



LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL
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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Wednesday, 2nd June 2021

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Present:

The President of Tynwald (Hon. S C Rodan OBE)

The Lord Bishop of Sodor and Man (The Rt Rev. P A Eagles),
The Attorney General (Mr J L M Quinn QC),
Miss T M August-Hanson, Mr P A Greenhill, Mr R W Henderson, Mrs K A Lord-Brennan,
Mrs M M Maska, Mr R J Mercer, Mrs J P Poole-Wilson and Mrs K Sharpe
with Mrs J Corkish, Third Clerk.

Business transacted

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Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

The President: Moghrey mie, good morning, Hon. Members.

5 **Members:** Moghrey mie, Mr President.

The President: The Lord Bishop will lead us in prayer.

PRAYERS

The Lord Bishop

Welcome back to Miss August-Hanson

10 **The President:** Hon. Members, I would like to welcome back to our midst Hon. Member, Miss August-Hanson and trust she and family are well.

Miss August-Hanson: Thank you, Mr President. They are.

The President: Miss August-Hanson is taking the first Item of business, after which she is free to stay as long as she is able.

15

Miss August-Hanson: Thank you, sir.

Order of the Day

1. Liquor Licensing and Public Entertainments Bill 2021 – First Reading approved

Miss August Hanson to move:

That the Liquor Licensing and Public Entertainments Bill 2021 be read a first time.

The President: So for the First Reading, Item 1, of the Liquor Licensing and Public Entertainments Bill, I call Miss August-Hanson to move, please.

20 **Miss August-Hanson:** Thank you, Mr President.

I am content to move the Bill before you today on behalf of the Department of Home Affairs. Members here will be aware that I am championing this legislation as part of a long-standing association with the Department.

25 These changes to legislation bring our Island's licensed hospitality industry and the wider public entertainment sector up to the minute. They are designed to consolidate and update the legislation relating to alcohol licensing, music and dancing, and other public entertainments. As you will be aware, and as the Department has outlined at consultation, the primary aim of this Bill is to set it on firm footing standards-driven, flexible licensing regime that is safety oriented and is less bureaucratic, and this is an important Bill.

30 Hon. Members will be aware that the Department has had plans to reform the licensing legislation for a *great* many years, and for a number of reasons it has only now taken shape ready for your exacting eyes. The existing Licensing Act 1995 has been in place for almost 25 years. It is vital, therefore, that the Bill before you is suitable to meet current and forthcoming need.

35 This Bill has been developed following two rounds of consultation with members of the public, industry representatives, and interested parties. They have given their views on the policy behind the Bill and on the draft Bill itself. It was clear from responses to the initial consultation relating to policy points that we need a very responsive licensing regime, and with this in mind the Department felt an enabling Bill would best meet that obligation; to legislate for the needs of the industry and our Island for the present time, while future-proofing as a framework for any regime that follows. The pandemic highlighted how quickly need changes, and how pivotal it is that we build responsiveness into legislation for what is fundamentally a service industry.

40 Response to the second round of consultation on the draft Bill itself was met positively, with 321 respondents taking the time to submit. The majority of the views were in agreement with the legislation as drafted, and that positive response resulted in the bringing of what now sits before you now.

45 The ethos of this Bill and the proposed licensing regime focuses around seven core licensing objectives: securing public safety; preventing crime and disorder; preventing public nuisance; protecting and improving public health; protection for children from harm; providing an environment in which the hospitality industry can thrive; and promoting high standards across the hospitality industry. I would note at this point that, as part of ongoing engagement with Members at the recent presentation hosted by the Department on 11th May, the Department has given further weight to the objectives by developing a new clause, which was inserted into the Bill in another place. It is now before us as clause 57 and that locks in these objectives, into position, on statute. Other small editorial changes and additional clarifications were brought last week in another place, which improved the Bill, and I look forward to welcoming engagement on behalf of the Department with Hon. Members in this Chamber as we carefully examine it.

The Bill itself is divided into 11 Parts. It comprises 65 clauses and two Schedules.

Part 1 contains the usual formal provisions on citation and commencement, and general definitions.

60 Part 2 deals with the continuation, composition and operation of the Licensing Court and the Licensing Court of Appeal.

Part 3 enables the Department to make regulations regarding the formation of an independent licensing authority; its composition, and the terms of reference.

65 Licensing Court versus licensing authority model continues to be a key engagement point, and I note here that the legislation has been carefully drafted to allow for either the Licensing Court structure to be maintained, or for a hybrid model to emerge, whereby certain responsibilities of the Licensing Court may be transferred to the licensing authority. It is clear from consultation responses that the role of the Court is still valued by many respondents, both in the licensed trade and by those who enforce the law.

70 The Department committed in another place that this regime adjustment would not be a decision taken lightly, and it has made that commitment with the intent to seek engagement on this point before secondary law is brought before Tynwald. Consultation is a core focus of this Bill,

and has been committed to on the face of the legislation, providing the opportunity for balanced views to be shared by all parties when the Department is formulating the numerous pieces of secondary law that will implement the regime.

75

I note for Hon. Members' ease of reference that the commitment made at clause 58 of the Bill before you, which requires that, before making regulations and orders, the Department must consult with key stakeholders. The backbone of the future regime is found in the detail of the Bill, and this will be fully fleshed out in regulations and orders that will need external input.

80

Again, it is the intention that flex in the Bill before you means the Department can, in a considered fashion, develop any new model over time in close collaboration with those stakeholders. Regardless of any change to the licensing regime, the Department also notes the importance of the retention of judicial appeal and the implicit fairness which that builds into the regime, and this is clearly set out in Part 7 of this Bill.

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Part 4 contains the enabling powers to deal with all regarding licensing, including such matters as the types of licences that may be granted, who and what is required to be licensed, the application and decision process and the employment of staff. Further details about the types of licence that may be issued have been provided in the 'Background Notes' document which was circulated by the Minister for Justice and Home Affairs recently, and Part 4 also includes, at clause 20, the powers to introduce, by regulation, a requirement that specified activities for which a licence is not required. This must be notified to the Department or the licensing authority before that activity actually takes place.

90

Part 5 provides that areas may be designated as a restricted licensing area in relation to areas where there is an issue with anti-social behaviour or crime, rather than a mechanism to limit the number of licences in a particular area or artificially manage the open market.

95

Part 6 relates to conduct on licensed premises, and contains many of the provisions previously covered within the 1995 Act. New provisions brought in that Part relate to price controls, modifications in relation to entertainments, and a welcomed new offence of assault on staff of licensed premises, which was identified as a matter which needs to be addressed on statute; and the training by the Constabulary is currently being worked up for guards.

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Part 7, as I have previously referred to, deals with the process for appealing the decision of the Licensing Court or licensing authority. The right to judicial appeal is one which was committed to within the consultations, and the appeals process remains vital to ensure separation in decision making for appeals. Provision is made for the Department to bring, via regulations, any further adjustments to this section in relation to appeals, and these would of course be subject to consultation.

105

Part 8 provides for offences in relation to the sale, purchase and consumption of liquor which have not already been addressed in the Bill.

Part 9 of the Bill deals with enforcement provisions and largely follows those previously found in the 1995 Act. Clause 58 allows for regulations to be made in respect of certain offences, to allow these to be immediately dealt with via a fixed monetary penalty when a person breaches one of the specified provisions.

110

Part 10 includes clause 59, the provision setting out the Department's responsibility and requirement to consult, which I have already made reference to, along with other general provisions that relate to the Bill in its entirety and the wider regime that is to come.

115

This Part takes in other matters including that of restrictive agreements addressed under clause 62, which includes the practice of placing restrictive covenants on premises. Views on this practice accounted for *by far* the most comments received on the draft Bill, and it was clear that many respondents felt very strongly that addressing the practice of applying covenants to formerly licensed premises, preventing them from operating as licensed premises again after they have been sold, was considered wrong.

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Initially, the Department had thought to provide a retrospective application of this provision, which would have had the effect of undoing these historical covenants that are presently in place on premises which were sold prior to the enactment of this provision. However, in practice such

125 a retrospective move would impact on human rights, within both privacy and property law, and it
is not straightforward or practical to legislate for this here.

With that said, what the Department has been able to provide in the Bill before you today is
that the Bill should pass and receive Royal Assent, the provision relating to restrictive covenants
will apply from that point forwards, as is normal legislative practice, to see it prevented in the
130 future; and it will not however cover agreements made prior to this Act being in force – it will not
be retrospectively legislated for.

Another topical matter provided for in this Part is information sharing under clause 63 that
now provides that regulation might be brought in connection with the PubWatch scheme which
is a useful deterrent for poor and anti-social behaviour on licensed premises by individual
135 customers. It has been operating on the Island for nearly 20 years. The consultation outcomes
showed there was strong support to bring that scheme into a formally managed process, thereby
ensuring that any information sharing undertaken as part of the scheme was both compliant with
data protection legislation, and appropriately administered.

Other matters outlined in Part 10 include the important clause 61 providing for the issuance of
140 guidance and codes of practice under the Act and clause 58 that provides for the manner in which
regulations and orders under the Act will be treated.

Finally, Part 11 contains the transitional provisions, amendments and repeals that are needed
as a result of the Bill becoming an Act. Clause 65 relates to Triennials held under the Licensing Act
1995, and in light of the ongoing pandemic and following discussions with the Department for
145 Enterprise, and their support in doing so, the Department has included within this Bill provisions
that would see Triennials being postponed once again, with fees waived for another year. This
move has been broadly welcomed by the industry which continues to regroup following the
impact of the various lockdowns due to COVID and all of the difficulties that have been faced as a
result. The Department is grateful to the Economic Recovery Group as well for its support.

150 It is the Department's intention that, subject to a successful passage of this legislation, the
Triennial process would fall away and be replaced by an annual renewal cycle. Clause 65 along
with clause 62, on restrictive agreements, would come into effect on the day on which the Bill is
enacted.

Hon. Members, the support for this Bill from key stakeholders, the general public and indeed
155 the Island's Government has been quite immense, and these changes are very much welcomed
by the licensed hospitality industry and the wider public, as has been demonstrated by the
response to the consultation and other engagement points which have been shared.

We are all very conscious as legislators, and as those who represent the Island, of the difficult
times our Island community has experienced in recent memory. However, we do now need to
160 look forward. So Hon. Members, I believe the Bill before you today will help to future-proof the
success and sustainability of our Island's social life.

Mr President, I commend this Bill to Council and beg to move that the Liquor Licensing and
Public Entertainments Bill 2021 be read for a first time.

165 **The President:** Thank you.
Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President.

I am happy to second this Bill and in doing so I draw Members' attention to the expectation
170 that the Bill, when enacted, will have a positive financial and social implication for the Island by
providing for a standards-driven, safety-orientated, less bureaucratic and more flexible licensing
regime, and that this should hopefully have the benefit for the licensing industry as a whole and
the wider community as a whole.

With that, I beg to second. Thank you, Mr President.

175 **The President:** Thank you.

I put the question that the Liquor Licensing and Public Entertainments Bill be read for the first time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**2. Adoption Bill 2021 –
Third Reading approved with amendment; Bill passed**

Mrs Sharpe to move:

That the Adoption Bill 2021 be read a third time and do pass.

The President: Item 2, Adoption Bill for Third Reading. Hon. Member, Mrs Sharpe to move.

180

Mrs Sharpe: Thank you, Mr President.

185

In moving the Third Reading of the Adoption Bill 2021 today, I do not intend to reiterate the principles of the Bill in detail, as I feel these have been covered during previous Readings. What I would like to do is to thank very much the legislative officers of the Department of Health and Social Care, significantly Sarah Kewley, who has been in charge of this Bill, and Ben Bryan, and also in particular Debbie Brayshaw, former Director of Children and Families, who has continued to give her professional input post-retirement.

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I would also like to thank the Hon. Member for Ramsey, Mr Hooper, for his useful input into the Bill in the House of Keys and my hon. colleague on Council, Mrs Poole-Wilson, for her queries, corrections and observations. Both Members have undoubtedly helped improve the Bill and their input is very much appreciated by the Department.

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I would also like to sincerely thank all Hon. Members for their consideration and contributions throughout the passage of the Adoption Bill, from the initial presentation onwards. I really do appreciate the time you have all taken to scrutinise this legislation so carefully; and I would also like to thank my hon. colleague, Mrs Lord-Brennan, for seconding the Bill.

200

I further wish to extend thanks to the Attorney General's Chambers for their support to the Department of Health and Social Care, and in particular to the drafter of the Bill, Dr Paul Bridges, who has worked tirelessly and diligently to draft the Bill and the resulting amendments made in both Houses.

205

I do believe that we have achieved the greatest aim of the Bill: to update the Island's adoption legislation. We can now say with some certainty that Manx adoption legislation reflects societal attitudes in the 21st century. By updating this legislation, we are seeking to improve the lives of vulnerable children by giving them much-needed stability at the earliest and most appropriate opportunity. This is the whole point of the Bill and something I feel parliament, Government and the judiciary must not lose sight of.

210

I think it is worth my reiterating, because I have previously said this on the floor of Tynwald, Mr President, that if there is one thing I have learnt from my research into the 150-year history of children in care on this Island, it is that whatever we think we are doing well, hindsight inevitably proves that we are never doing enough. To that end, looking to the next administration, I look forward to the second phase of the Department's commitment to improve circumstances for vulnerable children through a new and improved Children and Young Persons Act. But for the time being, Mr President, based on what we know right now in time, I do believe we have before us an Adoption Bill which will make significant improvements to the lives of vulnerable children.

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Mr President, I beg to move that the Adoption Bill 2021 be read for the third time.

The President: Thank you.

Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President.

220 I am very happy to second the Third Reading of this Bill, and I hope that it makes a big difference for children and families who need to go through this process.

The President: Thank you.

225 Yes, Mrs Poole-Wilson.

Mrs Poole-Wilson: Thank you, Mr President.

230 Thanks to the hon. mover for her kind words and in the process of continuous scrutiny, the drafter, Dr Paul Bridges, did spot one further amendment which I seek to move at this Third Reading stage. It is a technical amendment which is published on the Order Paper, and it is to move text down a line. That is simply in order to make it clear in the Bill, clause 19(1), that the relevant text applies to subparagraphs (a) and (b) of that subclause as opposed to only applying to paragraph (b).

So it is a technical amendment, as I say, Mr President, and I beg to move the amendment standing in my name:

Amendment to clause 19

1. Page 33, line 16, move the words beginning with 'but,' to 'order' down to line 17 as full-out words.

235 **The President:** Thank you.

Miss August-Hanson.

Miss August-Hanson: I would like to second the amendment. Thank you, Mr President.

240 **The President:** Mrs Sharpe to reply.

Mrs Sharpe: Thank you, Mr President, and I would like to thank the Hon. Member for this amendment, which the Department fully supports.

245 Thank you.

The President: Thank you.

I put the amendment. Those in favour of the amendment to clause 19, say aye; against, no. The ayes have it. The ayes have it.

250 I put the question that the Adoption Bill 2021 do pass. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3. Enterprise (Aviation and Merchant Shipping) (Miscellaneous Amendments) Bill 2021 – Third Reading approved; Bill passed

Mr Greenhill to move:

That the Enterprise (Aviation and Merchant Shipping) (Miscellaneous Amendments) Bill 2021 be read a third time and do pass.

The President: Item 3, Enterprise (Aviation and Merchant Shipping) (Miscellaneous Amendments) Bill for Third Reading. I call Hon. Member, Mr Greenhill to move.

Mr Greenhill: Thank you, Mr President.

255 As outlined previously, the ultimate intention of the Bill is to ensure that the Isle of Man continues to comply with its International civil aviation obligations. The Department for Enterprise is committed to developing and implementing effective strategies, regulatory frameworks and processes to ensure that aviation activities under its oversight achieve the highest practical level of safety while meeting international obligations.

260 The Bill also ensures that the Ship Registry continues to be in a position to effectively compete for new businesses with other major flag states. I would like to thank my hon. colleagues for supporting the Bill during its previous Readings in this Chamber and my thanks to Mr Henderson for acting as seconder.

265 Mr President, I beg to move that the Enterprise (Aviation and Merchant Shipping) (Miscellaneous Amendments) Bill be read for a third time.

The President: Mr Henderson.

270 **Mr Henderson:** Gura mie eu, Eaghtyrane. I beg to second, sir, and reserve my remarks.

The President: Hon. Members, I put the question that the Bill at Item 3 be read for the third time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

4. Administration of Justice and Other Amendments Bill 2021 – First Reading approved

Mr Henderson to move:

That the Administration of Justice and Other Amendments Bill 2021 be read a first time.

The President: We turn now to the Administration of Justice and Other Amendments Bill. Mr Henderson to move, please.

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

I am pleased to present to Council the Administration of Justice and Other Amendments Bill 2021 for its First Reading. The background to the Bill is that the current framework and general systems for debt recovery need to be updated. Lots of reports and reviews have identified this need; and indeed, in 2012 a Private Member's Bill was passed in the House of Keys which had much of the intent of this Bill, but Treasury found that there were underlying administrative problems with its implementation and as a result were unable to find solutions at that time to these underlying issues. Accordingly, in 2017 a comprehensive review of relevant legislation and procedures relating to the collection of civil debt was undertaken to try and find a way forward. This Bill is a consequence of that review.

285 In setting out the context to this Bill, Treasury were conscious of the size of the task involved, which determined, in order to manage this, that it should be broken down into three distinct legislative phases which would address particular aspects of debt recovery.

290 Phase 1 of the review looked at the underlying framework for debt recovery and a consultation on policy proposals was undertaken between November 2017 and January 2018 on this phase. The policy consultation indicated that phase 2 would cover coroner reform and phase 3 would focus on modernising the Island's insolvency law so it meets the needs of our community today. Current thinking is phases 2 and 3 will be undertaken in tandem, though it is likely the review of insolvency law will take slight priority as a significant amount of work has been undertaken in that regard already. This Bill covers phase 1, underlying framework for debt recovery, and was prepared having taken into account the views expressed during the policy consultation.

295

Turning to the principle of this Bill, phase 1: it is concerned with improving how civil debts are recorded and how the information is made available. It is hoped that by having accurate information that is easily available will lead to a reduction in debts arising over time. This is because an improved register of debts and debtors will provide people with an opportunity to review the creditworthiness of a person before entering into a business relationship with them.

The public consultation on the draft Bill took place in November last year and the response document was published in April, the responses in the main being positive. The Landlords Association raised an issue about the then-proposed revised legislation in relation to the abolition of landlords' preference in respect of rent. The Bill was amended to take into account their concerns, and I will refer again to landlords' preferential rent later in my speech.

Eaghtyrane, Part 1 of the Bill is introductory and provides that the Bill may be brought into operation by an Appointed Day Order, or Orders. The Bill provides for regulations to be made by the Deemsters in respect of the debt register, and so it will be important to ensure the Bill is brought in in a timely manner once those regulations have been consulted on and approved in due course.

Part 2 of the Bill amends the Administration of Justice Act and extends the range of matters which are recorded in the Judgments Register. It is proposed that judgments of the High Court and tribunals, along with details of warrants for payment, will be entered into the Register, which will be a public register accessible online.

Part 3 of the Bill amends the Summary Jurisdiction Act insofar that the Chief Registrar must keep and publish the Island's register of fines. The amendments will provide consistency between the arrangements for the keeping and publication of the Fines Register and the equivalent arrangements that are to apply to the Judgments Register under Part 2 of this Bill. It is envisaged these registers will be open to public inspection by electronic means. Although these amendments were not in the original brief of the Bill, it became apparent that it would be lacking in foresight to leave the arrangements for the Fines Register behind whilst we improve the arrangements for the Judgments Register.

Part 4 of the Bill amends the Income Tax Act 1970, the Customs and Excise Management Act 1986 and the Social Security Administration Act 1992 (Application) Order 1994 in order to provide information gateways for the disclosure of information to the Chief Registrar, the Judgments Officer, a Coroner or a Lockman, a Coroner's assistant, for the purposes of debt recovery, or matters to do with the entry or the removal of an entry from the register.

Section 130 of the Equality Act 2017 is amended to enable the Employment and Equality Tribunal to grant executions with respect to decisions involving the award of a sum of money under that section. The amendment is to rectify a discrepancy in section 130 of the Equality Act with respect to the powers the Tribunal currently holds to grant execution under section 159 of the Employment Act 2006.

Finally, Eaghtyrane, I should explain that when the Bill was introduced into the Branches it contained a number of other clauses referring to landlords, which concern the priority of debt collection. However, during the progression of this Bill in the House of Keys, an issue was raised in respect of insolvency proceedings as they affect commercial landlords. Treasury gave the issue consideration and concluded that the pertinent clauses of the Bill concerning landlords should not be moved at this time. Consequently, the long title of the Bill was amended in the House of Keys to move reference to the repeal of the Recovery of Rent Act 1954 and a number of clauses that dealt with landlords' preference were not moved. As a result, the Bill that is before Council is somewhat smaller than that introduced into the Keys.

I will mention here, as was stated in the Keys, that it is proposed to examine the whole issue of priorities when it comes to the collection of debts during phases 2 and 3 of the debt project.

Eaghtyrane, I believe this Bill makes important initial improvements in respect of debts. Ta mee shirrey kied dy chur roish y treealtys ta scruit fo aym. I beg to move, sir.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President. I beg to second and reserve my remarks.

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The President: I put the question that the Administration of Justice and Other Amendments Bill be read for the first time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

5. Housing (Miscellaneous Provisions) (Amendment) Bill 2021 – First Reading approved

Mrs Poole-Wilson to move:

That the Housing (Miscellaneous Provisions) (Amendment) Bill 2021 be read a first time.

The President: Finally, we turn to the Housing (Miscellaneous Provisions) (Amendment) Bill for First Reading, Mrs Poole-Wilson to move, please.

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Mrs Poole-Wilson: Thank you, Mr President.

360

I am pleased to bring forward this Bill today for its First Reading in Legislative Council. This relatively short Bill has been brought forward by the Hon. Member for Ramsey, Mr Hooper, as a Private Member's Bill. It amends the Housing (Miscellaneous Provisions) Act 2011 to address one aspect of leasehold reform. That is, it introduces the ability for long leaseholders of residential flats to apply to collectively acquire management rights over the block of flats their leasehold property is in.

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At this First Reading stage, I will take the opportunity to note the wider context, and comment on why this reform is considered important; also, how the proposed reform will operate and what the Bill does not do in terms of other aspects of leasehold reform.

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First, there is already a process in Manx law to enable leaseholders to apply to the Rent and Rating Appeal Commissioners for a management order if they meet certain conditions. In essence, the conditions require that leaseholders have to prove fault on the part of the freeholder, the landlord or the management agent and fault in this regard amounts to a breach of an obligation under a lease. In practice, Hon. Members, this current provision has proved a very high threshold.

375

By contrast, in the UK, which has been engaged in the process of reform of leasehold law for some 20 years, there is no requirement to prove fault. Instead leaseholders there are able to obtain management rights over their property provided they meet certain eligibility criteria and that is what this Bill seeks to introduce for leaseholders in the Isle of Man.

380

Mr President, if I could describe a little bit about how the proposed reform will operate. First, the Bill introduces a right to manage by adding a new process within the Housing (Miscellaneous Provisions) Act 2011. So the current process to obtain a management order will be retained but will be renamed a 'general management order'. It is felt important to retain the current process so there is a route whereby a single leaseholder can still hold a management company to account for any failures to meet obligations under the lease. The new management order process this Bill introduces is called 'a specific management order'. In the new process, the requirement to prove fault is replaced with a requirement to meet certain eligibility criteria. Provided the relevant criteria are met, the specific management order must be granted.

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The eligibility criteria are based on those in equivalent UK law. They are, first, that leaseholders must be 'qualifying tenants', the definition of which is already set out in section 25 of the 2011 Act. The premises must also be qualifying premises, which is defined in section 15 of the 2011 Act. This Bill does not change either of those definitions. However, the Bill does introduce two new safeguards which are, first, that in order for the premises to qualify for a specific management order two-thirds of the flats must be occupied by qualifying tenants. The second safeguard is that

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the premises must be more than 50% residential. Thus for premises where more than half of the internal floor area is commercial, the premises would not be eligible for a specific management order application. This safeguard exists in the UK too and is designed to ensure that the right to manage does not inadvertently lead to residential leaseholders taking management control over property that is predominantly commercial.

395 A third criterion is that the leaseholders must form a 'Right To Manage' company which must follow the requirements set out in the Bill, including that the company must be a company limited by guarantee and membership of the right to manage company must comprise of a number of qualifying tenants not less than half of the total number of flats in the premises. There is provision in this Bill for the Department of Infrastructure to make regulations to set out mandatory articles of association for right to manage companies to adopt. All of these measures follow the UK approach which is tried and tested, and they are designed to ensure that leaseholders have a right to participate in the management process and that members of the company, which would include the landlord or freeholder, have an equal voting right.

400 There is then a process set out in the Bill whereby the right to management company must notify the landlord and any management company or agent of the intention to apply for a specific management order, as well as notify qualifying leaseholders that they have the right to participate in the company. The content of such notices may be prescribed by regulations subject to Tynwald approval. The application is then made to the Rent and Rating Appeal Commissioners who determine whether the relevant criteria are met. Where they are, a specific management order must be granted in accordance with processes already set down in Manx law.

405 Hon. Members, this Bill has been subject to consultation and the responses have been published in full by the Hon. Member for Ramsey, Mr Hooper. Seventy-seven responses were received, and overall the response was very supportive, with 76 of those 77 responses in favour of the proposals in the Bill. Some changes have been made to the Bill post-consultation, including adding in the safeguards I earlier referenced. In addition, some technical amendments were made to the Bill during its passage in the House of Keys.

415 Importantly, Hon. Members, the public consultation also raised a number of other issues which are outside the scope of this one-issue Bill, but which are relevant to wider leasehold reform. These include: difficulty in collecting service charge debt; limitations of the Property Service Charges Act; and the effectiveness of the Rent and Rating Appeal Commissioners when dealing with disputes. These are all issues which the Hon. Member for Ramsey, Mr Hooper, acknowledged will be important to address, but as I have said, they are outside the scope of this Bill, which Mr Hooper described as 'bite-sized' and focused on one aspect of leasehold reform.

425 A further aspect of reform that Mr Hooper did consult on was that of collective enfranchisement – the right to buy. However, whilst there was support in the public consultation for this principle, Mr Hooper determined not to progress that aspect of leasehold reform through this Bill in light of the complexities involved and the need to allow sufficient drafting and proper consultation time to ensure that reform in this respect is properly addressed.

430 Hon. Members, there is clearly much work to do in terms of leasehold reform. As I have mentioned, the UK has been in the process of leasehold reform for more than 20 years and most recently the Law Commission in the UK has recommended further reform. We are some way behind. However, this Bill represents very much a start and tackles a single aspect of reform.

435 Finally, Hon. Members, it is worth acknowledging that whilst the matter this Bill seeks to remedy may not be a problem for a large number of leaseholders on the Island, as there are many examples of good management companies operating and there are a number of leaseholders who are already involved in the management of their properties. However, for those leaseholders who are not able to participate in the management of their flats, this Bill will provide an alternative route to help resolve what can be a difficult and stressful situation.

440 I would like to thank Hon. Members at this stage for their consideration of this Bill and I look forward to it receiving your detailed scrutiny and welcome comment and questions from Hon. Members.

With that, Mr President, I beg to move that the Housing (Miscellaneous Provisions) (Amendment) Bill 2021 is read for a first time.

445

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President.

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I am very happy to second this Bill and just also to compliment the mover on the full explanation of how this is all going to work and emphasising that this Bill has a narrow focus but also highlighting some of the broader issues that have come up in the process of the consultation.

Thank you, Mr President.

The President: Mrs Maska.

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Mrs Maska: Thank you, Mr President.

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I welcome the First Reading of this Bill today. I think it offers a remedy that has not been available, but much needed for a long time. I am aware of a number of cases where a service charge has been collected, for example, but not applied in an appropriate manner and it has left the leaseholders in a position where the only remedy they might have would be to take civil action, sometimes against a head lease which is off Island.

So I do welcome this. It is very fitting and well-tailored to offer a remedy which is not available, but I think will actually make a big difference to many people's lives, which actually go unheard at the time. So I do welcome this and support First Reading.

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Thank you, Mr President.

The President: Thank you.

Mrs Poole-Wilson to reply.

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Mrs Poole-Wilson: Thank you, Mr President.

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I would like to thank my seconder, Mrs Lord-Brennan, for her support, and I would also like to thank Mrs Maska for her comments. I know the Department of Infrastructure has been engaged with the Hon. Member for Ramsey, Mr Hooper, in looking at this Bill, and is also very supportive of this remedy. I think she is correct: colleagues in the House of Keys did also reference the plight of some leaseholders on the Isle of Man who have found themselves in a very difficult position, and this Bill does now, or should, I hope, with its successful passage, provide an alternative remedy for people who find themselves in that very difficult situation.

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Mr President, before closing, it would be remiss of me also not to compliment the Hon. Member, Miss August-Hanson, who I know had done some considerable work on this Bill as well to support its formulation.

With that, Mr President, I beg to move.

The President: Thank you.

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I put the question that the Housing (Miscellaneous Provisions) (Amendment) Bill be read for the first time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members. That concludes our sitting and the next sitting will take place in Tynwald Court, 15th June at 10.30 a.m.

Thank you.

The Council adjourned at 11.11 a.m.