

**Courts, Tribunals and Local Authority Procedures and Miscellaneous Provisions Bill 2020 –
Third Reading approved**

The Speaker: Mr Harmer to move Third Reading.

Mr Harmer: Thank you, Mr Speaker, and I would like to thank all Hon. Members for engaging in this process.

As Hon. Members will recall, Parts 2 and 3 of the Bill relate to existing Government policy and would have been brought forward within the Justice Reform Bill were it not for the advent of the emergency. These provisions had origins in the Criminal Justice Strategy and its associated detailed review of the Criminal Justice System, undertaken a number of years ago.

Indeed these provisions were publicly consulted upon in 2018 and would have come before us in much the same form within the Justice Reform Bill.

However, with the emergency came a necessity for speed of implementation of these provisions to enhance the safety of the courts process for all and, with regard to the provisions for bail, to limit the time an individual spent in custody before they were released on bail with conditions that were deemed necessary before their subsequent court appearance.

We could not have imagined the changes that society in general would face this year, and only have to look beyond our own shores to see the ongoing battle against coronavirus. An invisible enemy spread by close contact.

So, while the live link will never replace face-to-face justice, and nor should it, it is a vital part of the present ability to ensure that justice may be properly served safely.

Furthermore, given the ongoing uncertainty within the United Kingdom and the wider world the present use of the live link provisions are invaluable in allowing the possibility of expert witness participation without unnecessary travel. Sadly, they are also fundamental in enabling remote participation in the court process by those potentially infected with coronavirus who have breached the Island's self-isolation requirements. That said, I would note that the origins of these provisions were, for the most part, purely practical.

The intention was that certain court appearances, in particular those for brief but necessary mentions might instead take place via live link and thus remove the need to transport an individual from the Isle of Man Prison, and the associated discomfort, to the individual, and expense to society.

The requirement for these eligible criminal proceedings to be in the interests of justice and the fact that participants have the opportunity to make representations, that is to object to the use of live link, are inbuilt safeguards to this process.

It is also noted anecdotally during recent months with the use of the live link, there has been a fair level of satisfaction to proceed in this way and participants tend to be, on balance, happy to do so.

Conditional bail is another area in which the law of the Island prior to the emergency diverged from that of other jurisdictions. The ability for our Police Force to set conditions when bailing an individual prior to their appearance in court is practical. It saves the need for additional Saturday court appearances at which conditional bail would likely be the same result and with the same conditions. It also provides a level of safety in the release of an individual from police custody ensuring that they have to abide by those same reasonable conditions.

Again, to turn for a moment to the safeguards around this process. The individual may choose not to accept any conditions in which they will be brought before the court, or if they should accept conditions which they later are dissatisfied then they may request a review by a senior officer and should that not resolve the matter, a written appeal may be made to a justice of the peace. This use of conditional bail has been even handed with little objection to the conditions applied.

Finally, with regard to bail, there are certain conditions included that relate to arrest for failure to surrender to custody, attend a police station or a breach of bail conditions.

The remaining amendments made within that Part of the Bill are to ensure that the language works appropriately in each piece of legislation and the power of arrest following any breach of conditions is set out.

These are all practical provisions that are part of a wider toolkit that forms the present process by which justice can take place.

The live link is a practical and sensible measure for the present times and for the future.

Conditional bail furthers the valuable part played by the Police as first point of contact with the criminal justice system.

To recap briefly, this Bill will provide the Department of Health and Social Care with the legal authority to remove a person from one of its facilities in circumstances where it is no longer necessary for that person to remain or the facility in question is needed for someone else who requires care or treatment.

Importantly as to the exercise of this power, i.e. the when and the how, this Bill puts in place necessary statutory safeguards so that: (a) the healthcare professionals involved in that person's care and treatment must have been consulted and their advice considered; and (b) having done so, a person can only be removed where there is no undue risk to his or her health or wellbeing.

Further, it is a provision under this Bill that a written record of advice of the health care professionals and the reasons why it was considered that a person could be removed from the facility without undue risk of harm to their health or wellbeing must be kept. Keep in mind, that these powers would only be used by the Department as a last resort.

In relation to the clauses to amend the Public Health Act 1990, the Act provides for Regulations to be made in the event of a future need – an upsurge in positive coronavirus cases, a future pandemic of another origin or a future civil contingency situation that threatened the health and wellbeing of our nation. And indeed the Public Health Directorate is drafting such regulations at this time, in case of need.

The Public Health Act currently provides that Health Protection Regulations may create offences punishable on summary conviction with a fine, granted that is up to £40,000, but is not the provisions for custody for an offence under such Regulations nor for fixed penalty notices to be issued for such offences which are within this Bill.

The amendments to the Act before us today make for such enforcement.

In closing, Mr Speaker, I would like to pay thanks to the public and the Members of this Hon. House and the Legislative Council who have engaged with this Bill in its expedient development. I would also like to thank my colleague in the Cabinet Office, Mr Hooper, for his eye on detail in all things including this Bill, and for seconding me in this House today.

Mr Speaker, I beg to move:

That the Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Bill 2020 be read for a third time.

The Speaker: Mr Hooper.

Mr Hooper: Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

I will not go through my long notes, but all I would say is that I would like to thank Hon. Members for their support regarding the bail and also the live links and how they have proved valuable over this time.

Mr Speaker, I did give an undertaking that I would try and get some clarity on the comment from Ms Unsworth regarding an individual returning to the police station. A response I have got is, 'Bearing in mind there are two possible scenarios here, for conditional bail being set by the

Police the approach that the Chief Constable would expect is that the custody staff would be pragmatic and even handed. If a person had a valid reason to wish to vary the conditions for a time they would consider this. For conditional bail set by the court it is not a matter for the Police to vary and the person would have to return to court.'

So I thank Hon. Members for their support.

The Speaker: I call on Mr Harmer to reply.

Mr Harmer: Again, I would like to thank my seconder, the Minister and for all those Departments and to Hon. Members for the engagement of this process, I think it has been a really good day how we have explored a number of issues, and I would thank all Members for their patience and for their support.

Thank you, Mr Speaker.

The Speaker: I put the question that the Courts, Tribunals and Local Authority Procedures and Miscellaneous Provisions Bill 2020 be read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

It would have been inappropriate for me to have commented any earlier on this process, lest I be accused of influencing votes, but I should point out that the issues regarding timescales would have been known about when emergency powers ended six months ago, and I do ask the executive to think carefully about rushing legislation because it does have an impact on the quality of debate and decision-making. It is important to engage early and often with Members to promptly ensure that they get answers to their questions.

That said, the speed at which we process legislation to this House is a matter for Members of this House as to whether they acquiesce or not with the suspension of Standing Orders.

I just wanted to make that point.

Several Member: Hear, hear.

Mr Thomas: Well said.