay this process any more than it has to be.

125 So I would just like confirmation from the mover that that is the case and that is me done, Mr Speaker.

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**The Speaker:** Miss Bettison to reply.

**Miss Bettison:** Thank you, Mr Speaker.

135 I am able to confirm on behalf of the Department that we absolutely are delighted that Mr Hooper has engaged positively with us on this point and that our intention is to bring an amendment through the Legislative Council with regard specifically to the detail of this clause. The reason for this deviation from the normal practice is because of the compliance with the Moneyval deadline.

Thank you, Mr Speaker. I beg to move.

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**The Speaker:** The question is that clause 11 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 12 to 16, Miss Bettison.

145 **Miss Bettison:** Clauses 12 through to 16 form Part 7 of the Bill and they amend the Partnership Act 1909, the Companies Act 1931, the Limited Liability Companies Act 1996, the Companies Act 2006 and the Foundations Act 2011 by inserting into each of those Acts provisions clarifying that the Registrar, or Department as the case may be, is not liable for the accuracy of the information submitted for inclusion on any register or index or for registration

150 under those Acts. Nevertheless, the Registrar or Department is empowered to make such inquiries as are considered appropriate to establish the accuracy of any such information.

Mr Speaker, I beg to move that clauses 12, 13, 14, 15 and 16 form part of the Bill.

**The Speaker:** Mr Malarkey.

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

**The Speaker:** The question is that clauses 12, 13, 14, 15 and 16 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

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Clauses 17 and 18, Miss Bettison.

**Miss Bettison:** Mr Speaker, clauses 17 and 18 clarify the powers of the Financial Services Authority, the FSA, in respect of investigations into any potential liability arising from breaches of AML/CFT legislation by any person overseen by the FSA for AML/CFT purposes.

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Clause 17 inserts after 'regulated activities' in the second paragraph of Schedule 1 to the Financial Services Act 2008 reference to regulated insurance activities and regulated pension activities, which were formerly undertaken before merger by the Insurance and Pensions Authority.

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Clause 18 inserts provision into the sixth paragraph of Schedule 5 to the Insurance Act 2008 so the FSA's powers under that Schedule may be exercised for the purposes of an investigation referred to in clause 17.

Mr Speaker, I beg to move that clauses 17 and 18 do stand part of the Bill.

**The Speaker:** Mr Malarkey.

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

**The Speaker:** The question is that clauses 17 and 18 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Anti-Money Laundering and Other Financial Crime  
(Miscellaneous Amendments) Bill 2018 –  
Standing Order 4.11(1) suspended to take Third Reading**

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**The Speaker:** Miss Bettison.

**Miss Bettison:** Mr Speaker, I rise to move that, as per my email to all Members, under Standing Order 4.11, part (1) be suspended to permit the Third Reading of this Bill to take place at this sitting.

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I am grateful to Hon. Members for their consideration of and support for this Bill and make this request now because the Bill addresses a number of recommended actions identified by Moneyval and the progress being made by the Isle of Man is due to be debated at a Moneyval plenary in July. The Government considers that it is in the interests of the Island to seek to do everything reasonably possible to secure Royal Assent to this legislation ahead of that assessment.

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Mr Speaker, I beg to move that Standing Orders be suspended to permit the Third Reading of the Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Bill 2018 at this sitting.

195 **The Speaker:** Mr Malarkey.

**Mr Malarkey:** I beg to second, Mr Speaker, and in doing so urge Members to support the suspension today in order for this Bill to end up in Legislative Council straight after the Easter recess.

200 As has been pointed out already, there is a small amendment that will come forward from Legislative Council, which means that the Bill will have to be returned here. So, to enable us, for speed, for Moneyval, to put this forward, we ask you to support today the suspension of Standing Orders.

205 **The Speaker:** The motion is that Standing Orders be suspended to allow the Third Reading to be taken at this sitting. Two thirds of the House, 16 votes, are required for that. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Anti-Money Laundering and Other Financial Crime  
(Miscellaneous Amendments) Bill 2018 –  
Third Reading approved**

**The Speaker:** Miss Bettison to move the Third Reading.

210 **Miss Bettison:** Mr Speaker, I am very grateful to Hon. Members for agreeing to the suspension of Standing Orders so the Third Reading of this Bill may be taken today.

The international context of the Bill in terms of the recent inspection of the Island by Moneyval was set out at Second Reading. Through the clauses stage today a number of measures have been approved that the subsequent report recommended. These include  
215 empowering the making of codes in relation to certain trustees, further developing our ability to prosecute offences wherever committed, additional record-keeping requirements in respect of foundations and clarifying other pieces of legislation.

The Bill is an important element of our response to Moneyval.

Mr Speaker, I thank Hon. Members for their support and beg to move:

*That the Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Bill 2018 be read for the third time.*

220 **The Speaker:** Mr Malarkey.

**Mr Malarkey:** I beg to second, Mr Speaker, and in doing so I would like thank Miss Bettison for bringing this Bill forward on behalf of the Department and the Cabinet Office, which is a joint venture, and I urge you to support it today.

225 Thank you.

**The Speaker:** The question is that the Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Bill 2018 be read for the third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.