



LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL
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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 22nd 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 Mr J D C King, Clerk of the Council.

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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

Order of the Day

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

Miss August-Hanson to move:

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

10 **The President:** Hon. Members, we begin our business with our consideration of the Liquor Licensing and Public Entertainments Bill, and I call on the Hon. Member, Miss August-Hanson, to move Second Reading, please.

Miss August-Hanson: Thank you, Mr President.

15 Sixty-five clauses and two Schedules, the Liquor Licensing and Public Entertainments Bill is primarily an enabling piece of legislation, as we know, intended to be both a flexible and responsive piece to the changing needs of that industry. This Bill also comes with an on-statute commitment to future consultation when formulating any of the secondary legislation needed to fully implement the new licensing regime.

20 I do not plan on speaking extensively about the structure or the purpose of the Bill here, because I did at First Reading, and I am hopeful that you will support me to progress the Bill today to detailed consideration of the clauses and beyond, and this will allow me to set out parts of the Bill and us to consider them in turn together.

With that in mind, therefore, and without delay, Mr President, I beg to move that the Liquor Licensing and Public Entertainments Bill 2021 be read for a second time.

25 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President. I beg to second.

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

**Liquor Licensing and Public Entertainments Bill 2021 –
Clauses considered**

30 **The President:** We turn now to clauses. Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

It is a well-supported Bill, with a good deal of positive feedback from interested parties and key stakeholders. Many of those have made favourable comment, either licensees under the present regime or part of that regime structure or enforcement. Respondents to the consultation on the draft Bill, a summary of which was shared with Hon. Members by the Department some time ago, included membership organisations representing the licensed hospitality industry, various local businesses, as well as several hundred individual members of the public.

35
40 The finalised Bill submitted to Keys was shaped by input received at consultation. Further small editorial changes and additional clarifications were brought in in another place and I will touch on the most significant of these as we work through.

With that, Mr President, I propose to move that the Bill by Parts, so far as is possible, with a suitable interval to allow for the small but important amendment which Mr Greenhill is kindly bringing on behalf of the Department in connection with music and dancing.

45
50 Clauses 1 and 2. Mr President, Mr Greenhill has that small amendment to clause 2 and therefore I propose to move Part 1 in two segments, if I might, first addressing clauses 1, 2, then 3 to 6. Clause 1 provides the short title of the Bill and clause 2 provides that sections 61 and 64 of the Bill, which relate respectively to restrictive agreements and to the extension of the triennial session of the Licensing Court to now take place in 2023, which will come into operation on the day on which the Act is passed.

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

The President: Mrs Lord-Brennan.

55 **Mrs Lord-Brennan:** Thank you, Mr President. I beg to second.

The President: Mr Greenhill.

Mr Greenhill: Thank you, Mr President.

60 With your permission, Mr President, it might be helpful if I could refer to the amendment later within the Bill, where I intend to seek to insert a new clause, as that amendment and this are interlinked. I would also politely ask that Hon. Members bear that in mind when considering this amendment.

65 The amendment I have tabled here in relation to clause 2 is comprised of two changes: a typographical change to adjust the number referencing presently given within clause 2, where reference to section 61 is corrected to section 62. Unfortunately, the insertion of a new clause 57 in another place shifted the cross-references of other following clauses, so this simply corrects an incorrect reference that had not fallen into place within our reprinted copy of this Bill.

70 The second small change is one where I seek to add a fresh reference here to the new clause that I propose to move later today that, if agreed by Hon. Members, will ultimately become section 66.

75 For Hon. Members' ease, I note that these sections are specified particularly as those which are to commence with immediate effect upon receipt of Royal Assent and are respectively in relation to restrictive agreements and the triennial session of the Licensing Court and its associated deferral to 2023.

Mr President, with that, I beg to move amendment 1 standing in my name:

Amendment to clause 2

1. Page 13, line 12, for '61 and 65' substitute «62, 65 and 66».

The President: Mr Mercer.

80 **Mr Mercer:** Thank you, Mr President. I beg to second.

The President: Thank you.

Miss August-Hanson.

Miss August-Hanson: Thank you.

85 Content, and thanking Mr Greenhill for bringing the amendment. It is a very important one and one which was quite unfortunate that was missed off. So much appreciated to him, and also to Mr Mercer for seconding.

The President: Thank you.

90 I put first the amendment to clause 2. Those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

I put clause 1 and clause 2, as amended. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

95

Miss August-Hanson: Thank you, Mr President.

Clause 3 provides general interpretation provisions, while clauses 4, 5 and 6 respectively give detailed definitions of entertainment and public entertainment, sale by retail and resident on licensed premises.

100 Mr President, I do beg to move that those clauses do stand part of the Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you. I beg to second, Mr President.

105

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

Clause 4.

110 **Miss August-Hanson:** Those are clauses 3 to 6. I apologise, Mr President. In that Part they were moved together.

The President: What are you moving together?

115 **Miss August-Hanson:** Clauses 3 to 6, Mr President.

The President: Oh, you are moving clauses –

Miss August-Hanson: Clauses 4, 5 and 6.

120 **The President:** You are moving clauses 4, 5 and 6 together?

Miss August-Hanson: Yes, clauses 3, 4, 5 and 6, Mr President.

125 **The President:** Clauses 3, 4, 5 and 6 together. Okay. Please do so.

Miss August-Hanson: I have done so.

The President: Right. So we voted on clause 3. Mrs Lord-Brennan, clauses 4, 5 and 6?

130 **Mrs Lord-Brennan:** Yes, I beg to second, Mr President.

The President: I put clauses 4, 5 and 6. Those in favour, say aye; against, no. The ayes have it.
The ayes have it.

Miss August-Hanson.

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

For clarity, these are clauses 7 to 10. Mr President, I propose to move Part 2 of the Bill, comprises those clauses together.

Part 2 deals with the Licensing Court and Licensing Court of Appeal.

140 Clause 7 provides for the continuation of Licensing Court, its composition, place and function.

Clause 8 provides for the continuation of the Licensing Court of Appeal, and clause 9 that both courts are courts of justice and courts of record.

Clause 10 makes the provision for rules of court to be made for the effective and efficient operation of both courts.

145 So Mr President, I beg to move that Part 2 of the Bill – clauses 7 through to 10, for clarity – do stand part of the Bill.

The President: Mrs Lord-Brennan.

150 **Mrs Lord-Brennan:** Thank you, Mr President. I beg to second.

The President: So that is you have moved clauses 7 and 8?

Miss August-Hanson: Clauses 7, 8, 9 and 10, Mr President, (**The President:** Seven –) as Part 2.

155 **The President:** I put to Council that clauses 7, 8, 9 and 10 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

160 **Miss August-Hanson:** Mr President, Part 3 of the Bill comprises one clause, clause 11, which enables the Department to make regulations regarding the formation of an independent licensing authority and to provide for its composition and terms of reference.

165 Subsection (3) provides that regulations may transfer functions of the Licensing Court to the licensing authority. It is the case that any change to the present overarching licensing regime structure, in which the Licensing Court is of course pivotal, would be made first in a careful and considered fashion, and once again I note that clause 59 requires the Department to consult publicly before making the secondary legislation. It means the present structure will remain until regulations are drafted and have been consulted upon and finalised. At that point, the relevant Part of the Bill is to be brought into force.

170 So Mr President, I do beg to move that Part 3, clause 11, do stand part of this Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President. I beg second.

175

The President: I put to Council that clause 11 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Miss August-Hanson.

180

Miss August-Hanson: Thank you, Mr President.

I am now moving clauses 12 to 20. Mr President, I propose to move that Part 4 of the Bill, comprising those clauses together, be moved. This Part deals with matters pertaining to licences.

185

Clause 12 is critical to the overall establishment of the new regime as it provides the underlying timeline requiring the Department make regulations before 1st November 2022 to provide for granting licences in relation to brewing, distilling, storage, transportation, sale or supply of liquor and for public entertainments. A small change was brought to this clause in another place with the addition of subsection (2), which further highlighted the importance of the licensing objectives underpinning the licensing regime to come.

190

Clause 13 provides that the regulations must specify the types of licences that may be granted and make provision for the premises, the persons, public entertainments, activities required to be licensed. Regulations may provide that a licence is granted to one or more persons or to a company, and in respect of one or more premises or activities. Regulations must provide for the length of the licence and renewal and may provide for the duration of a provisional licence, transfer of licences, disqualification from holding a licence and exemption from the requirement to hold a licence.

195

Hon. Members, there have been reassurances from the Minister for Justice and Home Affairs in relation to public events held with charitable intent and any licence requirements, and the Minister has spoke about these in another place at length and set out his intention that the regime to come will be similar to the one that is presently in place, which provides exemption from licensing for charitable purposes. He also noted additional guidance will be available from the Department to assist those hosting public entertainment events setting out background requirements, along with notification requirements under clause 20. The work done for our local community by charities and their voluntary representatives as we know is vital, and therefore it is intended that clarity and simplicity around these events will increase, allowing unnecessary bureaucracy or cost to charities to slide.

200

Clause 14 specifies that regulations must provide for the licence application procedure and the matters that must or may be taken into consideration by the Licensing Court or licensing authority when making a decision.

Clause 15 requires that regulations must provide that the Licensing Court or licensing authority may refuse to grant a licence, or may grant a licence subject to conditions or an undertaking given by an applicant. Also, regulations may prescribe the conditions that can be attached to a licence that the licensing court or licensing authority may vary or remove any condition to impose further condition and provide that any undertaking given may be waived or a further undertaking accepted. Non-compliance with a licence condition is an offence which may result in the subsequent suspension or revocation of that licence.

215

Clause 16 specifies the content that regulations with regard to suspension, revocation, surrender of licences must have, and clause 17 requires that regulations must provide for the renewal of licences and renewal procedure itself.

220

Clause 18 requires that the Department make regulations regarding the keeping of a register of licences that have been granted, suspended or revoked, along with a register of any such activities that may be notified under section 20 of the Bill. The regulations must specify who is to establish and maintain the register and in what format, what details are to be held, and who may

access the information, along with the processes involved with requesting access to that information, including any fee payable.

225 Clause 19 requires that regulations must provide for the establishment and maintenance of a register of persons employed as a guard, doorkeeper or responsible person on licensed premises. As mentioned in First Reading, the licensed staff register, subsection (2), introduces various provisions which the regulations may include. Those subsections (3) to (5) state that it is an offence to employ somebody, or be employed, as a guard, doorkeeper or responsible person if
230 that person's name is not entered into the licensed staff register. It is also an offence to give false information in relation to the register.

Mr President, the final clause of Part 4, clause 20, details that regulations may provide that specified activities for which a licence is not required must be notified to the Department or
235 licensing authority before the activity actually takes place. The regulations may provide that failure by a person to make such a notification would then constitute an offence. Such notifications must be maintained on the register as specified in clause 18. As was noted earlier, Hon. Members, it is the intention of the Department that suitable guidance in connection with notification will be generated as part of the package that underpins the implementation of this regime.

240 Mr President, I beg to move that Part 4, clauses 12 through to 20, do stand part of the Bill.

The President: Mrs Lord-Brennan.

245 **Mrs Lord-Brennan:** Thank you, Mr President. I beg to second.

The President: I put to Council that clauses 12 to 20 inclusive do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 21.

250 **Miss August-Hanson:** Mr President, Part 5 of the Bill comprises one clause again, clause 21, which enables the Department to, by order, designate an area as a restricted licensing area for the purpose of one or more of the licensing objectives. An order can only be made after consultation with the Chief Constable, the Fire and Rescue Service and such other persons that the Department considers to be the representatives of businesses and residents and of licences
255 in the proposed area – licensees. Any designation order issued must be reviewed at intervals of not more than three years and, if revoked, the Department is satisfied that the designation is no longer necessary for the purpose of one of the licensing objectives.

Hon. Members will recall that I touched on these restricted areas, these orders, during the First Reading of the Bill and noted that these are not intended to be an artificial way of managing the
260 number of licences in one area for competitive purposes, but rather are a tool to be used when there is a specific issue in an area with, for example, anti-social behaviour or other such behaviour that is viewed to be exacerbated by alcohol consumption and which may necessitate such a failure for public safety purposes. These orders would be made in accordance with the licensing objectives and only after consultation with the Chief Constable, the Fire and Rescue Service and
265 those other such persons that the Department considers represent the residents, the businesses, the licensees in that area.

So Mr President, I do beg to move that clause 21 do stand part of the Bill.

The President: Mrs Lord-Brennan.

270 **Mrs Lord-Brennan:** I beg to second.

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

275 Clause 22.

Miss August-Hanson: Thank you, Mr President.

Moving on to Part 6 of the Bill, it deals with conduct on licensed premises, and I propose, if I may, to move clauses 22 through to 28 – that is 38; I do apologise, that Part.

280 Clause 22 provides that regulations may be made requiring the holder of a licence or a person required to give notification of a specified activity to give notice to the Chief Constable of the hours between which they intend to sell or supply liquor for consumption on licensed premises or undertake any activity for which a licence or notification is required.

285 Clause 23 enables the Department to make regulations concerning the sale to and purchase of liquor to and for a minor and restrictions on the employment of minors in licensed premises. Regulations may be made concerning identification documents required and non-compliance with any provision of the regulations is an offence.

290 Clause 24 provides that a licence must ensure that there is either a licensee or a responsible person on the licensed premises at all times when the premises are open to the public. This clause was amended in another place to simplify the wording of the clause and make direct reference to section 19 and this made plain the distinction between a licensee and the responsible person as these are not interchangeable terms. A responsible person is one who is designated within the licensed staff register as per section 19.

295 Clause 25 provides for the offence of selling or supplying an excess measure of liquor and clause 26 gives enabling powers to the Department to make regulations with regard to minimum pricing of liquor, the regulation or prohibition of the supply of liquor and other products or services for a single price and regulation of the labelling of liquor in relation to its price.

300 Clause 27 provides for the offence of the sale of liquor on credit and provides that both the licensee, or employee or agent of the licensee, who provides liquor on credit and the person consuming the liquor are guilty of an offence. Subsection (3) provides for exemptions to this offence. That includes the sale alongside a meal.

Clause 28 concerns the permission required to make alterations to licensed premises and the consequences of contravening such requirements.

305 Clause 29 enables the Department to make regulations requiring the display of notices at licensed premises, stating the names of the licensee and responsible persons, the nature of the licence, operating hours, the charges made for liquor and any licence conditions imposed. The regulations may make non-compliance an offence and subsection (3) provides for the offence of falsely stating or implying that a licence is in force.

310 Clause 30(1) deals with the offence of disorderly or indecent behaviour on licensed premises and provides that a person who appears to be guilty of such a behaviour may be arrested without warrant as per subsection (2). Subsections (3) and (4) relate to the banning orders the court may make on conviction and subsection (5) the provision that the court may issue a warrant for photographs of the offender to be distributed to licensees.

315 Subsections (6) to (9) refer to offences and subsection (10) to what constitutes a defence by a licensee or a responsible person. Subsection (11) provides that the Department may, by regulation, provide that a person who is subject to an order not to enter any licensed premises be permitted to enter the licensed part of an airport, seaport, bus station or other travel hub for the purpose of undertaking a journey and may enter licensed premises specified under those regulations for the purpose of purchasing food, non-alcoholic beverages or fuel. This clause again benefited from slight amendment in another place to bring the detail contained now before us.

320 Clause 31 relates to the offences of procuring or assisting procurement of liquor for an intoxicated person.

325 Clause 32: for the offence of assault against a licensee, responsible person, guard, doorkeeper or any other member of staff of licensed premises in the course of their employment, and such an offence is to be regarded as an aggravated offence. The clause provides that in sentencing the court must decide on the level of sentence as if the person against whom it was committed is a

330 police officer or another person serving in a public-facing role. This clause was streamlined in another place to make clear that the titular offence encompasses any offence of that type committed where the person who commits the offence was on or within close vicinity to licensed premises at the time of that offence.

335 Clause 33 deals with a refusal to allow entry to licensed premises, refusal to supply liquor, and the power to order someone to leave licensed premises without giving any reason. Subsection (4) makes it an offence to fail or refuse to leave if ordered to do so by the responsible person, any employee or agent of the responsible person and a police officer. This clause is a restating of the existing section 35, which currently provides for refusal of service without reason, but that this power may not be exercised in a manner which contravenes the Equality Act 2017.

340 Clause 34 relates to the offence of permitting prostitution on licensed premises and clause 35 provides for the offence of permitting gaming on licensed premises, with subsection (2) detailing what gaming activities may be legally undertaken.

345 Clause 36 provides for the offence of misuse of drugs on licensed premises and was adjusted in another place to make clear that the revocation of a licensee's licence might result in the court ordering that the individual licensee shall not then hold a licence until an intervening period of not more than two years has passed.

345 Clause 37 provides for the offence of keeping liquor on licensed premises which the licensee is not authorised to sell.

345 Finally, clause 38 provides that if a licensee who is not authorised to sell liquor for consumption on the premises sells liquor and allows consumption on the premises, or permits a person to consume liquor on or near the licensed premises, that the licensee is guilty of an offence.

350 Mr President, I beg to move that clauses 22 through to 38 do stand part of the Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President. I beg to second.

355 **The President:** I put to Council that clauses 22 to 38 inclusive do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 39.

360 **Miss August-Hanson:** Mr President, Part 7 of the Bill comprises one clause again, clause 39, which deals with the application and decision-making process for appealing the decision of the Licensing Court or licensing authority. Subsection (14) enables the Department to make regulations to include further provisions for appeals, including the contents and forms of applications for appeals, the way in which appeals must be made and the persons who must be notified of the appeal and be permitted to make representations.

365 Mr President, I beg to move that clause 39 stand part of the Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second.

370 **The President:** I put clause 39. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 40.

375 **Miss August-Hanson:** Mr President, I propose to move Part 8 of the Bill, which then comprises clauses 40 to 44 together. This Part deals with other offences.

Clause 40 provides for the offences of selling liquor without a licence and holding a licensable event without a licence and the subsequent penalty for these actions. Subsection (4) provides the circumstances under which a person may sell liquor without being a licensee.

380 Clause 41 provides for the offence of being drunk in a public place and clause 42 provides for the offence of drinking liquor in a public place after being warned not to do so by a police officer.

Clause 43 provides for the offence of knowingly selling liquor in confectionary to a person under the age of 16. An offence is not committed if the amount of liquor in the confectionary complies with the provisions of subsection (2) of this clause.

385 Finally, clause 44 enables the Department to make regulations which prohibit or regulate the sale or use of liquor that is in powder or vapour form with contravention of such regulations being an offence.

Mr President, I beg to move that Part 8, clauses 40 through 44, do stand part of the Bill.

390 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second.

The President: I put to Council that clauses 40 to 44 inclusive do stand part of the Bill. Those
395 in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 45.

Miss August-Hanson: Thank you, Mr President.

I beg to move that Part 9 stand part of the Bill, those comprising clauses 45 to 56 together, if I
400 may. This Part deals with the enforcement provision.

Clause 45 provides that if two or more persons are a licensee, then each is liable in respect of an offence and proceedings may be brought against any one or more of those persons. Subsection (2) specifies what constitutes a defence where a licensee is charged with an offence committed by an employee or an agent of the licensee. Subsection (3) deals with repeat offences
405 and subsections (4) and (5) relate to the forfeiture of liquor.

Clause 46 provides for liability of persons other than the licensee and clause 47 relates to disqualification of a person who is or has been a licensee who is convicted of any offence triable on information or any other offence prescribed in regulations made by the Department.

Clause 48 deals with a suspension or revocation of a licence in certain circumstances and
410 clause 49 provides for the deferral of the suspension or revocation of a licence pending the outcome of an appeal.

Clause 50 enables a police officer to, at any time, enter licensed premises for the purpose of preventing or detecting the carrying out of any offence under the Act. Refusal to admit the officer is an offence and any person who permits another to make this referral is also guilty of an offence.

415 Clause 51 provides that a warrant may be issued to authorise a police officer to enter premises to search, seize and remove any liquor that the police officer has reasonable grounds to believe is to be sold, supplied or consumed unlawfully. Any person who fails or refuses to give their name or address or gives a false name or address when asked by a police officer is guilty of an offence.

Clause 52 provides for the offence of failure by a licensee to produce the licence relating to the
420 licensed premises, and clause 53 relates to the evidence needed to prove whether a sale or consumption of liquor took place.

Clause 54 enables any member of the Licensing Court or licensing authority to enter and inspect any licensed premises and failure to permit or obstruct entry is an offence.

425 Clause 55 concerns the closure of licensed premises in case of riot or violence, and provides that if any person knowingly keeps premises open for the sale of liquor during that time they are directed to be closed the person is guilty of an offence.

Clause 56 provides that regulations may make provision for the issue of a fixed monetary penalty to a person in connection with breaches of this Act or its supporting regulations and the processes involved with the issue and appeal of such.

430 Mr President, I beg to move that Part 9, clauses 45 through 56, do stand part of the Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second.

435

The President: I put clauses 45 to 56 inclusive do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 57.

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

I now propose to move that Part 10 of the Bill comprising clauses 57 to 63 together, if I may, stand part of it.

445 Clause 57 was a new clause inserted in another place following the presentation, which Hon. Members will recall we received from the Department, at which the Hon. Member for Douglas Central, Mr Thomas MHK, raised a query as to whether the licensing objectives may be better formalised if inserted into a clause within the Bill. The Department, in taking this point on board, brought the new clause, which is now before us as clause 57, along with a small amendment noted at clause 12.

Clause 58 makes general provision in respect of regulations and orders made under this Bill.

450 Clause 59 provides that, except as otherwise provided for, the Department must consult with the Licensing Forum, the Deemsters and the High Bailiff, the licensing authority – if established – any person to whom the regulations or order relate, or persons appearing to the Department to represent such persons and any other person the Department considers appropriate before exercising any power to make regulations or an order under the Act.

455 Clause 60 provides that regulations may be made in respect of fees that are required to be paid for the purpose of the administration of this Bill, including provision for exemption from payment, discount or deferral.

460 Clause 61 provides for the publication of codes of practice to give practical guidance to the persons engaged in liquor licensing or public entertainments and to promote good practice. The Licensing Court or licensing authority may impose, as a condition of the licence, that the licensee must comply with an approved code of practice and failure to do so may be used in any civil or criminal proceedings. Provision is also given for the publication of guidance, which may be very important to steering the various licensees' adherence to licensing standards and in assisting their understanding of what is expected within the regime.

465 Clause 62 relates to the restrictive agreements and restrictive covenants. Subsection (3) includes a provision preventing new restrictive covenants being placed on premises after the bringing into operation of this Act where those premises have at any time been licensed.

470 Clause 63 enables the Department to make regulations with regard to the sharing of information between the Chief Constable and licensees about persons who are subject to any court order excluding them from licensed premises, or who are otherwise excluded or restricted from licensed premises under the Bill. Any regulations made must specify the nature of information, any constraints to sharing – GDPR – the processes for exchanging the information, restrictions on the information supplied and the purposes for which it may be used and such other measures to ensure compliance with data protection legislation.

475 The existing Pubwatch scheme is something I am delighted to see provided within this statutory underpinning in order that it might continue. It is a vital community-based organisation driving collaboration between individual licensees and law enforcement to the benefit of the Island's public. This clause also importantly provides for the sharing of information of persons who

480 have requested that a licensee take measures to assist the person in his or her efforts to reduce the amount of liquor they consume. This is another point which might be further explored on enactment of this legislation.

Mr President, I beg to move that clauses 57 through 63 stand part of the Bill.

485 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second.

The President: I put to Council that clauses 57 to 63 inclusive do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

490 Clause 64.

Miss August-Hanson: Mr President, I beg to move that Part 11 of the Bill comprising the clauses 64 and 65 and Schedules 1 and 2 together, if I may, and then give way to Mr Greenhill, who has an amendment to bring at the end of the clauses.

495 Clause 64 introduces Schedule 1, which lists enactments that are repealed and introduces Schedule 2, which makes amendments to other enactments as a result of the enactment of this Bill.

Clause 65 amends the Licensing Act 1995 so that where a triennial sitting of the court is due to be held before 31st March 2022, that sitting shall instead be held before 31st March 2023.

500 Mr President, I beg to move that clauses 64 and 65, and Schedules 1 and 2, stand part of the Bill.

The President: Mrs Lord-Brennan.

505 **Mrs Lord-Brennan:** I beg to second, Mr President.

The President: I put to Council that clauses 64 and 65 and the Schedules do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Mr Greenhill.

510

Mr Greenhill: Thank you, Mr President.

The proposed new clause which, if agreed, will become clause 66 within the Bill, is in relation to the triennial session of the Licensing Court as it applies to music and dancing licences granted under the Music and Dancing Act 1961. As was the case with the licensing triennials that are held under the Licensing Act 1995, and a deferral was set out within the current clause 65 of this Bill, there is a small change to shift the period in which that triennial session falls to 2023, and, alongside that change, provision for a waiver to licences for the fees that would otherwise have come due in that period.

515 As noted, the change in relation to licences under the Licensing Act 1995 is captured within clause 65. However, such a reference to the Music and Dancing Act 1961 was omitted in error until now. It is of course very important that the music and dancing portion of the triennial be included in its own right and therefore an amendment is brought now at the Department's request.

520 Hon. Members will be aware that the Department for Enterprise has worked closely with the Department of Home Affairs in securing support from the Economic Recovery Group in connection with the triennials and their associated fees prior to bringing forward of this Bill.

Mr President, with that, I beg to move amendment 2 standing in my name, thereby introducing new clause 1, which will become clause 66.

Thank you.

Insertion of new clause 1

2. Page 52, line 23, after clause 65 insert –

«NC1 Period of licence granted under the Music and Dancing Act 1961 extended

In section 7 of the Music and Dancing Act 1961 –

(a) Renumber the text beginning “Subject to the provisions of this Act” as subsection (1);

(b) after subsection (1) insert –

«(2) Notwithstanding subsection (1)(c), where a licence is due to expire on a specified day in the year 2022 or on 1st April 2022, that licence shall instead expire on the corresponding day in the year 2023.»».

530 **The President:** Mr Mercer.

Mr Mercer: Thank you, Mr President. I wish to second this amendment.

I would make the observation that this extension of licence period is a sensible additional step to support our hospitality sector following what have been challenging times for some in that industry.

The President: I put to Council that the new clause, as moved by Mr Greenhill, do form part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

You wish now to formally move that the new clause stand part of the Bill?

540

Mr Greenhill: Yes, please, Mr President.

The President: Mr Mercer.

545 **Mr Mercer:** I beg to second. Thank you, Mr President.

The President: I put the question that the new clause stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

That concludes clauses stage.

Liquor Licensing and Public Entertainments Bill 2021 – Standing Order 4.3(2) suspended to take Third Reading

Miss August-Hanson to move:

That Standing Order 4.3(2) be suspended to enable the Third Reading to be taken at this sitting.

550 **The President:** Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

This is certainly not my favourite thing to do in the world, as many Members will be very much aware! As I have made quite clear, I suppose, in the Legislative Council, in the review of previous pieces of legislation. But the reasoning behind this is really that we need to get this legislation in place soonest, particularly parts of it before the summer begins.

So I am asking the Legislative Council to suspend Standing Orders to permit Third Reading of the Liquor Licensing and Public Entertainments Bill at this sitting for that reason. I would like to move that Standing Orders be suspended to permit that. I am grateful to Hon. Members for their consideration of and the support of the Bill and invite to support the suspension of Standing

560

Orders to the extent necessary to permit Third Reading and would be very grateful for any support that I may have there.

The President: Thank you.

565

Miss August-Hanson: Mr President, I beg to move that Standing Orders be suspended to permit Third Reading at this sitting.

The President: Mrs Lord-Brennan.

570

Mrs Lord-Brennan: I beg to second, Mr President.

The President: I put the motion to allow the suspension of Standing Orders. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Liquor Licensing and Public Entertainments Bill 2021 –
Third Reading approved; Bill passed**

Miss August-Hanson to move:

That the Liquor Licensing and Public Entertainments Bill 2021 be read a third time and do pass.

575

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President, and thank you very much to my colleagues on Legislative Council for that.

580

This change has been a very long time in coming, this piece of legislation. I am delighted to be bringing it before Council. I am also keenly aware that the pandemic and recent restrictions that we have seen were necessary to deal with limiting the spread of the virus and have been trying times for us all, as Mr Mercer has said, and in particular the Island's hospitality sector, which has suffered as we have striven to banish the virus from our shores with numerous lockdowns.

585

Now we see a time when life might return to some semblance of normality, which is rather nice, and I am optimistic that this new enabling legislation will provide both safety for our residents in the standardisation of the regime, alongside new opportunity and flexibility for businesses and organisations to think about the future now.

590

Through the clauses stage today, a few small but significant amendments brought, and I would like to thank Mr Greenhill and Mr Mercer on behalf of the Department for bringing those forward. I would also like to thank Mrs Lord-Brennan kindly for acting as my seconder. Her support of the Bill is very much appreciated.

595

I hope that by progressing this Bill that we might ensure the safety and well-being of our Island's people, but of equal importance that we might provide for a vibrant social life, as we well need it now. Summer is here at last and hopefully we will be able to make the most of it by getting out and about and enjoying all that our Island has to offer, and look forward to more that is to come when this legislation takes effect.

Mr President, I beg to move that the Liquor Licensing and Public Entertainments Bill 2021 be read for the third time.

600

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

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

605 Thank you, Hon. Members.

**2. Administration of Justice and Other Amendments Bill 2021 –
Second Reading approved**

Mr Henderson to move:

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

The President: We move now to Item 2, Administration of Justice and Other Amendments Bill for Second Reading. Hon. Member, Mr Henderson, to move.

Mr Henderson: Gura mie eu, Eaghtyrane.

610 I am grateful to Hon. Members for their support at First Reading. Since the First Reading, I asked that Mrs Poole-Wilson be contacted for any observations she may have had on clause 10 of this Bill in relation to its intended amendments to section 130 of the Equality Act. Mrs Poole-Wilson did raise some queries in relation to how, technically, the amendments would work and in relation to the officer positions of lockman and coroners. I hope that following liaison with
615 Mrs Poole-Wilson addressing both points that she is now content with those provisions and the further information supplied.

This Bill makes provision for a more accurate and publicly accessible register of debts and debtors. As I indicated at First Reading, the Bill as introduced into the House of Keys also made
620 provision to level the playing field as regards whose debts get settled first by removing preferential treatment for landlords. As a result of an issue raised at Second Reading in the Keys, the clauses relating to landlords' preference were not moved. Consequently, the Bill before this Chamber only addresses the accuracy and accessibility of the public register of debts and debtors. I will deal with the individual provisions in the Bill when I move the clauses.

Just to place some context, this Bill represents Phase 1 of a three-phase project to address
625 issues relating to debt. Phase 2 will address the role and functions of coroners, and when corresponding with Mrs Poole-Wilson it was noted there are a number of pieces of legislation dealing with coroners, of which two notable items go back to the 1400s. Phase 3 will deal with insolvency and we will also seek to address in that phase, not just landlords' preference, but the wider issue of the order in which debts are settled in any case. All being well, I hope to ask
630 permission as well, Eaghtyrane, at the end of the clauses, to move the third stage of this Bill, as I say, immediately following clauses.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.

I beg to move that the Administration of Justice and Other Amendments Bill be read for the second time.

635

The President: Thank you.

Mrs Lord-Brennan: I beg to second, Mr President.

640

The President: Mrs Poole-Wilson.

Mrs Poole-Wilson: Thank you, Mr President.

645 Just to put on record my thanks to the relevant officer, Mr Bateman, and also to the drafter,
Ms Theresa Graves, for their help in addressing queries on some of the detail in the Bill, which,
the mover is correct, have been answered to my help and satisfaction.

Thank you, Mr President.

The President: Thank you.

Mr Henderson.

650

Mr Henderson: Nothing further to add, Eaghtyrane.

The President: Thank you.

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

Administration of Justice and Other Amendments Bill 2021 – Clauses considered

The President: We turn now to clauses. Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I would like to request that I could move clauses 1 and 2 together.

660

The President: Is that agreed?

Members: Agreed.

665

Mr Henderson: Clauses 1 and 2 provide the short title of the Bill and for its commencement by
Appointed Day Order at such time and in such manner as the Treasury, after consulting the
General Registry, may determine.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.

I beg to move.

670

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

675

The President: I put clauses 1 and 2 do stand part of the Bill. Those in favour, say aye; against,
no. The ayes have it. The ayes have it.

Clause 3.

Mr Henderson: Gura mie eu, Eaghtyrane.

680

Clause 3 introduces amendments to the Administration of Justice Act 1981 which relate to the
register of debts and make similar changes in respect of a register of fines.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.

I beg to move clause 3.

685

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

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

Clause 4.

Mr Henderson: Gura mie eu, Eaghtyrane.

695 Clause 4 substitutes section 15, register of judgments, of the 1981 Act and inserts additional sections 15A to 15F. This clause is key to the objective of a clear and more publicly accessible register of debts and debtors. Consequently, I propose to explain its contents in some detail.

Substituted section 15 requires the Chief Registrar to maintain a register of judgments relating to monies owed on account of a judgment of the High Court or a tribunal other than under section 1 of the Collection of Fines etc. Act 1985, and warrant debts.

700 Subsection (2) requires the register to be kept in accordance with regulations made by the Deemsters which are subject to the negative Tynwald procedure.

Subsection (3) requires the Deemsters to consult such persons as they consider appropriate in respect of proposed regulations.

Subsections (4) and (5) set out what provision may be made by such regulations.

705 Subsection (6) defines judgment and warrant debt.

Subsection (7) empowers the Treasury to amend subsections (1) and (6) consequently by order, subject to Tynwald approval, and subsection (8) requires the Treasury to consult on such an order with such persons as it considers appropriate.

New section 15A sets out requirements to provide data to the Chief Registrar.

710 Subsection (1) imposes duties on the Assessor and the Treasury as appropriate in relation to warrant debts.

Subsection (2) imposes similar duties on the clerk to a relevant tribunal.

Subsection (3) ensures there is no question that the duty to provide information in subsections (1) and (2) must be complied with.

715 New section 15B makes provision about the keeping and publication of the register by the Chief Registrar.

720 Subsection (1) provides that the Chief Registrar may, subject to regulations made by the Deemsters under section 15, keep the register in such form and manner and at such place as the Chief Registrar thinks fit. Where there are no specific requirements set out in regulations, the Chief Registrar will no doubt have regard to the need for the register to be in a form and manner that is accessible by those who require or have legitimate reason to access it, and this will be guided by subsections (2) and (3).

725 Subsections (2) and (3) require the Chief Registrar to publish the information recorded on the register in such form or manner as the Chief Registrar considers appropriate, including in electronic form for inspection by members of the public.

Subsection (4) empowers the Chief Registrar to enter into arrangements with a third party for that party to maintain the register. It is understood a not-for-profit organisation known as Registry Trust Ltd, who maintain a register of similar information in the UK, is that third party.

730 New section 15C makes provision concerning fees that may be charged in relation to access to the register.

Subsection (1) provides that fees must be specified by the Treasury in an order subject to the negative Tynwald procedure.

735 Subsection (2) provides that such an order may not be made where access to the register or a certified copy of an entry on the register is provided by a third party under arrangements with the Chief Registrar. This is because where the register maintained by a third party it will be a matter for that party to determine the fees for accessing the register.

Subsection (3) provides that any fees levied must be applied to pay the expenses incurred in keeping the register and publishing the information recorded on it with any surplus being paid into the general revenue.

740 New section 15D provides that data protection legislation is not affected by new sections 15 to 15C.

New section 15E makes transitional provision to ensure no warrant debt is entered on the register unless the person has been notified they are liable to pay a sum of money and the warrant has been issued after the coming into operation of this section.

745 New section 15F restricts the entry of warrants on the register until the period during which a person may apply to the Chief Registrar to set aside the warrant has passed. The period of 14 days is specified in the legislation dealing retrospectively with income tax, social security and VAT matters. A warrant may still not be entered on the register until a further three days have elapsed. This is to allow for an application that may have been posted on the 14th day to be received. A
750 person may of course send their application in by email.

Subsection (2) provides that for a debt payable by virtue of a warrant to be entered on the register, the amount of the debt owed must be at least £1,000. These provisions show that even at the end of a lengthy process for the recovery of monies owed by a person as set out in law, there is a further opportunity for a person to make their case as to why they should not have their
755 name and details of the monies they owe entered on the public register of debts and debtors.

Eaghtyrane, it is possible that despite refusing to engage with the person to whom the debtor owes money, the courts or with the Government where the debt is owed to the Government, a debtor may decide to settle their debt once they see that their name and details of the debt owed have been placed on the public register. It is envisaged that the regulations to be made by the
760 Deemsters may provide that if a debt and any associated cost is fully paid off – in other words, settled – within a month of the date of default judgment, execution or warrant, it will be removed from the register within a short timeframe to be specified in those regulations.

However, if the person fails to settle their debt or debts and associated costs within that period, then that person's entry will remain on the register. If the debt is subsequently settled and
765 all associated costs paid, then the Registrar will record the relevant debt or debts as settled, but the entry concerning the settled debt or debts will remain on the register.

It is envisaged regulations will provide that entries will remain on the register for six years, as this would provide equivalence with UK practice. Accordingly, a person will have their debt, whether settled or not, removed from the register after six years. Of course, if the person persists
770 in running up fresh debts, then those further debts are eligible to be entered on the register on a rolling basis.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.
I beg to move that clause 4 stand part of the Bill.

775 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second.

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

Clause 5.

Mr Henderson: Gura mie eu, Eaghtyrane.

Clause 5 amends section 26, interpretation, of the 1981 Act to insert new definitions in respect
785 of 'data protection legislation', 'register', 'register regulations', 'warrant for payment' and substitutes an extended definition of 'execution'.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.
I beg to move.

790 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

The President: I put clause 5. Those in favour, say aye; against, no. The ayes have it. The ayes
795 have it.

Clause 6.

Mr Henderson: Gura mie eu, Eaghtyrane.

I propose to move clauses 6 and 7 together, please, if I could –
800

The President: Is that agreed?

Mr Henderson: – as they are both interconnected.

Members: Agreed.
805

Mr Henderson: Eaghtyrane, clause 6 introduces amendments to the Summary Jurisdiction Act 1989.

Clause 7 substitutes 101A, titled ‘Register of sums adjudged to be paid on conviction’, in order
810 to standardise the requirements in the fines register with the provisions being introduced in respect of the judgments register. The substitution introduces new sections 101B and 101C.

New section 101B makes provision for fees to be charged in respect of access to the register and new section 101C makes provision to the effect that nothing in sections 101A or 101B affects data protection legislation.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.

I beg to move clauses 6 and 7 stand part of the Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.
820

The President: I put clauses 6 and 7. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

825

Mr Henderson: Gura mie eu, Eaghtyrane.

Clause 8 amends the Income Tax Act 1970. Subsection (2) amends section 106 concerning the confidentiality of information by clarifying, in subsection (4)(f), that documents or information may be disclosed to the Judgments Officer, that is a person appointed under section 4 of the Administration of Justice Act 1981 to ensure the regular and efficient enforcement of execution orders throughout the Island, or a Coroner or Lockman for the purpose of enforcing the collection of income tax or national insurance contributions.
830

After subsection (5B) in the Act a new subsection (5C) is inserted to provide further assurance that the disclosure of information under clarified subsection (4)(f) does not contravene subsection (5A). Subsection (5A) makes the disclosure of information or documents for purposes other than those for which the information was provided an offence. However, the insertion made by this clause means disclosure is not an offence if the use or disclosure is for the purpose of the performance or discharge of any of the Judgment Officer’s, Coroner’s or Lockman’s functions under the Administration of Justice Act 1981, i.e. debt recovery.
835

Subsection (3) inserts a new section 106G into the Income Tax Act 1970 to empower the disclosure by the Assessor of Income Tax of information to the Chief Registrar for the purposes of the new sections 15 to 15F as substituted by clause 4, enabling the Chief Registrar to perform or discharge any of the functions ascribed to the Chief Registrar under the 1981 Act.
840

845 Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.
I beg to move clause 8.

The President: Mrs Lord-Brennan.

850 **Mrs Lord-Brennan:** I beg to second, Mr President.

The President: I put clause 8. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

855 **Mr Henderson:** Eaghtyrane, clause 9 amends the Customs and Excise Act 1986. Subsection (2) inserts new sections 174DA and 174DB.

Section 174DA enables information to be disclosed to the Chief Registrar by the Treasury, the Collector of an officer authorised in writing by the Treasury to be an officer of Customs and Excise for any purposes set out in sections 15 to 15F of the Administration of Justice Act 1981 concerning
860 the register or for the purpose of enabling and assisting the Chief Registrar in performing or discharging his or her functions under the Administration of Justice Act 1981.

Section 174DA(2) prohibits the Chief Registrar from using the information obtained under this information disclosure provision for any purpose other than those specified in section 174DA(1). This is the same as provided for in clause 8 in respect of the Income Tax Act 1970.

865 New section 174DB makes like provision in respect of a Judgments Officer, a Coroner or a Lockman.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.
I beg to move clause 9 stand part of the Bill.

870 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

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

Clause 10.

Mr Henderson: Gura mie eu, Eaghtyrane.

880 Clause 10 amends section 130 of the Equality Act 2017 to enable the Employment and Equality Tribunal to grant executions. In other words, to require payment to be made with respect to decisions involving the award of a sum of money under that section so they are enforceable as if they were orders of the High Court. This corrects a discrepancy with respect to the powers of that Tribunal. In other words, this amendment ensures that if someone fails to pay the sum of money awarded by the Tribunal they can be dealt with in exactly the same way as if they had failed to
885 pay a sum of money awarded by a court.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.
I beg to move clause 10.

The President: Mrs Lord-Brennan.

890

Mrs Lord-Brennan: I beg to second, Mr President.

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

Finally, clause 11.

Mr Henderson: Gura mie eu, Eaghtyrane.

Clause 11 amends the Schedule to the Social Security Administration Act 1992 (Application) Order 1994 to insert two new sections: 122DI and 122DJ to the Social Security Administration Act 1992 as it applies in the Island.

900 The new sections inserted do not alter existing information-sharing arrangements. They are intended to enable the Treasury to provide information to the Chief Registrar, a Judgments Officer, a Coroner or a Lockman for any purposes set out in sections 15 to 15F of the Administration of Justice Act 1981 concerning the register, or for the purpose of enabling and assisting the Chief Registrar in performing and discharging his or her functions under the
905 Administration of Justice Act 1981.

Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish.
I beg to move clause 11 stand part of the Bill.

The President: Mrs Lord-Brennan.

910

Mrs Lord-Brennan: I beg to second, Mr President.

The President: I put clause 11 to stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

915 That concludes clauses stage.

**Administration of Justice and Other Amendments Bill 2021 –
Standing Order 4.3(2) suspended to take Third Reading**

The President: Mr Henderson.

Mr Henderson: Eaghtyrane, gura mie eu.

920 I would respectfully like to ask colleagues in Council if I could be permitted to request the suspension of Standing Orders to the extent required so that we can take the Third Reading of this Bill, reasons being it has passed through its First and Second Readings, clauses stages just now, it has received a diligent examination, little opposition and given the timescales involved with trying to get this for Royal Assent, I would respectfully ask if Council could allow me the privilege.

925 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

The President: I put to Council that Standing Orders be suspended to allow Third Reading. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

930

**Administration of Justice and Other Amendments Bill 2021 –
Third Reading approved; Bill passed**

The President: Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

935 I am grateful to you and Council Members for allowing forbearance in this matter and for progression to Third Reading.

This Bill provides, in modern terms, for the maintenance of a more publicly accessible register of debts and debtors. This is the first phase of a three-phase project to overhaul the debt recovery process to deliver improvements. Eaghtyrane, I am grateful to all Hon. Members for their comments and for their support, and in particular to Mrs Poole-Wilson for her sharp assessments of clause 10 in this matter, appertaining to the Equality Bill, and beg to move:

That the Administration of Justice and Other Amendments Bill be read for a third time.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

945 **The President:** I put the motion that the Bill be read for the third time –

Mr Henderson: Eaghtyrane, I would just like, if I could be permitted a comment before we go to voting in closing –

950 **The President:** By all means.

Mr Henderson: Thank you, Eaghtyrane.

In closing, I would just like to thank my seconder, Hon. Member, Mrs Lord-Brennan, for her help and assistance, which is appreciated. I would also like to thank Tom Bateman, our Treasury policy and legislation officer, for all his help and his extreme patience with my incessant enquiries as we progressed this piece of legislation and for his help and assistance in moving this Bill through the various stages. I would like also to thank Theresa Graves from the AGC's for her invaluable input and its construction.

960 However, Eaghtyrane, of special note, I must put on record why this Bill is here, albeit as a Phase 1 of three. Tribute has to be paid to our former Member, and my colleague, of the House of Keys, Mr John Houghton, whose Private Member's Bill passed in the Keys etc., which this current restructured version is based upon. Mr Houghton brought the original legislation to try and assist in debt recovery following various constituency issues he was facing at that time and soon discovered that legislation required modernising and updating. I am grateful to my former colleague for having the temerity and patience in doing so in his pursuit in helping others.

965 Eaghtyrane, I beg to move.

The President: Mrs Lord-Brennan.

970 **Mrs Lord-Brennan:** I beg to second, Mr President.

The President: Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

975 It is just a quick query, if I may, Mr Henderson. It is just regarding section 8(3). After section 106F, the disclosure of information between the Assessor and the Department of Education, Sport and Culture, and then inserting of that subsection. I just wondered if perhaps you might provide a little bit more information in relation to the necessity for it.

980 **Mr Henderson:** Eaghtyrane, could I ask the Hon. Member to repeat the question, please?

Miss August-Hanson: Of course, yes. So section 8(3). It is just in relation to the amendments made to the Income Tax Act 1970. I just wondered what the necessity or where the necessity for

985 that particular insertion regarding the disclosure of information between the Assessor and the Department of Education, Sport and Culture actually came from; that is all.

The President: Mr Henderson.

990 **Miss August-Hanson:** Oh, it is after it. Right, okay. No, I do apologise. I am so sorry; I have completely misunderstood what I was reading. So I apologise.

Mr Henderson: Ah, so you do not –

995 **Miss August-Hanson:** No, not at all. No, that is fine. I am sorry, Mr Henderson, I do apologise.

Mr Henderson: I thought that section –

1000 **The President:** Any other Member wish to speak?
Mr Henderson, you have the last word.

Mr Henderson: Gura mie eu, Eaghtyrane.
I just hope that Hon. Members can support the Third Reading.
Gura mie eu, Eaghtyrane.

1005 **The President:** I put to Council that the Bill be read for the third time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3. Housing (Miscellaneous Provisions) (Amendment) Bill 2021 – Second Reading approved

Mrs Poole-Wilson to move:

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

The President: We turn now to the Housing (Miscellaneous Provisions) (Amendment) Bill for Second Reading. I call on the mover, Mrs Poole-Wilson.

1010 **Mrs Poole-Wilson:** Thank you, Mr President.

Hon. Members will recall that I took the opportunity at First Reading to explain the purpose of the Bill, what it contains and also what it does not contain, and the reasons for this. Thus at Second Reading I will limit my remarks to a reminder of the core principle behind the Bill, namely, to address a gap in current legislative provision by introducing 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.

1015 To remind Hon. Members, the Bill does this by adding a new process within the Housing (Miscellaneous Provisions) Act 2011, whilst retaining and redesignating the current fault-based legal route to seeking a management order. The current process will be renamed a ‘general management order’, while the new management order process 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.

1020 As outlined at First Reading, this, Hon. Members, is a bite-sized Bill that seeks to address a specific issue. It is accepted that there is much work still to be done in the area of leasehold

1025

reform. However, Mr Hooper, Hon. Member for Ramsey and the mover of this Private Member's Bill in the House of Keys, considered it better to proceed in a bite-sized way whilst recognising that further legislative reform in this area should be brought forward in the future.

1030 Mr President, I beg to move that the Housing (Miscellaneous Provisions) (Amendment) Bill 2021 be read for a second time.

The President: Mrs Lord-Brennan.

1035 **Mrs Lord-Brennan:** I beg to second, Mr President.

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

Housing (Miscellaneous Provisions) (Amendment) Bill 2021 – Clauses considered

The President: Clause 1.

1040 **Mrs Poole-Wilson:** Thank you, Mr President.
With your permission, I would like to move clauses 1 and 2 together.

The President: Is that agreed?

1045 **Members:** Agreed.

Mrs Poole-Wilson: Thank you, Mr President.

Clause 1 outlines the short title of the Bill.

1050 Clause 2 is the commencement provision and sets out that the Bill will come into operation on such day or days as the Department of Infrastructure may by order appoint and provides that any such order can contain consequential, incidental, supplemental, transitional and transitory provisions.

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

1055 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

1060 **The President:** I put clauses 1 and 2. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

Mrs Poole-Wilson: Thank you, Mr President.

1065 Clause 3 provides that the following clauses in the Bill amend the Housing (Miscellaneous Provisions) Act 2011, which is referred to in the rest of the Bill as the '2011 Act'.

I beg to move clause 3 stands part of the Bill.

The President: Mrs Lord-Brennan.

1070 **Mrs Lord-Brennan:** I beg to second, Mr President.

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

Clause 4.

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Mrs Poole-Wilson: Thank you, Mr President.

Clause 4 amends section 16 of the 2011 Act by inserting definitions of terms that are used in the Bill. The terms are: 'a qualifying tenant', which is defined by reference to the existing definition in section 25 of the 2011 Act; 'RTM company', which is defined in section 20A of the 2011 Act and which this Bill inserts at clause 9; 'relevant premises', which is defined as the block of flats or other composite premises consisting of multiple residential units to which a management application relates; 'relevant RTM company', which is defined as a company that meets the following criteria: (a) the membership of which includes at least two qualifying tenants of the premises or of any premises containing or contained in those premises in respect of which the RTM company makes a specific management application; (b) in relation to premises containing, or in which is contained, the premises of which the qualifying tenants referred to in paragraph (a) are tenants; and (c) which is not already the subject of a management order granted in respect of any premises.

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There is also a reference to section 20A(2), which has additional stipulations, and a further definition, 'specific management application', which is referred to a number of times in the Bill and is defined in section 17(1)(b) of the 2011 Act, as amended by clause 5 of this Bill.

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Mr President, I beg to move that clause 4 stands part of the Bill.

The President: Mrs Lord-Brennan.

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Mrs Lord-Brennan: I beg to second, Mr President.

The President: I put clause 4 to stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

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Mrs Lord-Brennan: Thank you, Mr President.

Clause 5, as just mentioned, amends section 17 of the 2011 Act. This is the section of the 2011 Act titled 'Tenant's right to apply to Commissioners for appointment of manager', which sets out the first part of the requirements for making a management application.

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Clause 5 retains and redesignates the existing management order application route as a general management order and retains the existing provisions under this new designation. This is the existing route whereby a tenant must prove a landlord is in some way in breach of their obligations under the lease.

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Clause 5 also establishes the new no-fault route being introduced by this Bill, namely that an RTM company may apply for a specific management application. This clause goes on to differentiate between the two types of order by providing that under a general management application the application must not include a request to appoint a specified person and that if they decide to grant a general management order, the Commissioners have discretion in who to appoint as the manager. However, in the case of a specific management application, the Commissioners must appoint the RTM company as the manager.

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Mr President, I beg to move clause 5 stands part of the Bill.

The President: Mrs Lord-Brennan.

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Mrs Lord-Brennan: I beg to second, Mr President.

The President: I put clause 5. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

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Mrs Poole-Wilson: Thank you, Mr President.

Clause 6 amends section 18 of the 2011 Act, which sets out the notice that is required to be given before a management application is made. Clause 6 simply adds in that these notice requirements also apply to a specific management order.

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I beg to move that clause 6 stands part of the Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

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The President: I put clause 6. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

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Mrs Poole-Wilson: Thank you, Mr President.

Clause 7 amends section 19 of the 2011 Act, which sets out the preconditions for a management application to specify that it refers only to a general management application, as the preconditions for a specific management application are inserted later by this Bill via clause 9, which inserts new sections 20A to 20G to the 2011 Act.

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Mr President, I beg to move that clause 7 stands part of the Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

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

Clause 8.

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Mrs Poole-Wilson: Thank you, Mr President.

Clause 8 replaces section 20 of the 2011 Act with a new section.

Section 20 of the 2011 Act is the section that sets out how management orders are made following a management application. Clause 8 retains the existing processes required for the now redesignated general management order and makes clear that a general management order can only be made where there has been an actual or apprehended failure to discharge management obligations.

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Mr President, I beg to move that clause 8 stands part of the Bill.

The President: Mrs Lord-Brennan.

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Mrs Lord-Brennan: I beg to second, Mr President.

The President: I put clause 8. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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Clause 9.

Mrs Poole-Wilson: Thank you, Mr President.

Clause 9 inserts new sections into the 2011 Act, being sections 20A to 20G, to address the details of an RTM company, to introduce the specific management application procedure, the effect of an order being granted under these sections and how such orders may be discharged.

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Mr President, this is the substantive part of the Bill and introduces a number of new sections into the 2011 Act. Thus, I will provide an overview of each of these new sections.

1180 Section 20A defines 'RTM company' as a private company limited by guarantee and incorporated in the Island, where its articles state that one of its objectives is the acquisition and exercise of the right to manage premises. Only one RTM company can exist in relation to a premises and an RTM company cannot also hold the freehold of any premises. This section finally clarifies that the abbreviation 'RTM' refers to 'right to manage'.

1185 Section 20B sets out who is entitled to be a member of the RTM company, being qualifying tenants of flats in the premises, and the landlord or landlords under any of the long leases. This section also states that the Department of Infrastructure may make regulations about the content and form of articles of association of RTM companies, which would require Tynwald approval. This section outlines that the regulations can contain optional and mandatory provisions for RTM company articles. An amendment was made to new section 20B in the House of Keys to clarify that each qualifying tenant only has one vote in matters pertaining to the company.

1190 Section 20C makes further provision regarding preconditions for a specific management application. Specifically, it requires that where there are only two qualifying tenants in a premises, they must both be members of the RTM company, otherwise membership of the RTM company must include a number of qualifying tenants at least equal to one half of the total number of flats in the premises, and in either case the total number of flats held by qualifying tenants must be not less than two-thirds of the total number of flats contained in the premises. Again, a helpful clarifying amendment was made to this section in the House of Keys.

1195 As I mentioned at First Reading, this section also includes a safeguard that the premises must be more than 50% residential, thus, for premises where more than half of the internal floor area is non-residential, 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.

1200 Section 20D sets out that prior to a specific management application being made a notice inviting participation in the RTM company must be sent to all qualifying tenants, inviting them to take up their membership of the RTM company. This section sets out what must be contained in this notice and enables further particulars to be prescribed by regulations which must have Tynwald approval.

1205 Section 20E sets out that prior to a specific management application being made, the RTM company must serve a notice on the landlord and anyone else with any management responsibilities under the leases. Any additional details to go in the notice may be prescribed by regulation, subject to Tynwald approval. This section requires that the notice cannot be given to the landlord until 14 days after notices inviting participation have been sent to all qualifying tenants. It also allows the Commissioners to waive these notice requirements if it would not be reasonably practicable to serve the notices.

1210 Section 20F sets out the steps the Commissioners must take on receipt of a specific management application. Where they are satisfied that the RTM company has followed all the correct procedural steps, they must issue a management order appointing the RTM company to carry out management functions in connection with the premises. The remaining parts of this section mirror the effects of a general management order as are already set out in the 2011 Act.

1215 Section 20G sets out that a management order may be varied or discharged by the Commissioners on the application of any interested person. The Commissioners may also impose conditions on the variation or discharge of the order. The Commissioners may only vary or discharge the order if the RTM company is: in breach of any obligation owed under the leases or unreasonable service charges are made, or are proposed or likely to be made; where no service charges are made, or are proposed or likely to be made; or if there has been a failure to comply with a duty imposed by, or by virtue of, section 11 of the Property Service Charges Act; or if the state of repair of the premises or their management is likely to improve if this order was made,

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varied or discharged; or finally, it is just inconvenient in all the circumstances of the case to vary or discharge the management order.

1230 Mr President, I beg to move that clause 9 stands part of the Bill.

The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

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The President: I put clause 9 to stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

1240 **Mrs Poole-Wilson:** Thank you, Mr President.

Clause 10 inserts a new cross-heading, 'Miscellaneous provisions relating to all management orders', above section 21 of the 2011 Act.

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

1245 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

1250 **The President:** I put clause 10. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Finally, clause 11.

Mrs Poole-Wilson: Thank you, Mr President.

1255 Clause 11 repeals section 22 of the 2011 Act, which is in relation to the form and particulars of any notices required under that Act, and it replaces it with almost exactly the same clause, the only change being the new wording expressly states that this should be done by way of regulations which will require Tynwald approval.

I beg to move that clause 11 stands part of the Bill.

1260 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: I beg to second, Mr President.

1265 **The President:** I put clause 11. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

That concludes the clauses stage; thank you, Hon. Members. And it concludes the business on our Order Paper this morning. Council will therefore stand adjourned until the next sitting, which will take place on 29th June, 10.30, in this Chamber.

The Council adjourned at 11.56 a.m.