



# TYNWALD COURT OFFICIAL REPORT

RECORTYS OIKOIL  
QUAIYL TINVAAL

## PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 19th October 2021**

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**Volume 139, No. 2**

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**Present:**

The President of Tynwald (Hon. L D Skelly)

*In the Council:*

The Attorney General (Mr J L M Quinn QC),  
Miss T M August-Hanson, Mr P Greenhill, Mr R W Henderson,  
Mrs M M Maska, Mr R J Mercer, Mrs K Sharpe  
with Ms J Corkish, Deputy Clerk of Tynwald.

*In the Keys:*

The Speaker (Hon. J P Watterson) (Rushen);  
The Chief Minister (Hon. A L Cannan) (Ayre and Michael);  
Mr J R Moorhouse and Mr T S Glover (Arbory, Castletown and Malew);  
Mr T D Johnston (Ayre and Michael);  
Mrs C A Corlett and Mr C C Thomas (Douglas Central);  
Ms J L Faragher and Hon C L Barber (Douglas East);  
Hon D J Ashford MBE and Mr J C Wannenburg (Douglas North);  
Mrs S L Maltby and Mrs C S B Christian (Douglas South);  
Mrs D H P Caine and Mr A J Smith (Garff);  
Hon K A Lord-Brennan and Hon T M Crookall (Glenfaba and Peel);  
Hon J P Poole-Wilson and Mr S G Peters (Middle);  
Mr R E Callister and Hon J M Edge (Onchan);  
Hon L L Hooper and Hon A J Allinson (Ramsey);  
Dr M E K Haywood (Rushen)  
with Mr J D C King, Clerk of Tynwald.

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# Tynwald

*The Court met at 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

**The Deputy Clerk:** Hon. Members, please be upstanding for the President of Tynwald.

**The President:** Moghrey mie, Olteynyn Onnoroil.

5 **Members:** Moghrey mie, Eaghtyrane.

## PRAYERS

*[The Lord Bishop]*

**The President:** I call on the Bishop to lead us in prayer.

## Welcome to His Excellency the Lieutenant Governor

**The President:** Please be seated.

Hon. Members, it is my pleasure to wish a warm welcome to His Excellency our Lieutenant Governor, to the proceedings this morning.

10

**Members:** Hear, hear.

# Order of the Day

## 1. Papers laid before the Court – Correction Notice

*Items subject to motion that have had six weeks on the Register of Business:*

15 **The President:** We turn to Item 1 and I would like to advise the Court of an error in the list of laid papers. The Indirect Taxes (Disclosure of Avoidance Schemes) Regulations 2021 are listed as a 'document subject to no procedure'. I was advised last week by Customs and Excise that these Regulations are in fact subject to negative resolution. I have accepted a Correction Notice which now makes this clear.

I call on the Clerk to lay papers.

**The Clerk:** Gura mie eu, Eaghtyrane.

Ta mee cur roish y Whaiyl ny pabyryn enmyssit ayns ayn nane jeh'n Chlaare Obbyr.

20 Thank you, Mr President, I lay before the Court the Paper listed at Item 1 of the Order Paper.

Customs and Excise Management Act 1986

Customs and Excise Management Act 1986 (Amendment) (No. 2) Order 2021  
[\[SD 2021/0211\]](#) [\[MEMO\]](#)

Customs and Excise Acts 1993

Customs and Excise (Disclosure of Tax Avoidance Schemes) (Application) Order 2021  
[\[SD 2021/0220\]](#) [\[MEMO\]](#)

Customs and Excise Acts (Application) (Amendment) (No. 2) Order 2021 [\[SD 2021/0253\]](#)  
[\[MEMO\]](#)

Value Added Tax Act 1996

Value Added Tax Act 1996 (Amendment) Order 2021 [\[SD 2021/0239\]](#) [\[MEMO\]](#)

Value Added Tax Act 1996 (Amendment) (No. 2) Regulations 2021 [\[SD 2021/0261\]](#) [\[MEMO\]](#)

European Union and Trade Act 2019

Customs Safety and Security Procedures Regulations 2021 [\[SD 2021/0243\]](#) [\[MEMO\]](#)

Burma and Misappropriation Sanctions (Revocation) (No.2) Regulations 2021  
[\[SD 2021/0280\]](#) [\[MEMO\]](#)

Social Security Act 2000

Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 8)  
Order 2021 [\[SD 2021/0255\]](#) [\[MEMO\]](#)

*Items subject to motion that have not had six weeks on the Register of Business:*

Gas Regulation Act 1995

Gas (Tariff Fixing) (Amendment) Regulations 2021 [\[SD 2021/0302\]](#) [\[MEMO\]](#)

*Items not subject to motion that have had six weeks on the Register of Business:*

*Documents subject to negative resolution*

Taxation (Cross-border Trade) Act 2018

Value Added Tax (Miscellaneous Amendments) Regulations 2021 [\[SD 2021/0252\]](#) [\[MEMO\]](#)

Customs (Miscellaneous Amendments) (No. 2) Regulations 2021 [\[SD 2021/0260\]](#) [\[MEMO\]](#)

Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons)  
Regulations 2021 [\[SD 2021/0258\]](#) [\[MEMO\]](#)

Value Added Tax Act 1996

Value Added Tax Act 1996 (Reduced Rate) (Amendment) (No. 2) Order 2021 [\[SD 2021/0250\]](#)  
[\[MEMO\]](#)

Value Added Tax (Flat Rate Scheme) Regulations 2021 [\[SD 2021/0265\]](#) [\[MEMO\]](#)

Value Added Tax Act 1996 and Taxation Cross-border Trade Act 2018

Fulfilment Business (Miscellaneous Amendments and Transitional Provisions) Regulations  
2021 [\[SD 2021/0225\]](#) [\[MEMO\]](#)

*Documents subject to no procedure*

Council of Ministers Act 1990

Assignment of Ministers Instrument 2021 [[GC 2021/0085](#)]

Harbours Act 2010

Port Erin Harbour Temporary Designation Order 2021 [[SD 2021/0251](#)] [[MEMO](#)]

Finance Act (No. 2) Act 2017

Indirect Taxes (Disclosure of Avoidance Schemes) Regulations 2021 [[SD 2021/0221](#)]  
[[MEMO](#)]

Finance Act 2017

Indirect Taxes (Notifiable Arrangements) Regulations 2021 [[SD 2021/0222](#)] [[MEMO](#)]

Air Navigation (Isle of Man) Order 2015

Air Navigation (Restriction of Flying) (Flying Display - Red Arrows) Regulations 2021  
[[SD 2021/0270](#)] [[MEMO](#)]

Local Elections Act 1986

Ballaugh Parish Commissioners (Temporary Appointment) Order 2021 [[SD 2021/0271](#)]  
[[MEMO](#)]

Covid-19 Salary Support Scheme

Notice by Treasury - Covid 19 Salary Support Scheme [[GC 2021/0090](#)]

*Appointed Day Orders*

Church Property Measure (Isle of Man) 2021

Church Property Measure (Isle of Man) 2021 (Appointed Day) Order 2021 [[SD 2021/0287](#)]

Companies (Amendment) Act 2021

Companies (Amendment) Act 2021 (Appointed Day) Order 2021 [[SD 2021/0242](#)]

Beneficial Ownership (Amendment) Act 2021

Beneficial Ownership (Amendment) Act 2021 (Appointed Day) Order 2021 [[SD 2021/0241](#)]

Insurance (Amendment) Act 2017

Insurance (Amendment) Act 2017 (Appointed Day) (No. 4) Order 2021 [[SD 2021/0272](#)]

*Reports*

Safeguarding Board Isle of Man Annual Report 2020-2021 [[GD No 2021/0054](#)]

Standing Committee of Tynwald on Public Accounts Fourth Report for the Session 2020-21: Media Development Fund [[PP 2021/0170](#)]

Standing Committee of Tynwald on Public Accounts Fifth Report 2020-21: Evidence of Dr Rosalind Ranson [[PP 2021/0171](#)]

Environment and Infrastructure Policy Review Committee Fourth Report 2020-21: End of Term 2016-21 [[PP 2021/0172](#)]

Isle of Man National Transport Limited Report and Financial Statements for the year ended 31st March 2021 [[GD 2021/0074](#)]

Isle of Man Limited Report and Financial Statements for the year ended 31st March 2021 [[GD 2021/0075](#)]

Isle of Man Government Audited Accounts 2020-21 [[GD 2021/0076](#)]

Manx Industrial Relations Service Annual Report for the year April 2020 to March 2021 [[GD 2021/0332](#)]

Isle of Man Post Office Report and Financial Statements for the period ended 28th March 2021 [[GD 2021/0079](#)]

*Items not subject to motion that have not had six weeks on the Register of Business:*

*Documents subject to no procedure*

Agricultural Marketing (No. 2) Act 1948  
Milk Prices Order 2021 [[SD 2021/0266](#)] [[MEMO](#)]

## Questions for Oral Answer

### Questions 1, 3, 4 and 5 to Written Answers

**The President:** We now move to Item 2, Oral Questions, and I need to advise the Court that Mr Hooper's Oral Questions have been converted to Written Questions.

### JUSTICE AND HOME AFFAIRS

#### 2. Domestic Abuse, Sexual Offences and Obscene Publications, and Justice Reform Acts – Appointed Day Orders to bring into effect

The Hon. Member for Douglas Central (Mrs Corlett) to ask the Minister for Justice and Home Affairs:

*When Appointed Day Orders will be made bringing into effect the provisions of the Domestic Abuse Act 2020, the Sexual Offences and Obscene Publications Act 2021, and the Justice Reform Act 2021?*

**The President:** That leaves Question 2 and I call on the Hon. Member for Douglas Central, Mrs Corlett to ask her Question.

**Mrs Corlett:** Thank you, Mr President.

I would like to ask the Minister for Justice and Home Affairs when Appointed Day Orders will be made bringing into effect the provisions of the Domestic Abuse Act 2020, the Sexual Offences and Obscene Publications Act 2021, and the Justice Reform Act 2021?

30

**The President:** I call on the Minister for Justice and Home Affairs to reply.

**The Minister for Justice and Home Affairs (Mrs Poole-Wilson):** Thank you, Mr President, and I would like to thank the Hon. Member for her Question.

35

The Department has been working to formulate implementation plans that will support the enactment of these important pieces of reforming legislation. At this time, the Department does not have agreed timescales for the Appointed Day Orders for these significant pieces of new primary legislation. Each Act requires substantial amounts of secondary legislation and guidance to enable implementation. Detailed engagement is also required with the agencies responsible for areas of operational delivery and each Act requires input and preparation mainly from the same groups of stakeholders, namely: the Constabulary, the General Registry and courts, the Prosecution, and Manx Care.

40

In respect of the Justice Reform and Sexual Offences and Obscene Publications Acts, both of which received Royal Assent in July 2021, cross-agency working groups comprising key stakeholders from within the criminal justice system are being formed. It is my intention that the Criminal Justice Board will consider and make recommendations regarding prioritisation and effective implementation.

45

In relation to the Domestic Abuse Act, this is new legislation, bringing new offences and procedural changes to the existing legal landscape. Those Hon. Members who were Members of this Court during the passage of that Act may recall the in-depth discussion in the Branches regarding the importance of development of guidance, which is provided for under the Act, the need for training and a multiagency approach to ensure all elements are in place to support the switching on of the Act's provisions. To assist with this work, a project co-ordinator role is being advertised to support and progress implementation.

50

Mr President, careful planning is clearly required and project plans are actively under development by the Department. In the same way that the Equality Act 2017 was a large piece of social legislation implemented in a phased and managed way, these are significant pieces of reforming legislation and clear implementation plans are required to deliver effective implementation of the legislation in practice. I am currently working with officers to go through these plans, and I intend to publish these plans in due course to give a clear indication of timescales.

55

Thank you, Mr President.

**The President:** Mrs Corlett, supplementary.

65

**Mrs Corlett:** Thank you, Mr President; and I thank the Minister for her *positive* Answer.

What I would say is that the Domestic Abuse Act is a 2020 Act, and we are fast approaching 2022. Would the Minister agree that actually if abuse is not defined as an offence, we will never get the support services in place to help victims or to bring perpetrators to justice?

70

Would the Minister also agree that we are not serving victims of abuse well at the moment? We will not tackle abuse by not prosecuting abusers, and we cannot prosecute if it is not a crime.

Lastly, would the Minister assure us that that is her priority, to ensure that her Department is properly resourced to work up regulations, guidance and training that is required to move these hugely important pieces of legislation into law?

75

**A Member:** Hear, hear.

**The President:** Minister to reply.

**The Minister:** Thank you, Mr President; and thank you for the supplementary question.

80 I think I do agree with the Hon. Member that the Domestic Abuse Act, in particular, as well as  
the other pieces of legislation are significant and do now require a focus on implementation. In  
my initial Answer, I referenced the recruitment of a project co-ordinator, because it is recognised  
that the legislation in and of itself is not enough without the supporting guidance, without all of  
the new supporting procedures around Orders and Notices under that Act. It is very important  
85 now that there is a focus on this, but that there is resource through this project co-ordinator role  
to bring together the different agencies involved and all of the work involved to make sure that  
we can bring this Act into force.

I would just like to reiterate it is my intention, once I have seen the project implementation  
plans, to publish those in order that everybody is aware of the proposed timetable.

90 Thank you, Mr President.

**The President:** Mr Thomas, a supplementary.

**Mr Thomas:** Thank you, Mr President.

95 I congratulate the Minister of Home Affairs and Justice on that excellent presentation of an  
excellent approach to dealing with primary, secondary legislation and policies and procedures.

Would the Minister recommend that to all new Ministers for all of their areas of responsibility?  
(Laughter)

100 **The President:** The Minister to reply.

**The Minister:** I would like to thank the Hon. Member for his question!

I am sure that the approach that will be adopted, starting with an Island Plan and looking at  
how we co-ordinate and plan out, and are open and transparent around timescales and  
105 implementation, is one that I am sure many of us would like to see taken forward.

**The President:** Right, Hon. Members, please feel free to remove jackets.

### **3. Chief Executive Officers of public bodies – Introducing performance-related targets and payment – Amended motion carried**

*Extract from July 2021 Tynwald Votes and Proceedings -*

*“Motion made –*

*That Tynwald is of the opinion that in future the terms of employment of the Chief Executive  
Officer or equivalent of every Government Department, Board and Office, whether recruited  
externally or internally, should include annual performance-related targets; and that the pay  
structure for such officers should be reviewed to include a performance-related element; and  
that the Council of Ministers should report on the review by December 2022.*

*Ms Edge*

*Amendment moved (but not seconded) –*

*To leave out all the words after “performance-related element;” and to add the words: “and  
calls on the Council of Ministers to include this workstream in a new Programme for  
Government by January 2022.”*

*Mr Harmer”*

**The President:** Now, Hon. Members, we have on our Order Paper five Items postponed from July 2021 under Standing Order 2(11).

110 The first of these is Item 3. During the July sitting, this motion was moved by Ms Edge and was seconded by Mr Thomas. An amendment was moved by Mr Harmer and the Court then ran out of time. Hon. Members, in formal terms this is the equivalent of resuming an adjourned debate. In principle, therefore, Ms Edge, is not entitled to repeat her opening speech. In practice, however, given the number of new Members who were not present at her opening speech last time, I will  
115 allow her to make a brief contribution at the beginning of the resumed debate, should she wish to do so.

As Mr Harmer is no longer a Member of this Hon. Court, his amendment cannot stand before the Court in his name. An amendment in the same terms could be moved by another Member.

I now call on Ms Edge.

120

**The Minister for Education, Sport and Culture (Ms Edge):** Thank you, Mr President, and thank you for allowing me to make a short statement.

I stand here today and first and foremost I must actually thank the constituents of Onchan for giving me the opportunity to be able to continue with this motion, which is such an important  
125 motion for everybody in this room. Certainly throughout most people's campaigns, I have kept a close watch on people's concerns with regard to the motion on the Order Paper.

I do not wish to repeat all of my statement from the previous sitting. I hope that the new Hon. Members have had the opportunity to look at the debate and look at *Hansard* to see what the real concerns are. I think it is really important today that if we vote this motion through that it  
130 gives us all an opportunity to make sure that we can have, within the Island Plan, the right way forward on how we will hold officers to account.

I do not need to go over any of the concerns that were in the previous House. I think the Island Plan is going to be key to make sure that we all have the opportunity of a way forward to look at performance-related pay and other areas within officers that we all have to work with, they all  
135 work really hard, but the public do wish to see some form of accountability, that this Government, which will be transparent, shows to the people of the Isle of Man that we are looking ahead, we are looking forward and that the Island Plan will have this in. I really welcome the amendment from the new Minister for the Cabinet Office bringing that forward.

Thank you, Mr President. I beg to move my motion.

140

**The President:** Yes. This is resumed debate, there is no need for this to be seconded.

I have next up the Hon. Member for Glenfaba and Peel, Ms Lord-Brennan.

**The Minister for the Cabinet Office (Ms Lord-Brennan):** Thank you, Mr President, and I thank  
145 the Hon. Member for bringing this motion and consideration of it again at this time.

I agree it is absolutely about performance and accountability, and this clearly relates to delivery of Government services for the people of this Island. Therefore it could also involve connected work or changes in oversight and promotion of performance and accountability. This is an area that more broadly I intend to engage in addressing with the Public Services Commission via the  
150 Cabinet Office.

I agree that it is right that Government considers this matter and reports back to this Hon. Court and have circulated a small amendment to the Hon. Member's motion to suggest that this work is captured and built into the Island Plan which will come before this Court and which Members will have full engagement over.

155 The intention of the amendment is to make consideration of the pay structure of chief executive officers, or equivalent, of every Government Department, Board and Office to include a performance-related element as a workstream within the Island Plan and to report this back by January 2022. It will require work as the consequences, both intended and unintended, are identified and considered.

160 Thank you, Mr President, and I beg leave to move this amendment circulated in my name:

*To leave out all the words after ‘performance-related element;’ and to add the words: ‘and calls on the Council of Ministers to include this workstream in the Island Plan by January 2022.’*

**The President:** I call upon the Hon. Member for Ayre and Michael, Mr Cannan.

**The Chief Minister (Mr Cannan):** I beg to second.

165

**The President:** Now, Hon. Members, we come to voting on Item 3, the motion as set out on the Order Paper, and to that motion you have an amendment in the name of Ms Lord-Brennan. I put first the amendment. All those in favour, please say aye; all those against, please say no. The ayes have it. The ayes have it.

170

Having dealt with the amendment, I now put the motion as amended. All those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it. The motion, as amended, is therefore carried.

#### **4-5. Library provision; Registration of Unoccupied Urban Sites – Not moved**

The Hon. Member for Douglas Central (Mr Thomas) to move:

*4. That Tynwald is of the opinion that:*

*(a) The future for Island library services lies in increased co-operation, which the current piecemeal funding arrangements will not support; the detailed investigation into public library services specified in the Tynwald resolution of July 2018 should be laid for consideration no later than July 2022; and*

*(b) The Family Library Limited is a much valued part of the Island’s library provision; it should be sustained through public co-funding of an inflation-indexed £125,000 per year from bona vacantia funds or otherwise.*

*[[PP No 2018/0046](#)] and [[GD No 2018/0033](#)] are relevant to this Item.*

The Hon. Member for Douglas Central (Mr Thomas) to move:

*5. That Tynwald:*

*(a) receives the Report for Un-occupied Urban Sites Register: East, dated November 2020 [[NN No 2021/0012](#)], including the annexed register and map;*

*(b) approves the Un-occupied Urban Site (i) Definition (section 2, page 7) and (ii) Assessment Criteria (section 3, page 8) in it;*

*(c) calls on Cabinet Office to call for sites for inclusion in the Register; and*

*(d) requires the Cabinet Office to review, update and republish the Un-occupied Urban Sites Register by January 2022.*

**The President:** Items 4 and 5 have been removed.

**6. Tynwald Members' enquiries –  
Guidance and recommendations for Departments, Boards and Offices –  
Amended motion carried**

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to move:

*That Tynwald is of the opinion that responses to Tynwald Members' enquiries to Government Departments, Boards and Offices should be timely and appropriate; the Government should produce guidance for officers on the time limits for an initial response and substantive answers; there should be a clear mechanism in place to allow a review of the adequacy of the response; and that the Council of Ministers should report to Tynwald in October on provision of such guidance and recommendations for implementation.*

175 **The President:** We now move to Item 6, Tynwald Members' enquiries, and I call on Mr Moorhouse.

**Mr Moorhouse:** Thank you, Mr President.

Item 6 on the Order Paper has the potential to make our life easier and far less stressful. I would like to thank Mr Glover for already tabling an amendment to alter the date.

180 This motion must not be seen as being confrontational in any way. It is a change that will benefit us all. The proposed changes have the potential to ensure responses will arrive within a specified time period and contain sufficient detail. Currently a framework is in place and I have shared this with Members in earlier days, but I would like to see a process that is fully adhered to; a reduced response time for Tynwald Members, ideally within 10 working days of an enquiry being received. And finally, a simple and clear mechanism introduced to ensure that where responses are not received by the recommended date, a swift, automated action can be taken by the Department's or Board's CEOs or others. A clear route needs to be identified.

185 Importantly, this motion has the potential to reduce the need for Members to formally submit Oral and Written Questions. The two reasons behind this motion are (1) that despite there being an explanation and expectation that answers will be received within a certain timeframe, that applies to all correspondence with the Isle of Man Government, set out in section 4 of the Isle of Man Government handling correspondence guidelines. In some areas, this is not happening. This creates unnecessary tension and delays. During the last Parliament, there were occasions when substantive answers or even acknowledgement of simple enquiries were not received by several Members. This situation can inevitably cause frustration and lead to inadequate responses to constituents and others.

190 Secondly, I submitted a Written Question to the former Chief Minister on Tuesday, 29th June 2021 which relates to this matter. The response was clear, but disappointing. The Answer was simply a restatement of section 4 of the Isle of Man Government handling correspondence guidelines, which hopefully you have all had a chance to see. Again, this document simply outlines the minimum standards for handling all correspondence at this moment in time. There is nothing in place beyond the goodwill of officers to ensure fast responses are received. Hopefully this simple motion will receive your support so that more effective dialogue can take place with all stakeholders.

205 Thank you, Mr President.

**The President:** I call on the Hon. Member of Council, Mrs Sharpe.

210 **Mrs Sharpe:** Thank you, Mr President. I beg to second.

**The President:** I call on the Hon. Member for Arbory, Castletown and Malew, Mr Glover.

**Mr Glover:** Mr President, just to make the technical change. I put an amendment around on the business page and circulated to Members, and it is to leave out the words 'should report to Tynwald in October' – clearly that cannot happen – 'and add in their place 'should publish by the last day of February 2022 a report to Tynwald'.', which I beg to move:

*To leave out the words 'should report to Tynwald in October' and add in their place 'should publish by the last day of February 2022 a report to Tynwald'.*

**The President:** I call on the Hon. Member of Council, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane. I beg to second, sir.

**The President:** I call on the Hon. Member for Douglas Central, Mr Thomas.

**Mr Thomas:** Thank you, Mr President.

Just a simple question for the mover, please, which is that does the Hon. Member accept that the guidance in respect of being timely and appropriate could recognise that there are different types of Members' question? So for instance, one difference might be that there is a difference between a public policy question and a question merely following up an administrative or professional decision made by a Department on behalf of a constituent?

**The President:** Yes, I call on Loayreyder.

**The Speaker:** Just a quick question as well. The Hon. Member in his opening statement said that this should reduce the need for Questions, I just ask the Hon. Member is that a promise? *(Laughter)*

**A Member:** Hear, hear! *(Laughter and interjections)*

**The President:** I call on the mover, Mr Moorhouse, to reply.

**Mr Moorhouse:** Thank you, Mr President. Hopefully that level of silence and efficiency does suggest there is some support.

Thank you, Mrs Sharpe, for seconding and, Mr Glover, thank you very much for bringing an appropriate adjustment. That really would create a challenge to create it in seconds rather than months.

With regard to Mr Thomas, you raise a good point. In terms of actually breaking down to such minutiae, I do not think that is important. I think the key element is that a response is given. We cannot actually dictate what the level of response is, as we see with Written Answers, sometimes absolutely amazing and detailed and comprehensive, on other times they are quite brief. It is actually getting a response in a timely manner – that is my key priority.

Back to Mr Speaker, in terms of bringing the motion, I was trying to find a solution to several problems that I may have caused in the past.

Thank you very much, Mr President.

**The President:** Now, Hon. Members, we come to voting on this Item, Item 6. The motion is as set out on the Order Paper and to that motion you have before you an amendment in the name of Mr Glover. I put first the amendment. All those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it.

Having dealt with the amendment, now I put the motion as amended. All those in favour, please say aye; those against, please say no. The motion as amended is carried.

**7. Appointment of a Children's Commissioner –  
General Debate**

*The Hon. Member for Garff (Mrs Caine) to move a General Debate on the merits of appointing a Children's Commissioner for the Isle of Man.*

260 **The President:** We now turn to Item 7, a General Debate on the Appointment of a Children's Commissioner. The name of the mover proposing this General Debate is missing from the Order Paper, and I apologise to her for that error, and with that I now call on Mrs Caine to move.

**Mrs Caine:** Thank you, Mr President.

265 Members may have noticed over the past five years that children have been a priority for me, both at constituency and national policy level. The background to this debate starts with the recommendations of the Everall inquiry that looked into the care of young people. Reporting in May 2006, it recommended that the Isle of Man Government appoint a Children's Commissioner. It also recommended examining improved ways of young people receiving and giving information, plus a Minister, a Member, for children reporting to the Chief Minister and Tynwald on  
270 implementation of the children and young persons' strategy. (**A Member:** Hear, hear.) It further recommended a helpline for young people and children on the Isle of Man and a properly funded and supported youth council for the Isle of Man. These are all on one page, amongst 132 recommendations made – you will be glad to hear I do not intend to go through them all.

275 Roll onto 2016 and I sought and was grateful to be appointed the Chief Minister's Children's Champion. I studied the remit closely and was pleased to assist numerous young people, parents, youth workers, Government officers, probation, courts and third sector workers, who all fed information through to enable me to be better informed as to what the issues and gaps in service provision, even gaps in legislation were.

280 After a year I compiled the feedback, ongoing themes and areas of concern into an annual report required under the terms of reference, and then entered into correspondence with the Health, Home Affairs and Education Departments, who sought to clarify areas they felt were inaccurate. I had the very strong sense that I, as a political appointment and as a non-health, non-education professional, had no businesses criticising or highlighting perceived faults or lack of service provision for children. Months passed until all their feedback was removed from my report  
285 and it was published, quietly, in its original form.

Subjects included religious education in schools, early help and support provision, the need for legislation on coercive behaviour, legislation to enable children to give pre-recorded interviews for court cases that were often months or years before evidence could be given, education standards assessment, family court issues, education provision for excluded children, spending on  
290 children's health care, childhood obesity and oral health, allergies and bullying policies in schools and much more.

Indeed, my Private Member's Bill on no-fault divorces was prompted by my experience with the Family Court Users Group, which I continued to research even though the Children's Champion remit was changed. It was changed to reflect what CoMin felt was its primary purpose, namely to  
295 champion the rights of looked-after children and those who are carers.

Whilst it was an honour to chair the Corporate Parenting Group and regularly meet with young VIPs, the Voices in Participation Council, I was aware that looked-after children had a Children's Rights Champion based in the Department of Health and Social Care and in my resignation of the Children's Champion post, because of the narrowing of that remit, I pointed out public perception  
300 could be that looked-after children had two champions and other children none.

Also, in resigning the post, I asked the previous Chief Minister, Mr Quayle, to compare this narrowing of the remit with the expansive role of the Children's Commissioner in Jersey. Already then in April 2018 her published key priorities following an Island-wide survey were: preventing

bullying; having more places for children to play; providing more help for low-income families;  
305 and increasing availability of mental health and well-being support.

In my resignation letter, I gave an update by outlining the areas of concern I had planned to report on shortly thereafter. Firstly: play areas. I was liaising with Castletown Commissioner, Mr Jimmy Cubbon, and the Equality Champion, Mrs Poole-Wilson, hoping to undertake a youth facilities audit, to contact all local authorities and school councils about the provision of play  
310 equipment, the leisure facilities across this Island.

Mental health provision was a significant area of concern, particularly for Tier 2 access, which would be out of remit under the new terms of reference.

General services: the then Chief Executive of the Department of Education, Sport and Culture, Prof. Barr, had disbanded the Children's Services Partnership at the end of 2017, which concerned  
315 several of its members, me included. My intention was to reform a voluntary CSP involving key Government officers and third-sector contributors. I believed there was a need for such a body to inform the Social Policy and Children's Committee about service provision for Island children. But that would also be out of remit.

At the end of my resignation email to the Chief Minister, I urged CoMin to consider whether  
320 the Isle of Man would benefit from a non-political Children's Commissioner in place of a Children's Champion. I am now even more convinced of the need; that a Children's Commissioner could be a more effective Children's Champion than ever a single backbencher could be. I recall Mr Baker, when Children's Champion, reported that he redirected those enquiries that were out of the new remit. Mr Callister, in his annual report to the Chief Minister, also found the remit too restrictive  
325 and recommended a Children's Commissioner be appointed.

Since the beginning, I followed with interest the development of the Children's Commissioner role in Jersey and, after several months of correspondence and Teams contact with Deborah McMillan, I was prompted to bring this debate before this Hon. Court today.

What would be the advantage of having a Children's Commissioner? A Children's  
330 Commissioner is a kind of independent human rights organisation with a mandate to monitor, promote and protect the human rights of children and young people. A Children's Commissioner has a key public, not political role, in representing children's interests and promoting regard for children's rights and also has a role to assist Government and other entities in identifying where  
335 more can be done for children.

The Children's Commissioner, as an independent body, has influence and a duty to listen and represent accurately what children and young people have said. The Jersey Children's Commissioner has seven staff and 25 worldwide experts to call on. A Children's Commissioner for the Isle of Man would be the first dedicated and independent role in the Isle of Man charged with promoting and protecting children's rights. I am sure this Hon. Court would agree national human  
340 rights institutions for children are an important mechanism to promote and protect children's rights.

Also worthy of note is that Children's Commissioners have been established in law across the United Kingdom and Crown Dependencies. Wales established a Children's Commissioner in 2001, 20 years ago. Scotland and England in 2005. Northern Ireland, 2008, and in the Channel Islands  
345 2019 in Jersey, when it was established in law, and extending their services into Guernsey from 2020. The remit of the role of these commissioners varies in each jurisdiction. However, there are clear common features including a duty to promote rights and powers to investigate complaints or other matters affecting children's rights.

The Commissioner for Children and Young People for Jersey has oversight of all matters  
350 concerning the welfare and well-being of children and young people in Jersey, is fully independent of government, has statutory powers that are enshrined in legislation, and she has a duty to promote and protect the rights of children in that island. Independent children's commissioners acting as a champion for the rights of children and young people, and surely that is something that we should consider establishing for the Isle of Man.

355 Unlike the Safeguarding Board or the Children's Champion, the remit of the Children's  
Commissioner is *all* children, and not just those in need of care and protection. The Children's  
Commissioner monitors and reviews the adequacy and effectiveness of the Safeguarding Board  
and regulators, inspectorates relating to children. Rather than me detail here all the excellent  
360 work achieved in the two years since the role in Jersey was established, I would direct Members  
to the website. Briefly, the Jersey Children's Commissioner is working to build a strong civil society.  
Civil society plays an important role in the implementation of the United Nations Convention on  
the Rights of the Child. They can play a significant role in law reform, in training, education,  
research and monitoring.

Simple acts have already brought about substantial change there by empowering children and  
365 young people to have a voice. For example, the Jersey Children's Commissioner has facilitated all  
their government schools on the island to take part in the UNICEF 'Rights Respecting Schools'  
programme. By supporting schools to become involved the Commissioner has raised public  
awareness about human rights, ensuring that the voice of children and young people is heard in  
relation to all matters affecting their lives. How often do we say that we struggle to engage with  
370 sections of our community? This is a role that ensures that engagement with young people and  
children. It includes the development of government and service policy. It is crucial to building  
confidence that their interests are given paramount consideration. The commissioner is that voice  
of all children and young people on the island of Jersey. Is it not time that we established a  
Children's Commissioner for the Isle of Man? (**A Member:** Hear, hear.)

375 My hope, by bringing this General Debate today, is to tease out support and hopefully put this  
on the political agenda for consideration in the future of our Island, something positive with long-  
lasting impact we could implement to benefit all the Island's younger and future generations. I  
would hope a Children's Commissioner will be a key consideration of the new Government, and  
feature potentially in the Island Plan. I would welcome Members' views on something to benefit  
380 all children now and in the future.

Thank you, Mr President.

**Mr Callister and two other Members:** Hear, hear.

385 **The President:** This is a General Debate that has now been proposed by Mrs Caine under  
Standing Order 3.20B(1). I now require a seconder and I call on Mr Callister.

**Mr Callister:** Mr President, I am more than happy to second that.

390 As the current Island's Children's Champion I do sincerely thank my colleague from Garff, Mrs  
Caine, for tabling this very important motion and for those excellent opening remarks as to why  
the Isle of Man should follow similar jurisdictions, such as Jersey, Guernsey, Wales, Northern  
Ireland, England and Scotland in appointing a non-political Children's Commissioner, in order to  
truly represent the best interests and the rights of all children here on the Isle of Man.

To be perfectly honest, Mr President, there is not much I can add, other than putting my full  
395 support behind the call for an Island Commissioner to be appointed as soon as possible.

I read through Mrs Caine's excellent 2017 Children's Champion report just yesterday, once  
again, and I would urge the new Chief Minister to take a look at that report because it does  
highlight many areas of concern which none of us in this Court can deny or ignore, Mr President.

Thank you.

400

**The President:** I call on the Hon. Member of Council, Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President.

405 Mr President, I stand before you as the current political lead for Children and Families. For  
those who do not know the remit of my role, this means I have political responsibility for children  
who are in the care of the state in some way, together with their families. So that might be because

they are being fostered, they live in a children's home, they are part of the youth justice system or they and their family are involved in Children and Families' early help programme, for example.

410 It is essential, as we have heard, that children who are looked after in some way by the state and their families have political representation, and the Children's Champion, Mr Callister, and myself are honoured to do that.

At the same time, I see the value of an independent Children's Commissioner who represents the rights of all children – that is around 15,000 members of our Island population – to communicate their needs to Government and to make sure actions are followed through.

415 Firstly, these 15,000 cannot seek out their MHK if they have a problem, they cannot phone up an advocate for advice. If they are in trouble and they cannot talk to their parents or a teacher, there simply is not anyone else they can go to. They could call Childline, if they know about it, but there is not a single adult in the Isle of Man with responsibility for children who they can contact. This is what a Children's Commissioner would do. They would be that single, personal point of  
420 contact.

Secondly, it is important that we hear the voices of these 15,000 people because collectively, they are our future: they are our teachers, refuse collectors, doctors and hairdressers. In short, they are our taxpayers for the future who are going to be making decisions about *our* old age. We need them to be compassionate, intelligent, engaged and happy. A Children's Commissioner  
425 would help us achieve a happier, more engaged adult population by listening to them in childhood, liaising with Government about their needs and making sure the solutions are actioned. It is that one person who has their backs which is so essential.

Currently, our wonderful GPs look after our children's health, our wonderful teachers look after their education but no one person is examining all of our Government's policies to ascertain  
430 whether they work for children specifically or in what way new policies are going to impact children specifically.

In the summer I had the privilege of meeting virtually, courtesy of Mrs Caine, with the Jersey Children's Commissioner, Deborah McMillan, who illustrated how she works with government, representing children's rights. For example, when she started in her role, she looked at Jersey's  
435 laws through a children's lens, and she turned up 78 areas of practice which need revision. When the Jersey government was looking at reforming its tax laws recently, she looked at them through a children's lens and identified families who would be negatively impacted through proposed changes, to the tune of £700 a year. She then worked with government to put mitigations in place so those families were not plunged into crisis.

440 It is this early intervention, on the behalf of children, which is where I see the true value of having a Children's Commissioner, whether it is from an emotional or a social point of view, that is saving children and their families unnecessary grief and suffering, which only results in spilling over into the community eventually. Or, an economic point of view, if you get things right for children then you save a heck of a lot of money down the line. **(Ms August-Hanson: Hear, hear.)**

445 Just to give you one example, the average annual cost of keeping a young person in the Island's secure unit is £210,000. Now, an individual would not be kept in our secure unit for a whole year, although, sadly, there was a young person recently who kept reoffending because they regarded the secure unit as 'home' and as their safe place. But you can see how, if a fraction of that money had been put into helping that individual as a child, it would save that £210, 000 and all the rest;  
450 the potential cost of re-offending, the knock-on effects of mental health issues, physical health issues, all of which are then passed on to the next generation.

Currently, in Children's and Families, we have an Early Help Programme for children and their families. Unfortunately there is only really enough money to work with children and families who  
455 are already in difficult circumstances. Apparently, before I joined Tynwald, all Departments had indicated that they would put money into this early help pot because they understood that issues, if not nipped in the bud, would cause them all greater cost later on. Unfortunately, from what I understand, when it came to the crunch they all, apart from the Department of Education, Sport and Culture, pulled out, leaving an early help programme, which we can prove is working, but

460 which could be so much more far-reaching. And this issue of the need for a wider, cross-  
departmental early help programme which links in with the Constabulary and the third sector too,  
was highlighted a few years ago by the Chief Constable. He warned that Government must put  
more resources into Early Help.

465 Interestingly, what did we see in the last Chief Constable's Report? Soaring numbers of young  
people getting involved with drugs; whether it is taking drugs, dealing drugs or acting as recipients  
for drugs in the post. Although the drugs by post issues have been directly caused by lockdown,  
overall the issue of drugs and young people has been increasing year-on-year-on-year.

470 What are the root causes of this? It could be argued that the Isle of Man Government has never  
successfully got to grips with children and their needs because its focus has always been  
elsewhere.

I came into politics because I had been writing a book about how the Isle of Man has dealt with  
its children in care over the past 150 years, and I saw so many issues which had still not been  
successfully dealt with that I felt a personal responsibility to try to do something about it.

475 In the nineteenth century – and do not worry, Mr President, I am not going to launch into a  
whole history of the Isle of Man, but just a snapshot (*Laughter*) – we saw a Governor who  
passionately believed that tourism would be the saviour of the Isle of Man. In some ways he was  
right. Tourists flocked to Douglas, in particular, for a hundred years and Manx people migrated to  
Douglas for seasonal work. Tourism came at a useful time because there was little work in the  
other towns and villages. But what happened in the winter when there were no tourists? No one  
had thought ahead to the knock-on effects on children and their families when there was no work  
480 for half the year.

485 So these families were living in the Fairy Ground, where the Lord Street Bus Station used to  
stand. The Fairy Ground was a myriad of what was later considered to be slum housing, along with  
countless other little streets all leading off North Quay and the back of Strand Street and Chester  
Street, all of which was later considered to be slum housing. In the winter, the children of these  
families were roaming the streets, begging for food.

490 It was soon considered by the authorities to be a great idea to ship them all off to Canada,  
including some toddlers and some babes in arms, where they were used basically as unpaid farm  
workers. But the poverty which these families still lived in and the mental and the physical effects  
of that poverty, not to mention the emotional effects of having to put their children into the  
Douglas Children's Home, or to have their children emigrated, were never tackled and the arising  
social problems were passed down the generations.

495 Fast forward to the 1980s, when the finance sector was just starting to boom in the Isle of Man,  
and many mothers were suddenly able to find work in offices. Did Government, in chasing  
financial growth, think to provide any crèche facilities or nurseries? No. With the result that before  
and after school children often had to fend for themselves. Then, in the school holidays, there  
were reports of many children roaming the streets all day while their mothers were at work. Did  
Government think to provide youth groups to keep them off the streets? No. Meanwhile, parents  
began to earn more money, parents had more disposable income, young people had pocket  
money, young people began to have higher material expectations. They began to be able to afford  
500 to buy drugs and it soon became a problem, perhaps because in some families the effects of  
poverty in previous generations lived on, but also due to greater social mobility and the fracturing  
of former close-knit communities.

505 The same thing started to happen in Ireland, during the era of the Celtic Tiger, and it started to  
happen in Jersey, which also focused on growing its finance sector. What all three jurisdictions  
have in common is that in focusing hard on financial growth, they did not consider that the issues  
of children and their families were just as, if not more, important just like that Governor in the  
nineteenth century and his focus on tourism.

As an illustration, Mr President, if we ask ourselves how many GCSEs on average our children  
in care leave school with, we probably would not know. But if I ask whether we are up to date

510 with our Moneyval commitments, we all know. Of course, we have international financial obligations to fulfil.

Jersey knew for years that it had a problem developing with youth crime. According to their Children's Commissioner, Jersey now has the highest rate of youth crime per head of the population in the whole of Britain and the Crown Dependencies. Child repeat offending is the highest rate also.

515 Mr President, we are also a Crown Dependency. We have focused on building our finance sector. We have ignored the pleas of the Chief Constable to invest more money in early help. We have seen exponential growth in drug-related youth crime. You can see where I am going with this. This could be us.

520 So what have they done in Jersey to help mitigate this? In 2018, our inter-parliamentary colleague, Sam Mézec, brought a Children's Pledge to the Jersey parliament, and it was an eight-point promise to hold government to account for improving the care and upholding the rights of every child in the island. I would suggest that such a pledge would not go amiss in the Isle of Man, Mr President. They employed the Children's Commissioner who, as we have heard from Mrs Caine, is independent of government, and who acts as a mechanism to promote co-ordination and monitoring across government, the constabulary, the Third Sector and the private sector. She has extensive, statutory powers which enable her in her role, which is basically to listen to children, explain their rights to them, examine their feedback and make things happen which are slowly improving their childhoods and therefore their futures too.

530 Importantly, she is part of a group of 42 Children's Commissioners across Europe, which gives Jersey the confidence to know that it is now adhering to best practice. She has 25 virtual members of staff across the world who are experts in their own field, so if she is working on deprivation of liberty, she contacts her UN expert in this area; and then, importantly, Deborah trains professionals in Jersey using what she has learnt from her expert advisors, so she is leaving a legacy in Jersey. This could be us.

535 In theory, we could work with Deborah, just as we share a Chair of Safeguarding with Jersey. And we do not need to start from the same benchmark as Jersey. I am sure Jersey will not mind my saying that, in some areas, we are further ahead in terms of legislation, practices and procedures which appertain to children.

540 But we need to get cracking with decreasing the amount of children living in poverty, children living in unsuitable housing, children in care absent from school, children's involvement with drugs and care leavers living in unsuitable accommodation. These topics are all handled by different Departments but they all interlink and they need one person to start co-ordinating work streams.

545 I realise I have been talking for some time, Mr President, and my speeches are not usually this long, but I ask the indulgence of this Hon. Court to consider this: what if, when it comes to supporting those children and their families who need extra help, we start with the moment that a pregnancy is recorded on someone's medical record? Instead of seeing the midwife every month to just get your blood pressure checked, should we not have more midwives so they can spend longer with the mother, so there can be real discussion about what needs this family is going to have once the baby is born? Midwives do assess which people might need extra help at the moment, by the way, but it is only a few people who reach the current criteria. Instead, I think this is when parents need to start thinking about what kind of food their child is going to have, how they are going to look after their child's teeth, how much exercise the child is going to get, how much sleep the child will need, how they as parents are going to behave when they are feeling tired, angry and frustrated, and they need to be able to talk this through in detail with sympathetic professionals.

550 It is not well known, but around half of our Island's children are already obese by the time they reach the age of two. So we need to be engaging with new parents about food and exercise right from the offset.

560 We now understand that if children do not bond emotionally with their care givers at a really early age, that part of their brain never fully develops. We need to be engaging with new parents

565 about the importance of bonding with their baby and what bonding actually is. In antenatal classes we should be learning not just what a pair of forceps look like, but where to go to get advice once the baby is born; that no one automatically knows what they are doing and that everyone needs advice at some stage, at parenting classes, for example. But first we need to re-start parenting classes, because they were shelved a few years ago. We need to re-start the free pre-schools which used to be attached to our primary schools, and we need to expand our early help programme.

570 In closing, Mr President, I recently found out that a Council of Ministers sub-group has been created which aims to co-ordinate projects appertaining to children which will need inter-departmental funding and to deal with these projects and find internal staff on an *ad hoc* basis. I welcome the move and am heartened to know that the will is clearly there, but I am concerned that if this body will have to scramble for money and staff on every project, it may not have enough teeth to get its projects off the ground.

575 It is obvious Mr President, that someone personally needs to take sole responsibility for children's rights and children's care on this Island. Of course there will be a cost attached, but I do believe, as countless surveys have shown, that every pound we spend on empowering children, respecting their rights, giving them the right care at the right time reaps the greatest of rewards later on.

580 I thank the Hon. Member for bringing this debate before us today and I look forward to working with her and any other interested Members to advance the rights of children here in the Island and to advance their levels of care.

Thank you, Mr President.

585 **The President:** I call on the Hon. Member for Glenfaba and Peel, Ms Lord-Brennan.

**The Minister for the Cabinet Office (Ms Lord-Brennan):** Thank you, Mr President.

590 I have been thinking about some of this over the summer, because the Hon. Member for Garff did arrange an online briefing with the Jersey Children's Commissioner. So I think it is actually really helpful, the points that Mrs Caine has laid out because she set things against a background of Government Departments not working together, a very siloed mentality and a very narrow view. I think it is actually quite helpful and healthy that we hear this now, because I think that in general things do need to change in terms of that approach.

595 But I am hesitant about some of the points in terms of remit or scope, because I already feel generally through debate that there are maybe, to my mind, three different aspects to this, at least. Firstly, one is about Government's policy development and, *very* importantly, the points that Mrs Caine was making right at the start of her contribution about having an informed policy input that puts children at the heart. I think that is incredibly worthwhile but I think that is something that probably in early stages of development of policy is going to need to come from Tynwald, or from Government, or from a change in thinking.

600 Secondly, there is the point about, we have heard from Mrs Sharpe as well, about Government services – the services that Government itself is offering, failing in some respects, or not meeting needs. To my mind that is something that actually, through Scrutiny Committees, could maybe warrant a look and an examination of that.

605 Thirdly, and this is the point at which I hope that if this were to be progressed or developed out in some way, I am not sure, in terms of the remit, where things get *much* broader and are maybe not getting to the core of the issues about when we are talking about having a place that is great for children, where it is great to be a child and to have a child, when we get on to the point about the Children's Rights and the Human Rights aspect of it – which of course is incredibly important and should be safeguarded. But then that steps into a role or a remit of any commissioner which is about outreach and advocacy and, in putting so much emphasis on that, is that going to fix the things within the system that are actually in Government's remit to solve?

610

I guess the point I would wish to make is, in thinking of it over the summer, anything to do with this in terms of remit and expectation would be *really* important, but I love the idea about looking  
615 through the Island through a child's perspective, through the lens of what a child would like to see. I think there is a huge amount to be said for keeping that in mind across the board because actually, if you can make the Island a child-friendly place, a great place to have children, to be a child, to raise a child, surely only good could come from that.

But I do not necessarily think we are going to solve the problems with the policy, with the  
620 service delivery, the playgrounds, through having something which has a remit that is necessarily focused mainly, from what I can see, in terms of the right perspective.

So I think my contribution to this is a personal one. I think actually, ideally, we would not see a fractured approach. We would see this sort of perspective embedded across the board and kept an eye on in some way. I am just *really* grateful for Mrs Caine for bringing this forward and pointing  
625 out how things have not worked in the past, and pointed out how it was other people's problems, and there were reasons to say no. But I do also think there needs to be, before anything ... I do not necessarily think you could solve everything by one post in this regard. I am not sure about the idea of the extent to which it could be resourced.

Then the other aspect of it, I think there would need to be a boundary or an understanding  
630 between what realistically Government can and should do, and also what might really be expected to be at a community level, or indeed at a parenting level.

Those are just my initial thoughts on it really, but I am just *really* glad that it has been brought forward on the agenda. I think it is going to make people care about this more and the fundamental point is actually: in policy development, is enough thought being given to how your  
635 children are protected, are supported and whether the Isle of Man is a great place for them, and do Government services work effectively to that end?

Thank you, Mr President.

**The President:** I call on the Hon. Member for Douglas Central, Mr Thomas.  
640

**Mr Thomas:** Thank you, Mr President.

I appreciate the chance to participate in this General Debate and I thank the mover for having arranged the very interesting conversation with the Jersey Commissioner in the summer, in which I also participated.  
645

Just a few thoughts based on the practicalities of how we do this, because obviously we all share the aspiration of creating the situation and the environment where every child can flourish, so everybody can make the most of themselves and have opportunities and take advantage of those opportunities.

So the first point to make is that, in actual fact, I think you will find that the Isle of Man did actually make a pledge to children in 2009. The Chief Minister at the time, Chief Minister Brown, did actually make such a pledge a long time before it was made in Jersey. I think you will find that we applied the UN Convention for Children much earlier than they did in Jersey; and I think you will find that we appointed staff at that time, which led to the Voices in Participation Council; and we produced a beautiful and helpful and well-written, easy-to-read guide for children about their  
655 rights and their responsibilities, but mostly about their rights and how to take advantage of those rights.

So setting something down as an aspiration is not the same as actually doing it, and that is the point I wanted to make when it comes to *how*. Because by chance the role in Wales, for instance, of the Children's Commissioner was advertised fairly recently, and it costs nearly £100,000; and that person runs an office that has recently been moved out to Port Talbot to save a bit of money, because the total budget for the Children's Commissioner is £1.6 million, which is quite a lot of  
660 money that could go a long way to helping our early help, early prevention, our safeguarding activities and our education activities. So we have to always balance these things.

665 Moreover, in Wales – and I am just using Wales, not picking on them – I am just using them because it has taken this thing further than perhaps most other places around the British Islands have. But in Wales once you had a Children's Commissioner it led for calls, and in fact successful calls for an older people's commissioner. It led for calls, successful calls for a Wales committee of the Human Rights Council. It led for calls, successful calls for a Future Generations Commissioner. Quite soon it seems likely that Wales will have a learning disability commissioner.

670 So we have to weigh up why it is that we are looking at children differently from the way that we are looking at other people who also have a bad set of cards to play in their lives, as they begin their journey on life. Obviously, commissioners can play a vital role but so can passionate, well-informed Members of the Legislative Council; and so can we, and so can the third sector bodies that exist in this place.

675 So I do think we need to think *very* carefully about how we spend our money and I do hope that in the next couple of months the Government, and us here in this Hon. Court, will actually reflect – like we did back in 2016 when we agreed to fund across Government the early intervention and the early help programme, and like we did back in 2016 when we worked with Mrs Caine to set up an all-encompassing Children's Champion role – what we are going to do with every pound that we have to get the best value for that money, recognising the relative degree of need of different recipients of public funds.

680 Thank you, Mr President.

**The President:** I call upon the Hon. Member for Douglas East, Ms Faragher.

685

**Ms Faragher:** Thank you, Mr President.

I just wanted to thank the two Hon. Members, Mrs Caine and Mrs Sharpe, for their excellent and really thoroughly researched introductory speeches to this. I just wanted to raise a couple of points, so I will be quite brief.

690 Firstly, I was really appreciating the mentions of the United Nations Convention around the Rights of the Child. I think it is really important to note that in neighbouring jurisdictions the role of the Children's Commissioner has been criticised for not focusing enough on the United Nations Convention on the Rights of the Child. So if we were going to progress this, which I think we really should, we would need to investigate focusing that role very closely around that Human Rights Treaty.

695

The second point that I just wanted to raise was that I did want to say I really appreciated the two speeches, and I wanted to tease out the second fact that Mrs Sharpe raised the point – a *very* important one – that if you in-build good outcomes it is far more effective but also far cheaper than actually fighting crises later on in life. So I think that does answer the Hon. Member, Mr Thomas's point on the financial viability of this role; and essentially global research shows us that in-building good outcomes is far cheaper and far more effective for children and families than offsetting bad outcomes.

700

Thank you.

705 **The President:** I call upon the Loayreyder.

**The Speaker:** Thank you, Eaghtyrane.

It is a pleasure to follow Ms Faragher's maiden speech, I congratulate her for that and on such an important subject as well.

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My brief comments really, Mr President, are around those who fail to learn from history are doomed to repeat it, and Mrs Caine did very early on in her presentation start to talk about the Everall Inquiry. Mr Henderson was the only one who was in this place at that time, and Mr Crookall and I found it as something of a baptism of fire to arrive hot on the heels of that Inquiry's Report to Tynwald. It was really important, and I think we have lost sight of some of the recommendations from the Everall Report. One of those was to create the Department of Education *and Children*

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and to me the 'children' aspect should never have been removed from the Department for Education, because what we now have is what we used to have which, with respect to that Department, is a Department of educationalists run by educationalists about education. Obviously that is a very important part of childhood development, being brought up and learning, but it is not the be-all and end-all of childhood.

That then brings me into really something that Mrs Sharpe talked a lot more about – so I do not need to – about delivery. So when we then talk about this role, this guidance, and when it becomes *everyone's* job in Government it really becomes nobody's job; and we have seen it diffused around different committees, bodies and aspects within Government, and it is the delivery that is important. Advocacy *is* important and the Children's Commissioner role – if that is the way to do it – is important, because the advocacy will help drive it. But at the end of the day we are not really succeeding in joining together the dots of delivery first.

Some have touched on the Youth Justice Team, which was an amazing facility which drove real outcomes in young people, diverting them from a life of crime and back into education or training; and, as I say, I do not need to go into them because several have raised the points about where we are just not joining the dots.

The fact that the Jersey Commissioner for Children has seven staff, to me it just seems that we have not got that balance right at all. If we are not even doing the delivery right, how can we then have the proportion right? Because it should be a virtuous circle: advocacy then leads to delivery, and we should have a need for less advocacy, but it is an ongoing piece of work. At the moment I think we have got a lot more to do in terms of the *delivery*. I think whether that is prompted by a Children's Commissioner or whether that has been driven from there, but there certainly needs to be something. I think we will all look forward to seeing in the Government Plan about how that is going to be worked forward.

I know that in the Jersey Government Plan, one of its five strategic priorities is to put the children at the centre of everything that they do. That seems like a very noble and worthwhile objective, but we need to make sure that the structures and systems are in place to make sure that this is not everybody's job, but it is *somebody's* job to deliver these outcomes for the young people of our Island.

**The President:** I call on the Hon. Member of Council, Mr Henderson.

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

I suppose my cue to put some commentary into this debate comes from Mr Speaker, where he highlighted myself as being a Member of this place when the Everall Report was launched, following the double murder that took place of two teenagers on and in and around the Strang Lodge. A public inquiry was launched and following that the Everall Report was produced, and it has something like 200 recommendations in it. I have a copy sitting in my filing cabinet in the Legislative Council offices, and I refer to it from time to time just to give myself a wake-up call of what happened back in the early 2000s and what actually went wrong.

I feel compelled, Eaghtyrane, to say to this Hon. Court – and especially to the new Members we have, who I am very pleased to welcome to Tynwald, and on your success in the general election – but I have to say in the Everall Report, which I highly recommend you get a copy of, do not read it from cover to cover but just go through the recommendations and some of the findings. The single biggest failing of all of that to me, in my view, is the front-line care givers and management who were delivering whatever it was type of service to young people and children, certainly looked-after children, children in care. There were shocking statements made in the report with regard to unkempt records, incomplete records, failure of management to issue clear guidance. There was even one particular piece that described a care worker actually going to Strang Lodge to look in on the young people who were there at the time – who, sadly, ended up murdered – and they felt unable to actually access the premises because they felt feared. *Why*, I do not know, but they left. They did not call the Police; they did not call for back-up; they did not

go back to complete their assessment and to leave a note in the care notes to say, 'Access gained, young people assessed, spoken to, everything's well'. They just walked away.

770 It came to pass that during the Inquiry there were some excuses, 'Oh, we need more training; we need this, and we need that' ... And the point I have continually made here, Eaghtyrane, Hon. Members, is that the basic training for most care staff is sufficient to have negated what happened during the double murder inquiry in the first place. People were failing themselves in their own duties and people more senior were not assessing the quality and standards of what was being  
775 done. You do not need more training to do that. You do not need additional courses. It is all part of your general day-to-day work.

I was trained in 1982 in psychiatry, in mental health nursing, and that predates what happened to Sam Barton and the other young man (**Mrs Caine:** George Green.) by nearly 20 years. In my training, you never walked away without making sure that everything was all right, it was correctly  
780 recorded, patients were safe wherever they may be – on leave, at a relative's, or whatever, or on a ward. You just did not do that. End of story. Ingrained and bashed into us from a very early stage in our training. That was basic training, no need for additional 'on top-ofs', or as the situation requires now we need to have this, that and the other put in place, so all staff have an extra level.

Why was it not done in the first place? I do not think that question has ever been answered.

785 So my message to you all, and for the purposes of this debate – and if we do get to where Mrs Caine's aspirations are, which I fully support, then these observations have to be taken into account where care in whatever shape or form that is given, or services, help or assistance to our young people and children, the quality of what has been given and the accountability of who is doing that, is checked; and to ensure that their *ordinary* operational standards of service are up  
790 to scratch to a *minimum* standard. I do not want to stand here in a couple of years' time saying, 'I told you so' or whatever. We need to put it in place now, especially if this comes to fruition.

In 2000 my colleague, John Houghton, who was a Member of this place in those days, was involved in a lot of incidents leading up to what happened at Strang Lodge and he was warning  
795 this Court *then* that there would be a death. I will leave it there, Eaghtyrane, but it is obvious that standards were not thoroughly checked, or as much as they could have been as far as I am concerned, in my view. But that is something that needs to be built into this and certainly for a Children's Commissioner role to look at standards and effectiveness of what has been done to a minimum level. That is where everything matters.

We can have all these debates and, as good input as we have heard this morning from Hon.  
800 Member Mrs Caine, Hon. Member Mrs Sharpe, and Ms Lord-Brennan, it is what happens at the coalface, and that is what needs to be examined and tested from time to time.

Gura mie eu, Eaghtyrane.

**The President:** In a General Debate the proposer has a right of reply, and I give that opportunity  
805 to the Hon. Member for Garff, Mrs Caine.

**Mrs Caine:** Thank you, Mr President; and can I just say how pleased I am with all the contributions this morning and the fact that so many Members are expressing support for the principle that we should be doing more for young people's rights on this Island.

810 Firstly, thank you to Mr Callister who, like myself, has experienced the limitations of being a Children's Champion on the Island when so much is out of remit.

Mrs Sharpe, Hon. Member of Council, I am really pleased how she approached it in the practical application of what a Children's Commissioner would mean for so many young people on this Island – and we are talking 15,000, probably more, because 'young people' goes up significantly  
815 into the early 20s.

You could say: 'Why aren't we doing more for these young people?' Without going through every single point made, the fact that we now have in our Annual Reports from the Chief Constable the same kind of warning flags coming up about the increase in drugs use, county lines, the number of young people up from one 10 years ago to 28 young people being arrested for getting

820 involved in county lines delivering of drugs. These should be warning flags for all of us. We do not  
ever want to return to the time on the Island when Samantha Barton and George Green were  
murdered as a result of the services that the Isle of Man had to support young people failing, and  
without somebody who checks, as Mr Henderson, Hon. Member of Council said, who is the single  
825 person responsible for checking all those services for children and also where the gaps in services  
for children are being left and not filled?

**Mrs Sharpe:** Would the Hon. Member give way, please?

**The President:** Interjection. Would you accept the interjection, Mrs Caine?

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**Mrs Caine:** Yes.

**Mrs Sharpe:** Just to reassure Mrs Caine and Mr Henderson that Children and Family Services  
have regular external inspections. That happens on an ongoing basis.

835 Thank you.

**Mrs Caine:** Thank you to the Hon. Member.

I do not doubt that the services are assessed to the service level. I am talking across the Island  
and I think the point made by Mr Speaker, where the Department for Education and Children  
840 ditched the 'and children' element, was a turning point in terms of the Island not putting the focus  
on children.

I completely support the comments about the Early Help and Support service. The EHaS did  
have three Departments having input into it, but what happens with political change is political  
priorities change and move, and two Departments walked away leaving the Education  
845 Department only to look at it – not Health, not Home Affairs. You get the situation that what was  
working as a good service, like the mental health professionals working and based in the Isle of  
Man Police Headquarters, it worked really well, but then somebody at political level decides that  
the establishment of those needs to go somewhere else. It gets diluted and the focus is lost and  
all the good momentum that was built up, was lost.

850 I also agree with the point made that the provision of state-provided pre-school education was  
a sad day for the Island, when we lost that. Similarly, I think that the increase in student fees and  
student debt is regrettable and there is not any focus on improving that for our Island. When we  
say we are putting Government services ... Of course, there are always budget limitations, but are  
we putting the child really at the focus, because who is there to champion the child really? Look  
855 at the percentage of Health-funding budget that is actually spent on children and paediatric  
services. I think it is around 5%. That is not representative of the Isle of Man's children and young  
people population. And, yes, I think we could be doing so much more.

Mr Thomas, the practicalities. Yes, I know there is the pledge that was taken in 2009. I think  
Mr Quayle, our previous Chief Minister also signed the pledge in more recent years, in the last  
860 year or two. What results from it? It is a positive, it is showing willing, but there is nothing behind  
it. It is a piece of paper. Who even remembers what is in the pledge? Who benefited? Out of all  
the young people on the Island, who actually knows that pledge was taken and the promise made  
by political leaders?

In terms of £1.6 million for the Wales office, all the Children's Commissioners are established  
865 in different ways and have different remits that are appropriate for their communities. The point  
being about the Jersey Children's Commissioner, I think that the annual budget for the seven staff  
and the office in Jersey was running at about £750,000. I think that they are also expanding that  
service from last year into Guernsey. I think they had the capacity when they were drawing up the  
service in 2019 that they would be able to extend the service into the other Crown Dependencies,  
870 should that be required. So it would be a real positive, I think, if somebody from this Island, from  
the Government or from Social Affairs Policy Review Committee, or whichever organisation

wanted to reach out to Deborah McMillan and establish what service the Children's Commissioner Office could be provided on the Isle of Man, and what would we be looking at?

875 Again, coming down – and I do congratulate the Hon. Member for Douglas East, Ms Faragher on her maiden speech, and an important contribution to highlight the points. It is really important to uphold children's rights and the point about putting the emphasis on the necessity for a Children's Commissioner is because they do not always have the capacity to do that for themselves or even have the knowledge that their rights are being taken away from them. So while the rights are very important, the focus of the role can be established by the people  
880 determining what sort of Children's Commissioner role is appropriate for the Isle of Man, for the community we have at the moment and the social issues that we have building at the moment.

So, as Mr Speaker said, if we fail to learn from history we are doomed to repeat the failures. We do not want to repeat those failures. We want to make it a better Island for all.

885 One final point, it was mentioned several times about OECD and FATF, is how the Isle of Man has been at the forefront of ensuring that our financial institutions and governance on the Island, that we are meeting the highest standards. So why wouldn't we, similarly, want that in a social context to reach the highest standards for children and young people on the Island?

890 So all I would say – and I hope that Mr Cannan, with his listening leadership, is indeed listening this morning and will say that he has heard loud and clear that we should be doing more for children, that we do not need a Rolls Royce system, but we could have a simple Children's Commissioner championing the rights of all children and also establishing an office on the Isle of Man that does not need to cost millions. But, again, at what price? It is not the cost of it, it is the investment now in all our young people for a better future for all.

I think I will leave it there, but thank you to all who have contributed.

895 Thank you, Mr President.

**Announcement of Royal Assent –  
Adoption Act 2021; Competition Act 2021;  
Housing (Miscellaneous Provisions) (Amendment) Act 2021; and  
Road Traffic Legislation (Amendment) Act 2021.**

**The President:** Now, Hon. Members, before we move onto the next Item, I can announce that Royal Assent has today been given to the Adoption Act 2021, the Competition Act 2021, the Housing (Miscellaneous Provisions) (Amendment) Act 2021 and the Road Traffic Legislation (Amendment) Act 2021.

**8. Accessibility to Bus Services –  
Statement from the Department of Infrastructure**

900 **The President:** Now, we move onto Item 8, which is in the name of Mrs Christian. To that, I understand that the Minister for Infrastructure wishes to make that Statement. Is the Court content for that to happen? (**Members:** Agreed.) Thank you very much.

So I call upon the Minister for Infrastructure for Item 8.

905 **The Minister for Infrastructure (Mr Crookall):** Thank you, Mr President, and Hon. Members. In April 2021, the then Minister for the Department, Mr Baker, made a commitment to this Hon. Court that the Department of Infrastructure would adopt the United Kingdom Confederation of Passenger Transport Voluntary Code of Best Practice for the use and acceptance of mobility scooters on low-floor buses adapted to carry wheelchairs in a way that is appropriate to the Isle

910 of Man. He also made a commitment to set up a steering group to drive through real action and  
change for people with disabilities to ensure that as many people as possible are able to travel on  
the Bus Vannin services and to submit a report with recommendations to Tynwald no later than  
the October 2021 sitting of Tynwald – today.

915 Unfortunately, it has not been possible to complete the necessary research, consultation and  
consideration required to produce and authorise a report within the necessary timescales. I have  
therefore been asked to take this opportunity to update Hon. Members on the progress that the  
Department has made towards meeting these commitments.

920 The steering group has been established, and as requested in July 2021 by Mr Thomas MHK,  
its terms of reference have been published on the Isle of Man Bus and Rail website. I am also  
pleased to confirm that whilst the steering group already has a passenger representative, its  
membership will expand to include people with disabilities who are able to represent the views  
of others. This will ensure that we embrace the principle of the participation motto that has been  
used by people with disabilities: nothing about us without us.

925 We intend to start the process for appointment to the steering group as soon as possible. At  
the request of the steering group, a public consultation on using Bus Vannin services for people  
who have a disability and friends and family members of people with a disability closed on  
27th September. The consultation received a total of 246 responses and we have received a  
considerable amount of information about the barriers to public transport experienced.

930 Finally, I am pleased to be able to confirm that a focus group meeting with wheelchair and  
mobility scooter users has taken place to discuss the adoption of a code of best practice for the  
use of mobility scooters on low-floor buses in a way that is appropriate to the Island. The findings  
from that focus group will be considered by the steering group, which will in turn make a  
recommendation to the Department regarding adoption of the code. A draft report will then be  
prepared for consideration by the Council of Ministers and submission to this Hon. Court early  
935 in 2022.

Mr President, Hon. Members, I hope that the actions that have been taken to date will provide  
the reassurance that progress is now being made on this important issue.

Thank you.

940 **The President:** Hon. Member for Douglas Central, Mr Thomas.

**Mr Thomas:** Thank you very much, Mr President, and to the Minister, who I congratulate on  
the appointment for the difficult role of Minister for Infrastructure.

945 Can the Minister confirm that the Isle of Man has adopted the CPT Code of Best Practice? It  
sounded like it has not, it is still thinking about how it is going to do it and when it is going to do it  
and what it means for the Isle of Man and so on. So it sounds like the will of Tynwald has been  
thwarted and that the Code has not as yet been adopted.

950 So perhaps the Minister could make a specific response to that suggestion: that the will of  
Tynwald has been thwarted and the Isle of Man has not as yet adopted the Code, despite the fact  
that Tynwald resolved that we would adopt that international code.

955 The second question is that it is actually great that this Item comes immediately after the  
discussion of the UN treaty for children because one of the great gaps in the Isle of Man's  
compliance with international treaties and treaty obligations is in respect of disability. It seems to  
me incredibly troubling that in this day and age we still cannot even make an approach to the  
United Kingdom to have that treaty applied to us because of deficiencies like the one that is being  
described to us yet again today, and has been described to us over and over since 2006, when the  
Disability Discrimination Act received Royal Assent but was not brought into force for eight or nine  
years afterwards.

960 So can the Minister advise whether he feels this further delay provides further risk in respect  
of our compliance with the UK's compliance on our behalf with international obligations?

965 Thirdly, given the Equality and Employment Tribunal experiences already in this area, does the  
Minister accept that there might be a risk of another tribunal case in the near future if there is a  
perception that the Isle of Man Government, the Department of Infrastructure, Bus Vannin, is not  
doing what is necessary to apply British standard, widely adopted codes in this respect? I notice  
one particular phrase that the Minister used, which is representatives from disabled people who  
are 'able' to represent disabled people. I really would like a bit more explanation about who is  
able to represent disabled people and who is not able to represent disabled people, because the  
whole point about this sort of stuff is being enabled to represent people and perhaps there is  
something really subtle in that about some disabled people are not able to represent disabled  
970 people because of what they believe and what they might have done or what they might do in the  
future.

Thank you, Mr President.

975 **The President:** Minister to reply.

**The Minister:** Thank you, Mr President, and I thank the Hon. Member for his questions.

He will obviously take into consideration that I have literally just taken over and was asked to  
take over this, which I am more than happy to do.

980 As for your first question, I do not believe that the Department has yet taken on that Code. I  
will follow it up when I am down at the Department this afternoon, and what I will do for Hon.  
Members is come back to you as soon as possible with a written answer to all Members on this  
question, because obviously I do not have all these details to date.

985 Further risks as a result of not following on: quite possibly, but again I will follow that up and  
we should be doing probably more than what we have been doing in the past, and we should  
absolutely be making sure that everybody who needs to be represented are represented by the  
right people, if not themselves, but we may need to make sure everybody is being represented  
and the whole groups have their say, if you like.

If I have missed anything, I will speak to Mr Thomas afterwards, Mr President, and come back  
to Hon. Members as soon as possible with a full answer.

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**The President:** I call on the Loayreyder.

**The Speaker:** Thank you.

995 I just wanted to check with the Minister about the scope of this group and the report about  
accessibility policy more widely, especially again in light of the last debate. It came to my attention  
over the summer that some schoolchildren are having to walk from the Sound and Cregneash all  
the way into Port St Mary in order to access a bus service, and that is obviously quite some  
distance, especially in the weather we have got today. I was just wondering if that sort of  
accessibility is going to be within the scope of this report or whether that is something we have  
1000 to pick up separately.

Thank you.

**The President:** Minister to reply.

1005 **The Minister:** I will take that separately. That is not the only example I know of this happening  
around the Island to children and I will follow that up. I have given that commitment in other areas  
already.

**The President:** Hon. Member for Douglas South, Mrs Christian.

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**Mrs Christian:** Thank you, Mr President.

Would the Minister agree with me that the actual wording is that we *would* adopt:

the United Kingdom Confederation of Passenger Transport Voluntary Code of Best Practice for the use and ... [accessibility] of mobility scooters on low floor buses adapted to carry wheelchairs in a way that is appropriate to the Isle of Man –

1015 – and that this will actually take time for us to address this and for us to implement, and that is why the CPT Code has not been adopted today and that going forward obviously the passion of the Department is to make sure that we make everybody safe and make sure that the CPT Code is adopted as quickly as possible? Does the Minister agree with that?

Thank you, Mr President.

1020 **The President:** Minister to reply.

**The Minister:** At this moment in time I am more than happy to accept those comments from the former Member responsible for the bus service, Mr President.

1025 **The President:** I call upon the Hon. Member of Council, Miss August-Hanson.

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

1030 Having been in a meeting with Mr Thomas regarding this and seen how he was treated by Dol staff, would the Minister agree that perhaps a conversation with Mr Thomas about this subject matter before he goes back to the Department and has conversations with his officers might be in order?

Thank you, Mr President.

**The President:** Minister to reply.

1035 **The Minister:** Happy to speak to Mr Thomas, Mr President.

**The President:** Hon. Member for Middle, Mrs Poole-Wilson.

1040 **The Minister for Justice and Home Affairs (Mrs Poole-Wilson):** Thank you, Mr President.

1045 Would the Minister agree with me that the experience also of the members of the steering group ought to be looked at as well in terms of good involvement by officers in the Dol in terms of working up a consultation which has happened over the summer, preparing and running a really effective focus group last week to involve users of mobility scooters and wheelchairs, and that all of this was absolutely hard work implemented by the Department with a view to being able to look at how to adopt the CPT Code in the Isle of Man?

Thank you, Mr President.

**The President:** Minister to reply.

1050 **The Minister for Infrastructure:** I thank the Hon. Member for her comments, Mr President.

**The President:** That concludes Item 8.

**9. Government Programme –  
To publish before the end of 2021 –  
Consent not given**

The Hon. Member for Douglas Central (Mr Thomas) to move:

*That Tynwald is of the opinion that the Council of Ministers should publish no later than the end of December 2021 a Programme which sets out the current challenges and opportunities that face the Island with a collective and prioritised policy agenda, financial plan and legislative programme to address them; with annual reviews and revisions being laid for debate and approval each October thereafter.*

1055 **The President:** We now come to Item 9 in the name of Mr Thomas.

This Item was published on the Register less than six weeks ago. Does the Court give its consent for this Item to be taken today?

**A Member:** Yes. Agreed.

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**The President:** Mr Cannan.

1065 **The Chief Minister (Mr Cannan):** Mr President, I rise to point out to Hon. Members that I have in my manifesto for the Chief Minister made a commitment to Hon. Members that we would be debating in November, at the earliest possible opportunity, a draft Island Plan in terms of what is currently being put together following our initial consultation – doubtless what will be expanded upon with further consultation and will give Hon. Members the full opportunity to debate the matters that Mr Thomas is outlining. Therefore, I will not be supporting the move for the six-week rule to be removed at this point.

1070 I would point out also to Hon. Members that, should this debate go ahead, then we will be simply moving an amendment to confirm the fact that the debate will take place in November.

So I will not be supporting the request.

Thank you very much, Mr President.

1075 **The President:** Hon. Members, there is objection, therefore we will go straight to a vote and that is about whether the Court gives its consent for this Item to be taken today.

Please vote.

*A division was called for and electronic voting resulted as follows:*

*In the Keys – Ayes 4, Noes 20*

**FOR**

Mrs Christian  
Mrs Corlett  
Ms Faragher  
Mr Thomas

**AGAINST**

Mr Ashford  
Dr Allinson  
Mrs Barber  
Mrs Caine  
Mr Callister  
Mr Cannan  
Mr Crookall  
Ms Edge  
Mr Glover  
Dr Haywood  
Mr Hooper  
Mr Johnston  
Ms Lord-Brennan  
Mrs Maltby  
Mr Moorhouse  
Mr Peters  
Mrs Poole-Wilson  
Mr Smith  
The Speaker  
Mr Wannenburg

**The Speaker:** Mr President, in the Keys 4 for, 20 against.

*In the Council – Ayes 0, Noes 7*

**FOR**  
None

**AGAINST**  
Miss August-Hanson  
Mr Greenhill  
Mr Henderson  
The Lord Bishop  
Mrs Maska  
Mr Mercer  
Mrs Sharpe

1080 **The President:** In the Legislative Council, none for, 7 against. Therefore, the motion fails.

**10. Gas Regulation Act 1995 –  
Gas (Tariff Fixing) (Amendment) Regulations 2021 –  
Debate commenced**

The Hon. Member for Douglas Central (Mr Thomas) to move:

*That the Gas (Tariff Fixing) (Amendment) Regulations 2021 [[SD 2021/0302](#)] [[MEMO](#)] be approved.*

**The President:** So we now move on to Item 10, Gas Regulation Act 1995. This is also in the name of Mr Thomas and this Item was also published on the Register less than six weeks ago. Does the Court give its consent for this Item to be taken today? (**Members:** Agreed.) Thank you, Hon. Members.

1085 I call upon Mr Thomas to move Item 10.

**Mr Thomas:** Thank you, Mr President.

1090 I rise to move the Gas (Tariff Fixing) (Amendment) Regulations 2021 on behalf of the Communications and Utilities Regulatory Authority. Clearly the Authority recognises that these Regulations will have a significant impact on consumers and shares concerns Members undoubtedly have in this respect. But the underlying wholesale gas price rise and profound disruption in international energy markets have created the need for these amending Regulations to adjust the maximum permitted tariffs set in the Gas (Tariff Fixing) Regulations 2021 to reflect the higher commodity costs being faced by the public gas supplier, Manx Gas.

1095 I understand that the Communications and Utilities Regulatory Authority board did not take the decision to amend the Tariff Fixing Regulations lightly, and while the gas tariff or charge for gas supplied – the increase in that – may be unwelcome, the board determined that amending the Gas (Tariff Fixing) Regulations in this way is the right decision. In making this determination the board had to balance the protection of gas consumers on the one hand, with maintaining a stable, uninterrupted gas supply on the other hand.

1100 Hon. Members, I stress this 2.1 pence increase is not designed to ensure that profits are maintained or that dividends are paid, but is to ensure that the Island's public gas supplier can continue to supply gas. Hon. Members should also remember that Tynwald requested by Resolution in February 2021 that the Communications and Utilities Regulatory Authority, the Island's independent economic regulator, introduce regulation to cover the tariffs for the public supply of gas for all customers, pursuant to section 6 of the Gas Regulation Act 2021. This is exactly what the Authority is doing. The Communications and Utilities Regulatory Authority board and

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management were given by us, here in this Hon. Court, the task of introducing a regulatory regime for the Island's gas sector that is in line with international best practice, and that is what they are doing.

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In essence, these particular Regulations are an unfortunate necessity. The Communications and Utilities Regulatory Authority has carried out a thorough review of all of the options, the outcomes, the risks, the consequences of not making these Regulations and it has determined that not making them would be worse for us in the long term than the temporary increase that would be allowed if these Regulations are approved by Tynwald here today.

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In closing, and through me in this Hon. Court, the Communications and Utilities Regulatory Authority board and management state here today:

We are working to introduce measures to better protect consumers and ensure efficient investment in our Island's infrastructure, and we are also trying to create the conditions and framework to encourage investment in new green energy sources in the future. However, this takes time. We have fully accepted and welcomed Tynwald's mandate for the economic regulation of the Island's gas sector, as well as the support we have to date. We simply want to point out that we are only at the start of the journey to a point where Manx consumers can benefit from fair and transparent regulation that is based on international best practice. The timing of this crisis is unfortunate. Had we been further on this journey it may not have had the impact it currently does. Please bear in mind that where we are now is not reflective of what we are trying to achieve. Unfortunately, world politics have intervened and affected us here on our Island too. Having been in this very position, we know that the decision before you today is not an easy one, but we appeal to Members to support these amending Regulations, which would help ensure the security of our gas supply, particularly over the winter months, and clearly demonstrate that there is an ongoing commitment to fair and transparent regulation in the Isle of Man.

Mr President, I beg to move the Gas (Tariff Fixing) (Amendment) Regulations 2021 for the approval of this Hon. Court.

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**The President:** I call on the Hon. Member for Douglas North, Mr Ashford.

**The Minister for the Treasury (Mr Ashford):** Thank you, Mr President.

I beg to second the Regulations and in doing so this is a situation that none of us wanted to find ourselves in today, where we are having to consider an order on behalf of the independent regulator to increase fuel costs due to rises in the wholesale market just before we enter the winter months.

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In the last three months, we have seen the international wholesale market price for gas rise from 88.38 pence per therm three months ago to a high of 293.91 pence per therm earlier this month. With these additional energy costs, it is essential that if this rise goes ahead that we support and protect the most vulnerable in our community with any increases in their day-to-day living expenses.

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I would like to take this opportunity to confirm to this Hon. Court, Mr President, Treasury's intention to provide additional financial support to help those on the lowest incomes to meet the likely increase in their gas bills over the winter period, should this motion be approved and the gas tariff increased as a consequence. This additional support would be provided through the Social Security Winter Bonus scheme. This scheme provides for lump-sum payments to be made to certain recipients of income-related benefits in January each year, which would also tie in with the billing cycles for the increased cost.

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For Income Support recipients who would ordinarily qualify for the £350 Winter Bonus this amount would be increased by £100 to £450, but Treasury does recognise that not everyone in receipt of Income Support currently qualifies for the winter fuel payments, so for certain other Income Support recipients and Employed Person's Allowance recipients who are not currently eligible for the Winter Bonus, they would get a £100 Winter Bonus payment if amongst other things they are responsible for the payment of housing costs.

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1145

The use of benefits as a measure can also sometimes be a blunt tool, Mr President, and can lead to cliff edges where people are just outside the qualifying income threshold but still

struggling. I am therefore also committing to, should this motion pass here today, introducing a variable rate Winter Bonus targeted at people who have incomes just above Income Support levels, which would be worth between £25 and £75 depending on individual circumstances and income.

Mr President, if this motion is approved today, I will commit to bringing the requisite legislation to give effect to the extra help I have just described to this Hon. Court in December, and will engage with Hon. Members prior to that on the full details prior to the legislation coming forward. Depending on the level of gas tariffs thereafter, we will also look to make an additional payment to the same cohorts I have just mentioned in March next year, based on the same criteria. That would require further legislation to be brought to this Hon. Court, which would be in February. The total cost of these measures is estimated to be up to £1 million. I hope that Hon. Members will agree with me, Mr President, that this use of public funds is well targeted and proportionate, given the likely impact of any significant rise in heating costs on the most financially vulnerable in our community.

Thank you, Mr President. I beg to second the Regulations.

**The President:** I call upon the Hon. Member for Onchan, Mr Callister.

**Mr Callister:** Thank you, Mr President.

I have to admit I was trying to write down all the information that the Treasury Minister was just giving us there.

Can I start by first putting on record my sincere thanks to the Chief Executive and his staff at the Communications and Utilities Regulatory Authority (**The Speaker:** Hear, hear.) for all the data and information they have passed to Members over the past couple of weeks. It is very much appreciated.

I think we have all seen the headlines since the beginning of the year around the wholesale price of natural gas per therm, and I fully acknowledge that the Isle of Man will not be immune from those escalating costs in the weeks and months to follow. However, with no financial information or financial statements made available to Members before this sitting, we are having to take this motion on trust, and the fact that the 2.1 pence increase per kWh proposed by the regulator is a genuine break-even figure for Manx Gas over the next financial year.

That said, it is disappointing to hear that Manx Gas were originally looking for a 6 pence per kWh increase, especially when we know that so many businesses and Island residents are struggling financially at the moment. Mr President, there is no place for greed or profit during a financial crisis, which is what Mr Thomas has already outlined this morning, especially on a small Island and especially with a population of around 84,000. Neither should we ignore the fact that Manx Gas has enjoyed a 9.9% ROCE, or return on capital, over the past five years, along with a targeted rolling average of around 10.6% ROCE prior to 2015. Manx Gas have certainly enjoyed an excellent rate of return from the people of this Island over the last 10 years, and I know that many of my own constituents are still looking for that refund that was promised during the last administration and they are still looking for lower bills. I hope at some point in the future we can fulfil those promises, especially around lower utility bills on our Island.

Unfortunately, the Treasury Minister gave so much information there it was really hard to get to grips with it, but I do appreciate that he has offered £1 million's worth of support, which will certainly help the most vulnerable, and I thank you for increasing the winter weather bonus, which is up to £450, plus there will be other payments available of £100 and somewhere between £70 and £100 for others. So it does seem to have captured some of the most vulnerable in our society, but I would like further details of the Treasury Minister; exactly how many Manx Gas customers will be eligible to this funding?

I would also like the Treasury Minister to give reassurance that other people are struggling, given everything that businesses – because there is no mention of businesses, you have targeted the very low income families, which I absolutely support, but – there is no information about

1200 businesses that have already just come through COVID that are already struggling. I want  
reassurances from the Treasury Minister there will be other avenues open to help people, and I  
would also like reassurance from the Treasury Minister as well of when people will start to get  
this information. We know that we are just about to go into the winter period, we know that  
1205 people will be wanting that message to say it is okay to switch on your gas in November and  
December: do not sit there and freeze, switch your heating on, there is support coming. But they  
need that support available by going into January –

**Mr Ashford:** Will the Hon. Member give way?

1210 **Mr Callister:** Please, no problem.

**Mr Ashford:** Obviously I do not have another opportunity to speak in the debate, so I am  
grateful for the Hon. Member to give way, Mr President.

1215 What I would say is there will be a press release going out later today with the information for  
the public at large, so there will be the detail of what I have given there. At the moment we have  
targeted the winter fuel payment. That does cover not just gas customers, it will also cover oil  
customers as well who fall into that bracket and we are starting to see shifts in the wholesale price  
of oil as well that is actually seeing some increases that we wanted to cover too, rather than just  
making it about gas. But there will be a detailed press release going out this afternoon, if these  
1220 Regulations should pass today, to give people reassurance and those obviously that will be in  
relation to income-related benefits and currently claiming will be contacted to be made aware of  
the additional funds available.

**The President:** Mr Callister to resume.

1225

**Mr Callister:** Thank you, Mr President, and I do sincerely thank the Treasury Minister because  
this is a difficult situation for all of us in this Court today. We all acknowledge that this is going to  
hit the low at a time when they can least afford it. I think we all acknowledge that and we all  
understand that. But what I do need to make sure is that the messaging – and it is something that  
1230 was repeated time and time again through the last Government – is right. We need to get the  
message out to ensure that people who can access this support can have it with the reassurance  
that they can turn their gas on.

1235 Again, I sincerely thank the regulator. Based on what I am hearing this morning, Mr President,  
I will take a leap of faith and support the motion tabled, but it is with a warning that I do want the  
actual levels of tariff to be reviewed in three months, six months, and to get our bills down on the  
Island. That is what we need from our regulator. We need lower bills.

Thank you, Mr President.

**The President:** I call on the Hon. Member of Council, Mr Mercer.

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**Mr Mercer:** Thank you, Mr President.

1245 The Isle of Man and its parliament have made measured progress towards the independence  
of its regulatory authorities. As an internationally responsible jurisdiction, it is hugely important  
that we continue to do so. However, if the activities of regulators are unduly influenced, then their  
ability to perform their duties can be severely impacted.

1250 Hon. Members, where can that influence come from? It can come from the public, it can come  
from the industries that they regulate, and it can come from politicians. Until recently, the  
Communications and Utilities Regulatory Authority (CURA) had a political Chair, appointed from  
amongst our number. Tynwald voted to remove this political appointment and in doing so took  
another of the many steps towards aligning this regulatory body with the best practices suggested  
by international organisations such as the OECD.

1255 Following the big spike in the price of wholesale fossil gas, the price rise that has been put forward by the regulator makes for uncomfortable reading. We know that it will impact those who can least afford it. We must however recognise the expertise and the detailed understanding of the situation that the regulator has, and allow them the independence of action that Tynwald has already voted for.

1260 We must though also recognise that it is the policies created in the other place and here in Tynwald that are partly responsible for the situation we find ourselves in. Fossil gas has been the transition fuel of choice since the turn of the century, but the key word here is 'transition'. Transition means to change from one condition or state to another, not to adopt one forever as business as usual. Government policies are still allowing new gas boilers to be installed in new builds, even when we know that those homes will require retrofit before 2031.

1265 Since the declaration of a climate emergency by the previous Chief Minister in May 2019, we have continued to allow new public housing and residential care facilities to be built (**A Member:** Hear, hear.) with gas boilers. By allowing fossil-fuel boilers to be installed into new homes, we have exposed those who purchase or rent them to volatile shifts in prices, whilst at the same time the cost of renewable energy from solar and wind and others has continued to reduce significantly. With new renewables capacity being added at a rapid pace, the cost of these is forecast to continue to reduce further. Now though, with fossil gas, we see the results of a wholesale price spike that will ultimately affect those who can least afford it.

1270 Changing these policies is within the power of the other place and with Hon. Members here in Tynwald. Changing the wholesale price of fossil gas is not. If we vote to adopt the retail price suggested by the regulator, then Government must take responsibility for the outcomes these other policies have created.

1275 Mr President, I will be voting for the price rise put forward by CURA. In doing so I recognise the fact that Tynwald has already taken steps to increase the independence of this regulator. To intervene politically now at the first crisis faced by the regulator and the newly assembled Tynwald would be a regressive step. I do not take this action lightly and I have wrestled with this decision, as I suspect many of you here have also done. I have great concerns about those who may now have to choose whether to heat their homes this winter, and I welcome the earlier statement of targeted support made by the Treasury Minister in this regard.

1280 Thank you, Mr President.

1285 **The President:** I call on the Loayreyder.

**The Speaker:** Gura mie eu, Eaghtyrane.

1290 I think I am going to be joining the chorus of people in this Court today who will be accepting this motion with grudging acceptance, is possibly the best way of putting it, because I, like many others, think that the consequences for this are far worse if we do not support the motion in front of us today. A failure of Manx Gas as a corporate entity, leaving people without heating in a Manx winter, is just an unacceptable outcome, (**A Member:** Hear, hear) and that is, in reality, potentially what we face here today. (**Mr Callister and another Member:** Hear, hear.) But I do accept assurances from CURA that this represents an approximate break-even proposition for Manx Gas over the coming year. I also accept their assurance that this tariff will fall commensurately should the wholesale gas price fall.

1295 Now, as with Mr Callister, we got a barrage of information about the Government response which we are hearing for the first time now in terms of the Winter Bonus scheme. I would just question, we are talking here though about a one-off payment, although the tariff raising of 2.1 pence per kilowatt hour is actually around smoothing out the issue over 12 months for the consumer, but we are going to give a one-off lump sum. I think that maybe it might be better to actually bundle these into benefits on a temporary basis rather than provide lumps, when actually that is not going to help the cash flow of those people who are having to face their bills. But again, I know the Minister has got a little bit of time to work on this and the principle is right, that it is

1305 supporting the right people, but I am just making sure that when some people are living one week to the next, giving them a big payment in January and expecting them to have that last in their gas bills to March might be optimistic, given the way that some people who are vulnerable have to live their lives.

1310 It was not targeted to gas customers but I think in the intervention to Mr Callister he explained a little bit why that is not targeted on gas customers, because it is important that we do have focus when having these support packages. I also welcome the news, which echoes really the sort of things that we have been saying in the Poverty Committee, about cliff edges and removing that and allowing some of this to expand upwards for those who would otherwise just miss out. So we again look forward on the detail to that.

1315 Like Mr Callister, I did not hear anything about business support, and I am not sure how we are going to best support business through this because they will struggle as well. I know that there is another way, a different way of dealing with that, and maybe it is just going to take a little longer to work that up, but again, perhaps if there was something said on that, that would be I think a comfort to those outside of this place.

1320 Another thing that we have not heard of, and again I would like to perhaps see in the coming months, is around transitional support for those who are looking to move away from gas and fossil fuels generally. There is a scheme going at the moment for those on the very lowest of incomes to help insulate their homes. Obviously insulation is going to be a big part of reducing bills, so anything to do with insulation or changing their fuel sources, again I think it is something that now is a good opportunity, I call on the Council of Ministers not to waste a good crisis.

1325 There are, however, questions that do need to be asked and there were three I had. Are Government policies fit for purpose? I actually do not need to go into all that because Mr Mercer covered that brilliantly.

1330 Is Manx Gas fit for purpose and are CURA fit for purpose? Manx Gas are operating in a generally low risk environment where some have described that to the extent that it is a licence to print money with a 10% return on capital, but I think we need to ask ourselves in this Court what are our expectations of their resilience, because clearly they have not been able to weather this storm. Now, I accept it is an exceptional storm, but they have not been able to weather that without this tariff increase. So I think we need to ask our regulator or give the regulator some guidance as to what sort of storms do we expect them to be able to reasonably weather, and when do we think that regulatory action is going to be needed.

1335 Again, is money being bled out of the organisation in dividends, leaving it incapable of absorbing shocks? (**A Member:** Hear, hear.) There were similar concerns *many* years ago about the banking industry and that led to capital adequacy requirements set in legislation. Now, given that we are talking here about regulated monopolies, maybe that is something that we should be considering going forward. And is Manx Gas's risk appetite acceptable in terms of forward purchasing gas supplies? I think that these are relevant and these are realistic things that we should be having discussions about in terms of policy scrutiny. And whether the full toolkit is there, and I will come back on to that, because I think the last question I had was: was the regulator fit for purpose?

1345 I do not know of any criticism whatsoever of the regulator, who can only do what they are tasked with by us, in terms of legislation and our registration, and we come back to the model of do they have the right fabric? That is F, A, B, R, I, C: do they have the right *focus* in terms of performance measures, objectives, priorities; is it *appropriate* in terms of being useful for decision makers and stakeholders; is it *balanced*, covering all areas of work; is it *robust* and able to withstand organisational and personnel changes; is it *integrated* within business planning and management processes; and is it *cost-effective*? I think there is a good opportunity here, before CURA takes its final leap into independence, to really look at how this interaction has worked and whether we have given CURA the full enough toolkit to be able to do what we expect of it, and are we being clear as policymakers and as legislators as to what we expect from our regulator and then from regulated industries.

1355

So I do see this as an important task for scrutiny in the coming months, as we elect our Scrutiny Chairs, and that scrutiny work. So I hope that will give some food for thought for both Government and those on Scrutiny Committees in the coming months.

Thank you, Mr President.

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**The President:** I call on the Hon. Member for Ayre and Michael, Mr Johnston.

**Mr Johnston:** Thank you, Mr President.

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I welcome the presentation given to Hon. Members by the Communications and Utilities Regulatory Authority. After the long and bumpy journey that resulted in the creation of an independent regulator, what message does it send out if that regulator is undermined at the first hurdle? What I want to ensure is that we have a robust and well-supported regulator that consumers have confidence in. To that end, as all the regulation is not fully complete, we must ensure that if required regulation is further examined and reviewed to ensure it is fit for purpose as we go forward.

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Thank you.

**Mr Callister and the Speaker:** Hear, hear.

1375

**The President:** I call on the Hon. Member for Douglas East, Ms Faragher.

**Ms Faragher:** Thank you very much, Mr President.

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I want to acknowledge, first, that we have been placed in a really unusual position and one that will most likely never arise again; and for two reasons. Firstly, it is thankfully very rare that politicians are asked to vote for something that they know without any doubt will adversely impact most of the population; and for the MHKs, this is what we are being asked to do less than a month after being elected. But, secondly, and importantly, as my hon. friend in the Legislative Council, Mr Mercer has very clearly highlighted, this situation will not arise again because the regulator has been set up to make these decisions independently and will do so in future. This will be entirely their call and, for the record, I am assured that will be undertaken as a transparent, open public process.

1385

However, we are now back to the fact that this is our decision, and it is an extremely tough one to make. My concern for people facing winter with hugely increased gas bills is huge and it could only be superseded by a far bigger concern. Mr President, we have been told that to refuse this could result in Manx Gas defaulting, not just on invoices but in their overall role of providing gas to the people of the Isle of Man. So the thought of thousands of vulnerable people in care homes, in hospitals and in private dwellings across our Island being potentially completely without gas in the coldest months, is a scenario I cannot get around. I do wonder if more exploration of options available around the robustness or otherwise of Manx Gas over the coming months could have been undertaken.

1390

As politicians we are tasked to think globally, nationally and individually. We know that gas price issues are global and our neighbouring jurisdictions have instigated comparable or higher gas price increases than is being proposed here. But we must also think individually and not forget that we also know that people are already struggling to pay their heating bills.

1395

I must express my discomfort about voting on this really important issue without knowing the full details of any financial support package and how that will reach all my constituents who need it. As the Hon. Member, Mr Ashford, stated these benefits can be a blunt tool and I would have liked to have given the additional measures he has described, full consideration. (**A Member:** Hear, hear.) I thank Mr Ashford for his confirmation that a press release will go out later today with full details but note *that*, of course, will be after we have voted. (**A Member:** Hear, hear.)

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But primarily I want to make the point that we must put appropriate financial support in, that reaches *all* of the people who need it as we face winter; or, without overstating it, we will face potentially a winter of discontent.

Thank you.

1410

**Two Members:** Hear, hear.

**The President:** I call on the Hon. Member for Arbory, Castletown and Malew, Mr Glover.

1415

**Mr Glover:** Thank you, Mr President.

We literally are over the barrel on this. The one vote we cannot make is to say no here, this afternoon. However, I do have some questions.

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Why is this being put to Tynwald in the October sitting? My original understanding was that this was going to be in November. I do have sympathy for, obviously, Council of Ministers. They have only just collectively formed the body, but we are being asked here to approve a 27.5% rise when we have only really heard what provisions are being put in to help the vulnerable, to help those who are struggling with their bills.

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We are being asked to consider something really important without the full details and full consideration. Members of this newly instructed CoMin were bemoaning the fact in the last administration that they were being put in positions like this; and here we go again, the very first real sitting of Tynwald. I have great sympathy with CoMin because they have not had much time in this situation, but we are in that position once again.

1430

To put in context the winter costs that we know: a low user is £126; a medium user, £189; a higher user £267. These were the figures we got at a briefing to Members. That gives clarity to constituents and public that are listening. These are the costs we are talking about over this winter. We have heard about individual support, but again I echo comments already made about business support.

1435

I also want to know, because we have seen a lot of gas companies go under in recent times: what contingency plans have we got here on the Island if, in an emergency, Manx Gas were to go under? If we say no here today, obviously we are making that a more possible consequence of that vote, but there is no guarantee in this world that that will not happen. So what is the contingency plan if Manx Gas were to follow suit with a number of suppliers that we have seen across the water? What is the contingency plan?

1440

I think we are missing too many parts of the equation to make an informed decision, and that is my big worry here. I have wrestled with it. The 'heat or eat' we are hearing about. Well, the Hospital is already under pressure we know, with staffing, and we know that we have got a lot of bugs circulating, chest infections. The likelihood is that the Hospital, especially with COVID at 600 cases, could well come under even more pressure.

1445

So what is the current COVID strategy? What is our health strategy to see us through the winter? All of this could be relevant if people are struggling to heat their houses, become infected with a condition that leads to pneumonia, leads to hospital admissions? It is much wider than just looking at this particular motion here today. We need to look strategically right across the board as to what our approach is, going forward.

1450

So I am uncomfortable that we are in this position. I accept that we cannot say no, but I am uncomfortable at saying yes, without further consideration.

Thank you, Mr President.

**Two Members:** Hear, hear.

1455

**The President:** I call on the Hon. Member of Council, Miss August-Hanson.

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

I thank the Treasury Minister and CoMin for their deliberations in bringing this to this Court. I thank the Treasury Minister as well for the schemes that he has worked up so quickly, although I am sure that there is plenty more to iron out in relation to that.

I will be looking forward to looking over them myself, particularly in relation to things like, for example, those that are just above that benefit income level, how that would be determined, whether it is means testing or by other means. But thank you anyway for your work on that, and it was very quickly done.

When the Authority took responsibility for regulating the gas sector on the Island following the February 2021 sitting, the Authority responded with the Gas (Tariff Fixing) Regulations to protect customers from predatory behaviours, and that was the concern a year ago. It was still the concern when those Tariff Fixing Regulations arrived. It was the first step and when it hit LegCo, and when we looked at the Bill that then ensued, we had assurances that there would be a regulatory journey to a lasting regulatory regime. The consultation went out for a four-year operating model with more detailed price controls, which Manx Gas have since argued needs to be a five-year operating model.

The Authority expects that regulated rate of return to be set at 6%, controls on what can be considered to be acceptable costs, separating the business between wholesale and retail arms for regulatory purposes, which means that there could be an access obligation which might allow others to use the Manx Gas infrastructure to retail gas to customers. So perhaps that might work into any proactive discussions that may be had on any contingency planning, as Mr Glover mentioned going forward.

It has been a year since I had conversations, and others had conversations with Ministers about why we cannot just move straight to economic regulation and a Gas Economic Regulation Bill. I asked where they were again when the Gas Regulation (Amendment) Act 2021 was travelling through our Branch, understanding that we needed regulation in place at that time. It was not brought to the Branch in the best form that we would have liked it to have been brought to us. We accepted that the speed was necessary to prevent Manx Gas hiking prices in the interim, it appears that that has happened regardless, due to international pressures.

I have some sympathy with the arguments to delay this decision because we are working with limited information and an outcome that has been negotiated by the Communications and Utilities Regulatory Authority (CURA), and Manx Gas, a private company that *Hansard* has been well acquainted with particularly over the course of the last year. However, I do feel that to undermine the independent regulator at this time could be a mistake. And, regardless of the position that it finds itself in – still without so much as a draft Bill before the Branches – to liberalise the gas market and introduce much-needed competition, and therefore our single point of failure here, to allow healthy competition for customers, they deserve far better than what we have done thus far.

I have assurances from the regulator that that legislation will contain competition provisions in case there are any unforeseen issues like this one, that are not captured by *ex ante* measures to minimise potential risk of a future collapse of any gas company.

The question: 'Is it fit for purpose?' is a very valid one. I think Mr Speaker and Mr Mercer made the case for that very eloquently, so I will not go too far into it. But is it fit for purpose? Have we provided them with the best possible – the regulator themselves – means of regulating, and is the company in the right place? Those are questions that need to be asked.

Do we want to prove that regulation, as Manx Gas has always said, is unproven, unpredictable and prone to political interference by voting against these Regulations? My suggestion to the Authority is that it brings forward the Gas Economic Regulation Bill as soon as possible, because the wait and the situation are unacceptable at best; and here we could see Members vote against, and customers ending up paying higher rates, and the mandate of the regulator would then be compromised. Every regulatory measure and enforcement action would be challenged by Manx Gas on that basis. Starting every discussion in that way is just untenable.

1510 Perhaps some kind of support scheme for businesses I think is a very good idea. No matter  
what the outcome of all of this will be, there will be a direct cost to customers and Government,  
socially and economically, and there may be a significant impact as well on inflation as gas is a key  
economic input for many businesses. If we vote against this, we might see an impact on future  
inward investment. Do we want to show that there is a risk posed by regulatory frameworks? Or  
do we want to trust our regulators to make at least a good start? CURA, to a degree, is in its  
1515 infancy, so those questions on whether or not we have supplied it with the best structure are valid  
ones.

I will be voting for it, Mr President. But if the soundings that I am hearing are correct, and Manx  
Gas is planning on asking the regulator for any more support to heighten the cap again, and a solid  
regulatory regime is not in place, my vote will quite simply be no.

1520

**A Member:** Hear, hear.

**The President:** I call on the Hon. Member for Douglas North, Mr Wannenburgh.

1525 **Mr Wannenburgh:** Thank you, Mr President.

In all good conscience, I simply cannot support this. I came into politics to support my  
constituents and support small business. This flies in the face of that. I find it hard to place my  
confidence in a company that has treated its customers, who are our constituents, as woefully as  
Manx Gas has. They failed to hedge, they failed to honour the rebate. A degree of humility would  
1530 not go amiss.

Thank you.

**A Member:** Hear, hear.

1535 **The President:** I call on the Hon. Member for Ramsey, Mr Hooper.

**The Minister for Health and Social Care (Mr Hooper):** Thank you very much, Mr President.

Hon. Members may be aware that I had originally tabled an amendment to this motion, to call  
on Government to provide some financial support to families and households who would be  
struggling to afford these price rises that are being driven by the gas price crisis currently being  
faced throughout Europe. I tabled this amendment given the concern I had in respect of the  
impact that these rises would have on people already struggling to manage, having further  
difficulties over the winter. A situation which I fear would not have been acceptable to any  
Member of this Hon. Court.

1545 However, following the firm statement made by the Treasury Minister today that if Tynwald  
does agree to the regulator's request, then Government will respond with financial support for  
households on the lowest incomes. As the aim of that proposed amendment has been achieved,  
I do not intend to move it now today. I would like to place on record my thanks to the Treasury  
and Council of Ministers for taking swift action in response to these challenges that we are facing,  
1550 and I do look forward to the Treasury Minister engaging further with Members as the detail of the  
schemes are being worked out.

It is worth noting as well, Hon. Members, that whilst we have been advised of the price rise,  
the price cap will rise immediately. But, because of the way the Manx Gas billing cycle works  
people will not see the impact until their January bills arrive, so there is adequate time for Treasury  
to work up the financial support detail and ensure it is fully and properly communicated to people  
and that Members are engaged in that process.

1555 Some Members have mentioned in their remarks so far that they are concerned about the  
impact on businesses. I would like to reassure those Hon. Members on two fronts. Firstly, many  
businesses, though not all, are on non-standard tariffs already and so should not be impacted by  
this rise in the same way. Equally, whilst I no longer sit on the Economic Recovery Group, I am  
1560

sure that the Treasury and Enterprise Ministers will be keeping a very close watch on any impacts on businesses and whether there is any need for ERG to step in and offer support, just as they have done over the course of the pandemic.

1565 Finally, the Hon. Member for Arbory, Castletown and Malew, Mr Glover, mentioned in his remarks about the wider implications of the Island's COVID strategy, and I agree with him that we cannot look at this issue in isolation. I hope, though, that I can reassure him that I am intending to ensure Members are fully briefed on the current situation and plans just as soon as I am.

Thank you very much, Mr President.

1570 **The President:** I call on the Hon. Member of Council, Mrs Maska.

**Mrs Maska:** Thank you, Mr President.

1575 I would like to, firstly, thank the mover for arranging the briefing we had last week, which was very helpful in this very difficult issue. One of my main concerns is that the customers who will be impacted most heavily by this are people who have no choice in the ability to heat their homes. They are either in the private rental sector, where it is very difficult to source your heating from anything other than gas, and also public sector housing. It is of concern to me that they will be the people who are likely to bear the brunt of this.

1580 I also am aware that the Green Living Grant Scheme does offer help to upgrade your property and in a way I suppose, where I am coming from, this is a wake-up call. We are still allowing new builds to install gas central heating going forward, (**A Member:** Hear, hear.) open-ended, and I think we really ... I welcome the proposed creation of the Climate Change Board and I think one of the most important pieces of work that they can do is to look at how we can manage housing standards, modify building regulations as we go forward, to minimise the risk of this happening again.

1585 We are in a situation, as other Members have said, where we do not really have an option. We cannot see this provider not being able to be viable. What would happen if Manx Gas sustainability disappeared? So for those people who *have* to use gas, that has got to be maintained and allow people to heat their homes. But I really would implore the Council of Ministers and the new Climate Change Board to seriously get hold of this by the scruff of the neck and look at housing standards and building standards in businesses as well, and properties that Government itself has control over, looking at minimising our carbon footprint as soon as possible, so that we do not end up feeding this animal in an open-ended, unmeasurable way as we go forward.

1590 So I will grudgingly be supporting this because I see we have no option, but this is just a marker really to that wake-up call.

1595 Thank you, Mr President

**The President:** I call on the Hon. Member for Douglas South, Mrs Maltby.

1600 **Mrs Maltby:** Thank you, Mr President.

To be quite honest, I am really wrestling with this decision as well. I welcome the proposed packages on offer from the Hon. Member, Mr Ashford. However, I also agree with my hon. friend, Ms Faragher, in questioning have we been given enough time and detail to be able to consider how useful these proposed schemes will be for our constituents? I am not entirely sure.

1605 To quote the Hon. Member, Mr Callister, who feels he may need to take a leap of faith, I have to question is this really how we do business in this place? (**A Member:** Hear, hear.) It is just something for me just does not feel quite right about this.

1610 I wish to speak up on behalf of the people who often fall just outside of the boundaries of traditional support streams. If I am to vote for this, I would like to be assured once again that these people are included and this means they are supported adequately and they are not being relied upon, once again, to pick up the pieces for something they have not actually had any input on in the first place. Thank you.

**Several Members:** Hear, hear.

1615 **The President:** I call on the Hon. Member for Douglas South, Mrs Christian.

**Mrs Christian:** Thank you, Mr President.

First of all, I would just like to congratulate Mr Johnston and Mr Wannenburg for their eloquent maiden speeches here today.

1620

**Two Members:** Hear, hear. (*Interjection*)

**The Speaker:** You missed one!

1625 **Mrs Christian:** *And Mrs Maltby! (Laughter) My apologies! (Laughter)*

What a mess Manx Gas are in. (**A Member:** Hear, hear.) We have been asked today to approve a two-page motion which will have far-reaching, significant implications for our Island, especially those on low-to-medium incomes and on businesses that utilise large quantities of gas.

1630 Manx Gas have taken millions of pounds out of the Island. We can all accept here today that gas wholesale prices have gone up globally but, Hon. Members, has Manx Gas not been grossly negligent by not hedging their purchases of natural gas in order to protect our Island from the pain of sharp price increases? They should have done better. (**The Speaker:** Hear, hear.) They should have managed their risks better. Instead of this, they have maintained a healthy annual profit whilst continually putting up prices; and, rather than take the appropriate steps to manage this obvious risk, they now seek to simply recover their mistakes by charging their customers more.

1640 The parent company has a voracious appetite for taking dividends from Manx Gas. Millions has been transferred from the Island to pay the bonuses of wealthy financiers. This is simply not acceptable, Members. I ask you, Hon. Members, when did CURA receive these financials? Was this before the two-page Order Paper was put together? This financial picture is far from transparent to me, and many others.

1645 Now is the time for the parent company shareholders to step up and return some of these excess profits to defray the cost of this increase. It is true that Manx Gas are putting a gun to our heads here today asking us to agree this price increase and there are no other options on this table to us. But, Hon. Members, there are alternatives and this administration needs to look into these alternatives so that we can all make the best decisions for the Manx public, who we serve.

1650 I am not comfortable with agreeing this today. I do not see these options here in front of us. All I see is what CURA have put in front of us. I do not see what the administration has in terms other ideas. What other protection can the Government give us in these uncertain times? It is not for me to come up with these ideas, but could the Government put a ban on disconnecting consumers to protect them, as they did in the UK during COVID?

1655 We are just being told this frightening story that Manx Gas will go bust and there will be no gas to heat our homes. Nobody wants that. But do you all have the facts here today to make this decision? We only have to see across the water what has happened in the UK: larger gas suppliers have stepped in and taken over the supply of smaller ones to continue to provide to their customers at a less-high price than if they had continued with their existing supplier. They have been able to do this because they have hedged the smoothing-out gas prices.

1660 In this short time, we have not been provided with *any* alternatives and the pros and cons of those alternatives. What is plan B? What is plan C? What is the plan should Manx Gas fall into administration? This might not happen in any case, but how will the Island's interests be safeguarded?

This administration needs to be given time to look into these alternatives and because of this, Mr President, I feel we need more time to explore what alternatives there are. Therefore, I would like to move an adjournment of the debate for a special sitting in one week, so that this fledgling

1665 administration can do just this and can come back to this Hon. Court and its Members with options other than this price increase.

I appreciate that CoMin has just been formed and this is an early test. A one-week adjournment would enable further work to be done on alternatives and also, critically, provide Hon. Members with proper insight into this important decision. I hope that colleagues will support this adjournment and the constructive opportunity it provides to ensure that we are doing the right thing.

Thank you, Mr President, I beg to move:

*That this debate be adjourned for one week.*

**A Member:** Hear, hear.

1675 **The President:** Now, Hon. Members, there is a proposal for an adjournment of this debate. That cannot be seconded by anyone who has already spoken. Do I have a seconder?  
Actually, Mrs Corlett is due to speak next. Do you wish to second?

1680 **Mrs Corlett:** Thank you, Mr President, I do beg to second the Hon. Member for Douglas South, Mrs Christian's move to adjourn.

I simply want to allow for debate on an adjournment. Listening to the debate so far I hear real concerns from Members. If you are not 100% certain that the regulator is able to access all information required, if you are still questioning at what point and in what way Government should step in, then an adjournment may be appropriate.

1685 Our constituents are our first thought in this and we all want to protect those who can least afford the consequences of a hike in gas prices. It is now apparent that financial support will be put in, but there has been only minutes to consider those and how they will benefit our constituents. Independent regulation is especially important regarding monopolies and significant progress has been made but we are not quite there yet, and so it falls to Tynwald to approve this, or not to approve this amendment.

1690 I think I am going to just leave it at the point that we must bear in mind that one Tynwald's policies do not mean they have to be a new Tynwald's policy. We must reserve the right to change views. Members also have the right to support an amendment to consider the risks and the contingency plans, if there are any, should the gas be turned off at any time during the winter months; or, if this amendment is not supported.

Thank you, Mr President.

**Mr Callister:** Mr President, can I ask a point of order, if possible, just for clarity?

1700 **The President:** You may.

**Mr Callister:** I am not sure if my colleague from Douglas South said ... I thought she said next week, does she actually mean next month, until the November sitting? I wonder if someone could just clarify exactly what the amendment was because I thought I heard next week.

1705 **The President:** Mrs Christian, do you want to confirm the date at which you wish to adjourn this to?

1710 **Mrs Christian:** Thank you, Mr President.  
It is a one-week adjournment.

**The President:** A one-month adjournment from –

**Mrs Christian:** One-week adjournment, sorry.

1715 **The President:** Hon. Members, the adjournment that is proposed is for one week today.  
I just remind Hon. Members, we are now in the adjournment debate, of which there is a five-minute rule.

Next up to speak is the Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

1720 **Mr Moorhouse:** Thank you, Mr President.

This really is a challenge. We have got some information, possibly we could get more information but we do not know. The crucial thing is in terms of where we are how does Manx Gas's stability fit into that? The bottom line is that we need to heat our homes to ensure that people are warm this winter, and if we are taking risks in terms of that happening I am greatly concerned.

1725 If a week was achievable, and we could discuss that and get the extra data, I would feel reassured. But, at the same time, if I were to actually vote for something that could potentially result in Manx Gas having to cease operations and local people not having access to their gas this winter, then that would be something I would really struggle to do.

1730 Given that situation, is there any possibility that we could receive any additional information from Manx Gas before the vote is taken? Or are we simply basing our decision this morning on what has been presented to us at this point? Because I think the fundamental point for me is the stability of the company. Can they safely continue their operations for the coming days without there being an impact, or will this vote this morning have a serious consequence on what happens to our local people.

1735 Thank you, Mr President.

**The President:** I call upon the Hon. Member for Ramsey, Dr Allinson.

1740 **The Minister for Enterprise (Dr Allinson):** Thank you very much, Mr President.

I stand to oppose the motion in terms of delaying this decision, and I can absolutely understand the motives for the Hon. Member to bring this. I can also absolutely understand the unease of all Hon. Members. None of us want to be in this position ever, but particularly at the first sitting of this new Tynwald. None of us want to be in the position to have to increase gas prices ever, particularly not as we go into winter. None of us want to reward what could be seen to be a failed business model of a private company ever, but we still want to protect the integrity of our energy system.

1745 I would like to thank the Hon. Member of Council, Miss August-Hanson, for actually going back to why these Regulations were brought in. They were brought in to stop any private company being predatory in terms of price rises. What we are dealing with here is a price rise not caused by Manx Gas trying to make more profit, but part of a more global issue with supply and with storage, which is affecting not only the Isle of Man but most of the United Kingdom and further afield.

1750 I would like to thank the Hon. Member of Council, Miss August-Hanson, for actually going back to why these Regulations were brought in. They were brought in to stop any private company being predatory in terms of price rises. What we are dealing with here is a price rise not caused by Manx Gas trying to make more profit, but part of a more global issue with supply and with storage, which is affecting not only the Isle of Man but most of the United Kingdom and further afield.

1755 The right and the responsibility of the regulator was promoted by us in the first place to make these very difficult decisions to try to balance the integrity of the energy system with supply to the consumer; and, in that case, I support the regulator to make that decision and actually lead that decision. But it is also Government responsibility and Tynwald's responsibility not to bail out a private company, but to make sure that our people are catered for during the winter.

1760 There is a lot more to be done, I completely agree with that. The Treasury Minister will have between now and January to further develop a complete package, which hopefully will provide no cracks for people to fall through, because there will be cracks when you drill down about income, about energy use and about gas use. We do not know which of our constituents are

medium, low or high gas users. They will not know until they get the Bills. But we will provide for that and there is a definite commitment from the Treasury Minister to do so.

1765 I do worry that if we delay the decision again and again, we are not only putting the regulator in the insidious position of not having the support to move forward in terms of further regulations, further legislation and further control over the energy situation, but we are also putting at real risk the continuity of Manx Gas. People have been talking about contingency plans and, yes, there have to be contingency plans for all the different scenarios. In the same way as looking at our energy sector, Manx Utilities have contingency plans for all the different things that could happen. So that will be taking place.

1770 But I think in terms of this Tynwald sitting, we need to put our confidence in the regulator to move forward and regulate, rather than again to step into the political realm of saying we need as much information to make our decision. We have given that decision-making process to the regulator. We have taken a Minister off that body just for these really difficult decisions. That is not to abrogate our responsibilities to our constituents, the Treasury Minister has stated that that will be done, but it is to make sure that that regulation is independent, that it is true, that it is right and that it is proper.

Thank you.

1780 **The President:** Hon. Members, I think we have reached that hour for our dinner break and we will resume at 2.30 p.m., at which Mr Callister will be first up to speak to the adjournment debate.

*The Court adjourned at 1.02 p.m.  
and resumed its sitting at 2.30 p.m.*

**10. Gas Regulation Act 1995 –  
Gas (Tariff Fixing) (Amendment) Regulations 2021 –  
Debate concluded –  
Motion carried**

**The President:** Fastyr mie, Olteynyn Onnoroil.

1785 **Members:** Fastyr mie, Eaghtyrane.

**The President:** Please be seated

We will resume our business at Item 10 in the adjournment debate, and remind Members that there is a five-minute limit.

1790 Next up, I have the Hon. Member for Onchan, Mr Callister.

**Mr Callister:** Thank you, Mr President.

1795 With regard to the adjournment, personally I feel a week's adjournment is just too short for such an important decision, especially when we know that the decision here this afternoon will affect around 23,125 domestic gas Manx Gas customers, and potentially 1,400 local businesses. I was also considering tabling a further amendment this afternoon delaying this decision until next month, but having spoken to the regulator at lunchtime, we really do have no option here.

1800 As a Member of this Court, I really needed to understand and to get more time to understand the financial measures being proposed by the Treasury Minister this morning, how many people on low income and how many pensioners will be entitled to those payments. Again, why have we missed businesses from that potential element of support? We do have time and hopefully, in the weeks and months to follow, before the bills start arriving, we will get this sorted. Unfortunately, Mr President, we are in a financial corner and we have no time left. Therefore, having spoken to

1805 the regulator and put my trust again in the regulator, I will be rejecting the adjournment and will be voting for the motion as tabled.

Thank you.

**The President:** I call on the Hon. Member for Garff, Mrs Caine.

1810 **Mrs Caine:** Thank you, Mr President.

Oh, so we are taking a leap of faith over a barrel, or perhaps better that we are over a barrel taking a leap of faith, but I think what we must do is support the recommendation of an independent regulator, (**Mr Callister:** Hear, hear.) however hard to swallow the price hike is. Nobody wants to see households struggle, but nobody could predict the wild fluctuations in gas prices.

1815 This Hon. Court cannot alter the price of gas. It is our job to ensure the financial support package is adequate and we can engage with the Treasury Minister on that. As the Hon. Member of Council, Mr Mercer, articulated so well, what we must also do is look at improving building standards and moving people away from reliance on fossil fuel boilers, which is necessary to meet our targets on climate change and achieve CO<sub>2</sub> reductions.

1820 The Island will be publishing its heating decarbonisation pathway by January 2022, and I can assure Hon. Members I want to take a serious look at the Green Living Grant and consider if it is fit for purpose. (**The Speaker and another Member:** Hear, hear.) I wish to ensure that we have the right schemes to support all households make a just green transition.

1825 In opposing any adjournment of this difficult decision, I have to consider that the price point is based on CURA's estimate in September. If we push it back, I would have concern that with more spikes in the gas price, Manx Gas may require an even greater increase in price if we delay it.

1830 I am grateful to the Treasury Minister for confirming financial support will be available, although I do wonder how many gas customers will see no benefit, but I re-emphasise that my position on this is that we must support the recommendation of the independent regulator. I look forward to next year when any such decisions can be made without political comment and interference. That is what we need from regulatory bodies, especially if we want companies to find the Isle of Man an attractive place to invest in with renewable energy and other technologies that might be regulated. I therefore cannot support the adjournment, as I do not see how we would be better informed in one week's time than we are now, and I would urge Members to support the motion as tabled.

1835 Thank you, Mr President.

**The President:** I call on the Hon. Member for Rushen, Dr Haywood.

1840 **Dr Haywood:** Thank you, Mr President.

Like most of the first time Hon. Members here, I, too, regret that my first contribution in this Court will be to decide on gas tariff rises that we can all see will inevitably hit the most vulnerable in our community the hardest. However, it is the very nature of the job that we put ourselves forward for and have been elected to do, and we have to make tough decisions.

1845 Like also most of the Members here I attended the briefing held by CURA last week and I am really grateful for the amount of information that was shared at those, and we did already explore pretty much all of the options open to us. The last part of that discussion was how to support those already experiencing fuel poverty, and that has come today in the form of the information provided by the Treasury Minister, Mr Ashford.

1850 We have to recognise that the new CoMin has worked hard and fast in trying to put this support together and put some trust in them to deliver a comprehensive and considered package of support. I am sure we will look forward to discussing that as soon as possible. However, our natural desire to protect our vulnerable constituents should not divert us away from having to make a decision that is unpalatable.

1855

Hon. Members have known about the issues for several days now and had questions to the regulator freely asked and answered, and in all that time no one has found the magic beanstalk that will take us away from the inevitable. I suggest to Hon. Members that with all our collective experience, understanding and good will, if we have not found it that is because the beanstalk  
1860 does not exist. It is for these reasons that I do not think that adjourning the debate will contribute any further information. It will merely delay the tough decision facing us and our first serious matter should not be one on which we temporarily turn away.

Mr President, I will not be supporting the motion to adjourn.

1865 **The President:** I call on the Hon. Member of Legislative Council, the Lord Bishop.

**The Lord Bishop:** Thank you, Mr President.

It is an honour to speak after the Hon. Member for Rushen, whom I congratulate on her maiden speech. (**Members:** Hear, hear.) I, however, am going to take an alternative line to that and speak  
1870 in favour of the amendment for the simple reason that it may not be a question of gathering more information, although if we do that that would be a great thing, but also simply the fact that I am not sure yet that we are, if I can put it like this, morally, intellectually, even spiritually ready to vote on this particularly difficult issue.

The only unanimity that I am hearing today in this debate is that we are unanimous in our  
1875 hesitation on voting for this. Unanimous perhaps also in the fact that we have to do so. But if that is the yardstick for voting, then I wonder if we have got it correct.

We have heard about a leap of faith, I would speak also I think of a leap of imagination, possibly even a leap of conscience. And the benefit of a week's adjournment, it seems to me, is to enable  
1880 us to reflect more deeply on these things and perhaps to reach a point where we are able to vote in a vote that carries conviction. Because my concern I think is that if we vote this afternoon, after everything that has been said, it will be a vote that carries little conviction and that I believe is undergirded not by the right principles.

So my view would be that I would encourage us to vote for the adjournment. I support that.  
1885 Perhaps it does give us a way forward, a way of processing this really difficult issue, in a way that we are all going to be more comfortable with in a week's time.

So that would be my thought and I would want to go further and say that, actually, if we do  
not vote today for an adjournment but go back to the original motion, then I think I am minded  
1890 to vote against that. I do not necessarily expect anyone else to vote with me, but I would want to do so because I think if we were today to vote unanimously in favour of this motion, that would not be reflective of a matter which for all of us has caused such uncertainty.

Thank you, Mr President.

**Mr Callister and two other Members:** Hear, hear.

1895 **The President:** Hon. Member for Middle, Mrs Poole-Wilson.

**The Minister for Justice and Home Affairs (Mrs Poole-Wilson):** Thank you, Mr President.

I rise to contribute to this debate on the adjournment. I think in the main debate a point has  
1900 been made, and we should hold it on our mind now as we consider this adjournment, that there is a distinction to be made today, Hon. Members, between the regulatory response to the global situation and the wholesale gas price, and the Government response to the impact of that.

People today have rightly talked about the importance of acting in the best interests of our  
1905 constituents and this Island. My view is that in having decided, this Hon. Court having previously decided, that it is the right move to move towards independent regulation of our gas supply, it would not be in the best interests of our constituents or this Island for this Hon. Court to today cast doubt on this model and I believe, even by voting for the adjournment, that we would be casting doubt.

1910 I also think there has been some very helpful input from Mr Speaker in his contribution that has made the point that we should not waste the opportunity of a good crisis and make sure that in the full implementation of our regulatory model we do address in the entirety making sure that that independent regulation works for us, works for our constituents and works for this Island. But I would be hesitant about disturbing the journey today by this Hon. Court apparently casting doubt on the route forward so far.

1915 I also think that in listening to our independent regulator's view, it would not be in the interests of our constituents or this Island to risk the stability of our gas supply, and that is what we are faced with, Hon. Members.

1920 So I will not be supporting the adjournment. I hear absolutely that people, and the Hon. Member for Arbory, Castletown and Malew made this point, that it would have been helpful perhaps to have more information sooner, and I think that feedback is absolutely feedback that should be taken on board. I also hear from other Hon. Members that they recognise that the Council of Ministers and the Treasury Minister has worked rapidly to try and bring forward the Government response to the impact of the regulatory advice and I think the feedback for the future is absolutely on point.

1925 I think today we are faced with a difficult decision, but as the Hon. Member for Rushen in her maiden speech has made clear, that is what we are here for, to make difficult decisions, and I would prefer that we give a vote of confidence in our independent regulator at this point and not adjourn this debate. **(Mr Callister: Hear, hear.)**

Thank you, Mr President.

1930 **The President:** The Chief Minister.

1935 **The Chief Minister (Mr Cannan):** Thank you very much indeed, Mr President, and I have listened intently to all the contributions today, both here in the adjournment debate and previously in the main debate, and I do so with empathy, because who, frankly, wouldn't? We are in some ways between a rock and a hard place; almost three quarters of the way towards independent regulation and still having yet to call upon Tynwald to vote through a price rise.

1940 The points that my hon. friend, Mrs Poole-Wilson, has just made are extremely valid and, indeed, one has to approach this with the trust in the regulator that they have undertaken a proper assessment of the situation and believe it is in the best interests of the future of a stable gas supply that we vote through the Regulations today.

1945 I point out to Hon. Members that the events of recent weeks have raised significant questions about the content of a gas economic regulation Bill, and I expect that matter will require intense scrutiny. And that scrutiny will be required amongst and around some of the elements that have been brought forward today over the actual operations and actions and decisions that have been undertaken by the gas company themselves and the responsibility the company has for such decisions and also the responsibilities that the company has to ensure that it is in a good position to ensure that it can cope with such eventualities.

1950 There are many questions that Hon. Members have raised today that have cast doubt in their minds as to whether they should vote. I would suggest to them, in respecting everything that has been said, that now it is the time to trust the direction, but also to ensure now we put our attention fully into the gas economic regulations Bill and ensure that it is fit for purpose. Because it is that piece of legislation which will act to future-proof how the regulator works but will also act as a mechanism to protect the Island and protect our constituents.

1955 I do want to make one point, Mr President, on the matter of being held over a barrel or having a gun to our heads and various other descriptions that have been applied to the fact that a gas supply may be turned off. I want to assure, not only Hon. Members, but the members of the public that that threat is an unacceptable threat and were it to be applied I can assure you that I and the Council of Ministers would be taking immediate action to use every power that we could find to ensure that that gas supply remained on. We are not, and no Government should ever be held

1960 over a barrel, (**Several Members:** Hear, hear.) or in a position that it is reliant on one tap, on one supplier and in effect ransomed 22,000 of its own households in such a manner.

So I want to give that absolute assurance that irrespective of what happens today and irrespective of what happens in the future, we will act if there is any threat to the security and supply of the Island's gas supply.

1965 Thank you, Mr President.

**The President:** I will now call upon Mrs Christian to respond.

**Mrs Christian:** Thank you, Mr President.

1970 Firstly, I would like to thank Mrs Ann Corlett for seconding this adjournment today and for her thoughtful comments, as she always puts her constituents first and her passion and drive really does show in her seconding speech. I am really honoured that she joined me with that.

1975 In speaking to Mr Moorhouse, your question was you needed assurances that Manx Gas had the cash flow or we would be all right in this next week while we adjourn. Manx Gas have said that they have cash flow until February and Mr Hooper in his speech also said they very kindly clarified that Manx Gas will not benefit from these gas prices until January. So one week, I say to you here today, is not actually going to affect that, I would hazard a guess. If we trust CURA, CURA have absolutely said, if we believe in them and this is the information they are giving us, they have said that cash flow will not be affected until February.

1980 In speaking to Dr Allinson, he also raises some good points, and I would echo his sentiment. We do not want to do this. We *do not* want to do this. That is what he said. But we are! We are being pushed into a corner and we are being made to do this, and that is not acceptable. Dr Allinson, we need to be wary of knee-jerk decisions. The correct approach today is to consider all options.

1985 Again, Mr Callister, speaking to him, he talked and agreed that we are in a corner and we are taking a leap of faith. I am not ready to take that leap of faith.

1990 Mrs Caine, I agree we should support the regulator and many of you have said that, and I do support the regulator. But my adjournment is not a criticism to the regulator: it is to look at other options. It is to task Government, CoMin, to go out there and find us other options and make sure that we are making the right decision today.

1995 I hear also your good points about renewable energies and I fully support these ideas, but my burning concern today is about my constituents and how are they going to pay these bills. Struggling businesses are just getting back onto their feet. How are they going to cope through this? (**Mr Callister:** Hear, hear.) After COVID, they are absolutely just getting back there and we need to make sure and be very careful these decisions have a huge impact on them. They could be possibly laying off employees if these prices keep going up, and what is next?

2000 Moving onto Dr Haywood, and firstly to just say congratulations also to your maiden speech today. But again, just to clarify, these options are not about what Manx Gas can do, it is about what our Government can do and looking at other options. That is what I am looking for today. The Government need the time to explore and they have not had the opportunity to do that, and I want them to be able to. They have only had days that they have been assembled. We need to give them that time.

2005 I thank the Lord Bishop for his contribution also, and his agreement that we all have reservations here today. He is right. This is a leap of faith, a leap of our conscience, and is this the right thing to do? We need to have all the facts in front of us to make this incredibly important decision.

2010 I speak to Mrs Poole-Wilson: again, she has raised hugely valid points, and the regulator is only three quarters of the way through. Do we not still have an obligation to make sure that things are going right, that things are being looked at while the regulations are still not final? I still need to have those assurances.

2015 Finally, to the Chief Minister: thank you. Thank you for saying that actually it is not going to be cut off. The strong arm of Government will stand up for its consumers, will stand up for the people of the Isle of Man. If you all really hear that today, I am so proud to be part of this. To hear that they are going to protect our consumers. (**A Member:** Hear, hear.) It is positive to hear his empathy that I have not heard here before and I welcome that. I hear his trust in the regulator too, and I think that is incredibly important. But remember, again, this is not about the regulator. This is about me saying CoMin need more time. They need to go away and they need to look at other options. And we may come back and we may decide that this is the right deal –

2020 **The President:** Mrs Christian, the five minute allotted time is now up.

**Mrs Christian:** Thank you, Mr President. I was just closing. One week gives the time needed to consider alternatives –

2025 **The President:** Mrs Christian, the time is up.

**Mrs Christian:** Thank you, Mr President.

2030 **The President:** Sorry, please resume your seat. (**Mrs Christian:** Thank you.) Thank you. Hon. Members, that now concludes the adjournment debate. I propose we go to a straight vote and I ask the Clerk to proceed.

*A division was called for and electronic voting resulted as follows:*

*In the Keys – Ayes 7, Noes 17*

**FOR**

Mrs Christian  
Mrs Corlett  
Ms Faragher  
Mr Glover  
Mrs Maltby  
Mr Smith  
Mr Wannenburg

**AGAINST**

Dr Allinson  
Mr Ashford  
Mrs Barber  
Mrs Caine  
Mr Callister  
Mr Cannan  
Mr Crookall  
Ms Edge  
Dr Haywood  
Mr Hooper  
Mr Johnston  
Ms Lord-Brennan  
Mr Moorhouse  
Mr Peters  
Mrs Poole-Wilson  
Mr Speaker  
Mr Thomas

**The Speaker:** Mr President, in the House of Keys, 7 for, 17 against.

*In the Council – Ayes 1, Noes 6*

**FOR**

The Lord Bishop

**AGAINST**

Miss August-Hanson  
Mr Greenhill  
Mr Henderson  
Mrs Maska  
Mr Mercer  
Mrs Sharpe

**The President:** Legislative Council, 1 for, 6 against. The motion fails.

2035 We now resume the main debate – (*Interjection*) Yes, I can just highlight that Mrs Christian, who contributed to the adjournment debate, can contribute to the main debate. Okay?

With that, I now call upon the mover to reply, Mr Thomas.

2040 **Mr Thomas:** Thank you very much, Mr President, and all Members for their contributions, which I will not deal with individually. I will perhaps pick up some themes, trying to imagine what CURA might think about some of the things that have been said, and trying to imagine what Manx Gas or a potential alternative energy investor might think about some of the things that have been said, and also thinking about what consumers might think of the position that we are in.

2045 So starting, first of all, in terms of the theme of economic regulation. I appreciate today that most people have spoken warmly about the idea of depoliticised, professional economic regulation from an independent regulator, and I do think one of the biggest achievements we have had today is to begin to solidify the support for the Communications Commission, which has now got an expanded role as the Communications and Utilities Regulatory Authority.

2050 So I just wanted to pick up on one remark. Essentially, the Communications Commission is not a new body, it has been doing economic regulation for quite some time, so it does know what it is doing when it comes to looking at hedges, and it does know what it is doing when it comes to making sure that capital adequacy is there, and it does know what it is doing in terms of balancing risks and balancing the various interests. I just think it is quite important to put that on record.

2055 But, having said that, I know full well that CURA is a learning organisation and that the gas sector is new to it. Although it cannot go back and undo what has happened in the past – you cannot impose regulation retrospectively any more than you can impose law retrospectively in most cases – the CURA is doing an incredibly difficult job, given a great number of years of history of bad regulation from the Office of Fair Trading and from the previous agreement. I know full well that the regulator would like to be in a different place, and it would like to be already in 2022, when it is beginning its consultation on an Economic Regulation Bill; as I would have liked to have been in 2013 when I asked my first question about economic regulation, because we had had an Economic Regulation Bill scheduled during the period 2011 to 2013, which we never got round to.

2060 So that begins to move on to the next theme about Manx Gas. I think Mr Callister started the idea of explaining some of the history of the 10.6% before 2015 and the 9.99% between 2015 and the end of 2020. Well, the reality is expressed very clearly in CURA consultation documents, that in actual fact Manx Gas was making *more* than those numbers, according to an objective application of the accountancy standards that *should* have been made. (*Interjection*) But that is in the past.

2070 However, against that we have to state that, as far as I can see from looking at the Office of Fair Trading information about the costs for therms of gas, there has been pretty much a stable picture for gas prices since 2013, until quite recently. So we have got to make sure we give the whole picture, that profitability has gone up and down, but if you look at the Office of Fair Trading calculation of the cost of doing stuff using energy you can actually see the long-run trend. So the firm has been very profitable. What a shame it was so profitable, what a shame there was bad regulation in place during that period, but there is not a lot we can do about it now. We have got to move forward to a better place, and that is what people have been talking about.

2075 But to close this section we have to remember what will be heard by infrastructure investors around the Island hearing this debate; because I just wanted to make it quite clear that, normally speaking, infrastructure investment in *wholesale* markets and wholesale investments, like the basic gas wholesale infrastructure and the basic electricity infrastructure and really basic things, is a pretty boring business for which you get a pretty boringly low return, because it is relatively riskless. That is an important point that I wanted to make.

2080 Moody's, for instance, have done a lot of analysis of how political risk, and risk to regulated markets manifests itself in terms of extra returns. In other words, if you have got a situation where somebody is providing a boring wholesale service, but all of a sudden it becomes subject to

2085 political risk or regulatory risk caused by politicians, the return that can be expected ... I do not  
know this, because I do not sit on the Communications and Utilities Regulatory Authority board,  
but I imagine there has been some quite heated discussions about how much political risk is Manx  
Gas subject to in the Isle of Man over the recent year, and before that in the Office of Fair Trading  
context, because it has been coming quite regularly to the to the floor of Tynwald. It must feel a  
2090 bit like being on the Post Office board when you have just got over one motion and another  
motion comes along.

I hope that what we are doing is we are growing up in terms of the approach to economic  
regulation and that people looking in from outside, in terms of infrastructure investment, who are  
thinking about wind farms and tidal flows and investing in solar farms, will understand that we  
2095 are getting to a better place in terms of utilities regulation. Because Moody's analysis, which I can  
circulate, or CURA can circulate, is quite clear that the providers would be entitled to quite a lot  
more if there really was regulatory risk and political risk around the basic solid infrastructure  
investment.

That leads on to the point that most of the firms that have had difficulties across in recent  
2100 months to do with gas have been *retailing* something, they have not been wholesale providers of  
something. What we have got in the Isle of Man is we have got two businesses mixed up together:  
we have got the wholesale business and the retailing business. I hope the consultation that CURA  
is currently running, discussing with people like Ancala Partners and Manx Gas and many others,  
can bring some clarity through the economic regulation legislation that will be coming in terms of  
2105 the differences between wholesale investment and retail investment.

Moving on to three closing general themes. The first one is, I think we were all very pleased  
when Mr Mercer talked about the nature of the transition and the need for policy development  
in this area. That is a point I started making in terms of gas – and Mr Hooper did, and other  
members of the Chief Minister's Gas Committee did some time ago – and, at the time, I think  
2110 some Ministers then kept saying, 'We are over-complicating it.' But we were not. You cannot deal  
with this unless you actually see it in the round and what we do with the use of gas to generate  
electricity and the use of gas to heat spaces, and all the other uses of gas, is quite important in all  
of this. So I am glad we are moving to a more mature space in terms of having these discussions.

The second, more general point that came up is that we have to be very careful about the  
2115 public sector versus the private sector. The Competition Act got Royal Assent today and there was  
an important amendment during that Act, such that we have to treat the public sector equally  
with the private sector. You can be anti-competitive if you are a public sector body just as much  
as you can if you are a private body; you can be anti-competitive if you are a foreign body just as  
much as if you are a local body. The law has to apply equally. And that is an important issue as  
2120 well. We have got to make sure that we do not end up doing ourselves down in this country of  
ours and in this legal arrangement, by misunderstanding the nature of what we can do to private  
business.

The third point is that I welcome Minister Ashford's announcement today. I think he will have  
heard that there is a lot more detail that now needs to be fleshed out. I got the impression that  
2125 the main motivation for the delay was to give Treasury a chance to flesh out what it is they are  
talking about exactly in terms of support, and they might need to go to the Economic Recovery  
Group to get support for small businesses. It just gives me a chance to make two points of  
clarification. The first one is, I think there was a misunderstanding at the end of the last  
administration about the nature of the large commercial use of gas. I think it is now clear –  
2130 differently from what Mr Robertshaw thought, for instance – that some of the large consumers  
actually have a commodity price plus a small margin commercial agreement, rather than a *very*  
low price. So that is something that we will have to make sure that we develop understanding  
about.

The second point is that what I heard from Minister Ashford today was quite a complicated  
2135 means-tested approach to all of this, which is going to help Social Security people and those just  
above Social Security. There would be an alternative, which is the alternative of just paying for the

2140 same amount of money, £1 million, £50 to every person who pays a gas tariff. Manx Gas might even do that for us for free. That was *our* contribution from the public purse that we promised alongside the offer from Manx Gas, if they got another bad voluntary agreement. So there is another alternative that would be possible. Obviously, it would not be as beneficial for those on Social Security, because they are down to get £100 is what I heard, but it would be better for poor people and poor businesses, because it is a universal payment of a lump sum, and that tends to favour the poorer people and people who have got less income than otherwise, and it avoids the bureaucracy of all of the processing and the means testing. It was just a thought.

2145 That leads on to my final thought, which was stimulated from what Mr Speaker said about poverty. We are not short of data in terms of fuel poverty. We have had estimates of fuel poverty in 2013, using one method, and in 2018 using three separate methods. We know roughly what fuel poverty is in the Isle of Man, it will have got much worse and it will get much worse this winter because fuel poverty is defined as the cost of fuels, and they are going up. So the problem with data is that it is pretty obvious why the data changes.

2150 Fuel poverty reduced in the Isle of Man between 2013 and 2018, according to statistics. None of us really believed it because those who were suffering fuel poverty seemed to be suffering worse fuel poverty. But on average fuel poverty got much better between 2013 and 2018. *It will be much worse this winter.*

2155 So, we heard behind closed doors that Manx Gas is reactivating its support for the Salvation Army that it put on hold for a while, to give out support. The CURA press release and website points people to various other places of support for information and for sources of money to help with problems with fuel poverty in general.

2160 I do hope that we can close this debate by supporting these Regulations today and also taking into account those general themes.

Thank you very much, Mr President. I beg to move.

2165 **The President:** Hon. Members, I put to you Item 10, that the Gas (Tariff Fixing) (Amendment) Regulations 2021 be approved. Those in favour, please say aye; those against, please say no. Division called.

*A division was called for and electronic voting resulted as follows:*

*In the Keys – Ayes 22, Noes 2*

**FOR**

Mr Ashford  
Dr Allinson  
Mrs Barber  
Mrs Caine  
Mr Callister  
Mr Cannan  
Mrs Corlett  
Mr Crookall  
Ms Edge  
Ms Faragher  
Mr Glover  
Dr Haywood  
Mr Hooper  
Mr Johnston  
Ms Lord-Brennan  
Mrs Maltby  
Mr Moorhouse  
Mr Peters  
Mrs Poole-Wilson  
Mr Smith

**AGAINST**

Mrs Christian  
Mr Wannenburg

The Speaker  
Mr Thomas

**The Speaker:** Mr President, in the Keys, 22 votes for, 2 against.

*In the Council – Ayes 6, Noes 1*

**FOR**

Miss August-Hanson  
Mr Greenhill  
Mr Henderson  
Mrs Maska  
Mr Mercer  
Mrs Sharpe

**AGAINST**

The Lord Bishop

**The President:** In the Legislative Council 6 for, 1 against. Approved.

**11. Customs and Excise Management Act 1986 –  
Customs and Excise Management Act 1986 (Amendment) (No. 2) Order 2021 approved**

A Member of the Treasury (Mr Henderson) to move:

*That the Customs and Excise Management Act 1986 (Amendment) (No. 2) Order 2021 [[SD 2021/0211](#)] [[MEMO](#)] be approved.*

**The President:** We now move on to Item 11, the Customs and Excise Management Act 1986, and I call upon Mr Henderson, a Member of the Treasury

2170

**A Member of the Treasury (Mr Henderson):** Gura mie eu, Eaghtyrane.

This Order amends the Customs and Excise Management Act 1986 to ensure the Island's customs law corresponds to that in force in the United Kingdom, as required under the Customs and Excise Agreement.

2175

The Order omits section 78C, which is no longer required as a consequence of Brexit.

Sections 182 and 183 of the Act are amended to update the revised customs treatment of goods moving between the Island and Northern Ireland as a consequence of the trade agreement between the United Kingdom and the European Union, and the Northern Ireland Protocol.

2180

Goods moving between the Island and Northern Ireland are now regarded as international imports and exports for customs purposes, as Northern Ireland continues to follow EU customs rules and remains part of the EU customs area.

2185

The movement of goods between the Island and other parts of the United Kingdom are treated as occurring within the same UK customs area and can generally move free of any customs formalities. There are special customs and VAT arrangements for goods moving to and from Northern Ireland, and these can be complex. The Customs and Excise Division's website contains further information on its EU exit page.

2190

Finally, this Order amends Schedule 3 to the Act to introduce penalties for failure to comply with obligations in relation to seized goods which remain at the same location as where they were detained. If goods which have been seized by customs officers are removed or disposed of without the permission of Customs, a minimum penalty of £250 may be charged.

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

**The President:** I call upon Mr Ashford.

2195 **The Minister for the Treasury (Mr Ashford):** I beg to second and reserve my remarks, Mr President.

**The President:** Hon. Members, we have Item 11 before us, the Customs and Excise Management Act 1986. Those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it.

**12. Customs and Excise Act 1993 –  
Customs and Excise (Disclosure of Tax Avoidance Schemes) (Application) Order 2021 approved**

A Member of the Treasury (Mr Henderson) to move:

*That the Customs and Excise (Disclosure of Tax Avoidance Schemes) (Application) Order 2021 [SD 2021/0220] [MEMO] be approved.*

2200 **The President:** We now move on to Item 12, Customs and Excise Act 1993, I call upon Mr Henderson, Member of the Treasury.

**A Member of the Treasury (Mr Henderson):** Gura mie eu, Eaghtyrane.

2205 This Order inserts a new Schedule to the Customs and Excise Acts (Application) Order 1979 corresponding to amendments made to legislation in the United Kingdom, and it is required under the terms of the Customs and Excise Agreement.

2210 This Order introduces rules for the disclosure of indirect tax avoidance schemes and how they are to be notified to the Treasury. Tax avoidance schemes are arrangements which enable, or might enable, a person to gain a tax advantage specifically in this case in relation to certain indirect taxes. A tax advantage can mean a decrease in the amount of tax paid, an increase in the amount of tax relief, deferring a payment of tax or avoiding a tax assessment.

2215 Disclosable schemes may also be ones that fit a particular description known as a hallmark, which is set out in secondary legislation. For example, if a promoter of a scheme wishes to keep the arrangement confidential from the Treasury this may trigger the need to disclose by another party to the arrangement.

The Order places the primary responsibility for disclosing avoidance schemes on promoters of such schemes, which may include tax advisers who provide services in relation to tax to clients. The Order defines what is meant by 'tax advantage' and outlines that descriptions of the notifiable arrangements and proposals, i.e. the avoidance schemes, are to be set out in regulations.

2220 The Order also makes provision for the imposition of financial penalties for failure to comply with the rules. For example, failure to notify the Treasury of an avoidance scheme. Indirect tax in this case includes the following: gambling duty, machine games duty, lottery duty, air passenger duty, hydrocarbon oils duty, tobacco products duty, alcohol duties, soft drinks industry levy and customs duties.

2225 The objectives of the disclosure rules are to get early information about indirect tax arrangements and how they work and information about who may be involved with them. Disclosure under these rules has no effect on the tax position of any person who uses the arrangements. However, the Treasury may challenge a disclosed arrangement or it may be rendered ineffective by later legislative action.

2230 By introducing the same rules in relation to indirect tax avoidance schemes as those already introduced in the United Kingdom, this demonstrates the Isle of Man Government's continued commitment to ensuring the Island cannot be used by those who may seek to exploit it to gain a tax advantage in the United Kingdom.

2235 The Customs and Excise Division has published guidance in relation to the disclosure of avoidance schemes on its website and has been contacting customers to make them aware of these changes.

Promoters of tax avoidance schemes should already be aware of these rules as they have been in operation in the United Kingdom for some time. Normally, Customs and Excise would endeavour to implement legislation at the same time as the United Kingdom. However, due to the impact of Brexit, resources were prioritised to ensure the vital customs laws were introduced in time for EU exit.

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

2245 **The President:** I call on Mr Ashford.

**The Minister for the Treasury (Mr Ashford):** I beg to second and reserve my remarks, Mr President.

2250 **The President:** Hon. Members, we have Item 12, Customs and Excise Act 1993 before us. All those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it.

### 13. Customs and Excise Act 1993 – Customs and Excise Acts (Application) (Amendment) (No. 2) Order 2021 approved

A Member of the Treasury (Mr Henderson) to move:

*That the Customs and Excise Acts (Application) (Amendment) (No. 2) Order 2021 [[SD 2021/0253](#)] [[MEMO](#)] be approved.*

**The President:** We move on to Item 13, Customs and Excise Act 1993 and I call on Mr Henderson, Member for Treasury.

2255 **A Member of the Treasury (Mr Henderson):** Gura mie eu, Eaghtyrane.

This Order amends Schedule 15 of the Customs and Excise Acts (Application) Order 1979, which is the legislation by which relevant parts of the Finance Act 1994 of the United Kingdom have been applied to the Isle of Man for the purposes of Customs and Excise.

2260 The amendment inserts sections 16A to 16C of the Finance Act 1994 with relevant modifications to ensure the legislation works in the Isle of Man context. The new powers ensure that a business can continue to trade while awaiting the outcome of a review or appeal of a decision by the Treasury to revoke or refuse trading approval relating to customs, excise or VAT. For example, this could be an approval in relation to the operation of an excise warehouse, which is a warehouse where goods are stored prior to excise duty being paid.

2265 Approvals are required to ensure that the business premises are secure and suitable and the persons operating the business are responsible and compliant.

If this power were not provided for, a business would be unable to trade during the period of review or appeal, which would be unfair to the business concerned. This measure provides the Treasury with an additional internal procedure to make the review and appeal process fair.

2270 Eaghtyrane, ta mee shirrey kied yn treealtys y chur roish. I beg to move.

**The President:** I call on Mr Ashford.

**The Minister for the Treasury (Mr Ashford):** I beg to second and reserve my remarks, Mr President.

2275 **The President:** Hon. Members, we have Item 13, Customs and Excise Act 1993, before us. All those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it.

**14. Value Added Tax Act 1996 –  
Value Added Tax Act 1996 (Amendment) Order 2021 approved**

A Member of the Treasury (Mr Henderson) to move:

*That the Value Added Tax Act 1996 (Amendment) Order 2021 [[SD 2021/0239](#)] [[MEMO](#)] be approved.*

**The President:** We move on to Item 14, Value Added Tax Act 1996. I call on Mr Henderson, Member for Treasury.

2280 **A Member of the Treasury (Mr Henderson):** Gura mie eu, Eaghtyrane.

This Order amends the Value Added Tax Act 1996, in line with the United Kingdom's VAT law as required under the Customs and Excise Agreement 1979.

2285 The Order inserts into the Act new section 58E and Schedule 15A to make provisions to deal with VAT payments which remain outstanding following the coronavirus emergency. VAT-registered traders were permitted to defer their VAT payments for the period of 20th March 2020 to 30th June 2020 as part of the Government's support measures for businesses during the pandemic. Where any of those deferred VAT payments still remain outstanding, and the relevant business has not made other arrangements to pay the Customs and Excise Division, a penalty of 5% of the outstanding balance may be payable.

2290 Customs and Excise have contacted *all* affected businesses of the new penalty implications and published a news release on 16th July on its website. The Division encourages anyone who has yet to pay the deferred VAT or to make arrangements to pay, to do so as soon as possible.

2295 This Order also amends Schedule 7 to the Act, which provides special rules for the valuation of goods and services for VAT purposes to ensure that when certain works of art are imported, valued at £135 or less, VAT is charged based on a reduced valuation, effectively charging a rate of 5% VAT rather than 20% VAT. This is a minor correction which follows amendments made in the United Kingdom to ensure exports of works of art valued at less than £135 are treated in the same way as those above that figure.

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

2300

**The President:** Mr Ashford.

**The Minister for the Treasury (Mr Ashford):** I beg to second, Mr President, and reserve my remarks.

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**The President:** Hon. Members, we have Item 14, Value Added Tax Act 1996 before us. All those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it.

**15. Value Added Tax Act 1996 –  
Motion not made**

2310 **The President:** Hon. Members, Item 15 will not be moved. This Item was incorrectly shown on the Order Paper for approval. In fact it was subject to negative resolution, and I do apologise for that error.

**16. European Union and Trade Act 2019 –  
Customs Safety and Security Procedures Regulations 2021 approved**

A Member of the Treasury (Mr Henderson) to move:

*That the Customs Safety and Security Procedures Regulations 2021 [[SD 2021/0243](#)] [[MEMO](#)] be approved.*

**The President:** We now move on to Item 16, European Union and Trade Act 2019, and I call upon Mr Henderson again.

**A Member of the Treasury (Mr Henderson):** Gura mie eu, Eaghtyrane.

2315 These Regulations, made using powers contained in the European Union and Trade Act 2019, modify retained EU Regulation 2446 of 2015, which forms part of Island law. That regulation contains certain aspects of customs law, including the requirement to make certain declarations prior to the arrival or exit of goods to assist in the effectiveness of security and safety-related risk analysis of such goods. These are known as entry and exit summary declarations, and those  
2320 declarations are made by the carrier of the goods, such as airline and shipping freight operators.

As part of the Brexit transition to assist businesses with the adjustment to the new rules in relation to customs procedures, there is an interim period when no declarations are required when imported goods arrive from certain areas, including the EU. These Regulations extend for six months the duration of a waiver from the obligation to submit entry summary declarations for imports. It also provides for the impact of the COVID pandemic.  
2325

The Regulations also provide a retrospective waiver from the requirement to submit exit summary declarations in some cases, which was put in place to assist businesses with getting used to the new rules. It should be noted that this waiver expired on 30th September. For the vast majority of the time exit summary declarations are not required from Isle of Man carriers as the goods are moving within the same customs area. These declarations are only required where  
2330 goods are moving outside of the common customs area we share with the United Kingdom and the Channel Islands.

The Customs and Excise Division's website contains information on when and how such declarations need to be made and the carriers who may be required to submit such declarations are already aware of their obligations following communications with customs officers earlier in the year.  
2335

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

**The President:** Mr Ashford.

2340

**The Minister for the Treasury (Mr Ashford):** I beg to second and reserve my remarks, Mr President.

2345 **The President:** Hon. Members, we have Item 16 before us, the European Union and Trade Act. All those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it.

**17. European Union and Trade Act 2019 –  
Burma and Misappropriation Sanctions (Revocation) (No.2) Regulations 2021 approved**

A Member of the Treasury (Mr Henderson) to move:

*That the Burma and Misappropriation Sanctions (Revocation) (No.2) Regulations 2021 [SD 2021/0280] [MEMO] be approved.*

**The President:** We move to Item 17, European Union and Trade Act 2019. I call upon Mr Henderson again.

**A Member of the Treasury (Mr Henderson):** Gura mie eu, Eaghtyrane.

2350 These Regulations made using powers contained in the European Union and Trade Act 2019, revoke three earlier regulations concerning financial and trade sanctions.

2355 Financial and trade sanctions form part of the Island's measures against money laundering and the financing of terrorism. The Isle of Man's package of sanctions measures are in line with those of the United Kingdom and are legislated for under the European Union and Trade Act 2019 and the United Kingdom Orders in Council.

The revocations are necessary as a consequence of the revocation of certain sanctions regimes in the United Kingdom and to correct a legislative error made in a previous document.

2360 The United Kingdom sanctions regime that was established in relation to Burma has been replaced by new measures now referring to Myanmar. Those measures have been extended to the Island by Orders in Council.

The United Kingdom's Misappropriation Sanctions regime has been replaced by new measures now referred to as Global Anti-Corruption Sanctions. These measures have also been extended to the Island by Order in Council.

2365 Detailed guidance of each of the sanctions measures are contained on the Customs and Excise website and regular updates are issued where there are any changes to the sanctions regimes.

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

**The President:** Mr Ashford.

2370 **The Minister for the Treasury (Mr Ashford):** I beg to second, Mr President, and reserve my remarks.

**The President:** Hon. Members, at Item 17, European Union and Trade Act 2019. All those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it.

**18. Social Security Act 2000 –  
Social Security Contributions and Benefits Act 1992 (Application)  
(Amendment) (No. 8) Order 2021 approved**

A Member of the Treasury (Mr Henderson) to move:

*That the Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 8) Order 2021 [SD 2021/0255] [MEMO] be approved.*

2375 **The President:** We move on to Item 18, the Social Security Act 2000, and once again I call on Mr Henderson.

**A Member of the Treasury (Mr Henderson):** Gura mie eu, Eaghtyrane.

2380 This Order significantly increases the rate of short-term Incapacity Benefit payable for the first 14 days of a period of incapacity for work. The increase applies only where an individual's period of incapacity for work begins on or after 18th July 2021. For these purposes any two periods of incapacity for work separated by a period of 26 weeks or less are treated as one period of incapacity for work.

2385 Eaghtyrane, this measure was taken by the Treasury in July of this year in reaction to an increasing number of positive tests for COVID. It is intended to encourage people to self-isolate in accordance with Public Health guidance or a Public Health direction and to refrain from attending their place of work until they have a negative test.

2390 It should be noted that this is a temporary measure which will continue to be reviewed by Treasury and may be withdrawn when the number of active COVID cases in the Island falls to a nominal level. Further information is provided in the memorandum which has been circulated to Hon. Members.

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

**The President:** Mr Ashford.

2395 **The Minister for the Treasury (Mr Ashford):** And I beg to second and reserve my remarks, Mr President.

**The President:** I call on the Loayreyder.

2400 **The Speaker:** Gura mie eu, Eaghtyrane.

I am happy to support this and appreciate that it offers support retrospectively. So to do anything other than support it would be putting Social Security into a very difficult position.

2405 This offers Social Security support for a public health issue, in effect, because we do not want people to go to work in the first week. We make it more affordable for them to stay off work, and I completely get that. What I am interested in is that there is no requirement here for a COVID test. So we are not actually encouraging or requiring people to go and test for COVID before giving them the enhanced payment. This then covers everyone, whether they are just off generally with a bad leg, as much as it is for those who have COVID.

2410 The expected cost of this I think, from the memo, was £500,000 to £1 million. So I just wanted to know what assessment Treasury has made of the impact of this temporary measure, especially in terms of the intended and unintended consequences, because it is obviously in everyone's best interest that this money is targeted and focused; and because that does appear to cover some 3,000-6,000 weeks of people getting this enhanced rate, because £230 is a lot more than the £83 that they would normally get for this. So that is a lot of weeks. A lot of people for a lot of weeks.

2415 So I am just wondering how has Treasury budgeted for that, managed that, and what is the trigger for then ceasing the support? Because, again, the Member said that this would stop when COVID cases reached a nominal level, and I think this would probably be the first indication we have seen about what the nominal level is in terms of policy.

So I would just appreciate those points from the Minister, or the Member.

2420

**The President:** Hon. Member, Mr Ashford.

**Mr Ashford:** Thank you very much, Mr President.

2425 I was wondering if the Member for Treasury moving the regulations would agree with me that it is a very exceptionally difficult balance to strike between encouraging people not to go to work and actually isolating as they should, and obviously the need for people to actually earn a living.

Would the Hon. Member for Treasury agree with me that in relation to the requirement for a test, we have never mandated testing in circumstances across any other field either? We have always said it is optional, but if people do not get tested then they have to isolate for longer, etc.

2430 I think it is a difficult balance to make, but what this Order is seeking to do is a very temporary change to ensure, admittedly retrospectively, that people *will* isolate; and it will be reviewed as soon as case numbers come down. As we move forward in the pandemic, there are going to be peaks and troughs. So for instance, we are seeing rising case numbers now and I think it is important for the time being for this to be in place, but it has been a very difficult balance for  
2435 Treasury to strike. But I think in this case it has hit that right balance, although I do appreciate what Mr Speaker is saying in relation to whether or not they should require a test before they can access this. But would the Hon. Member for Treasury agree with me?

**The Speaker:** You do not have to phrase it as a question.

2440

**The President:** I call on the mover to reply.

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

2445 Yes, indeed, I do agree with the Shirveishagh on all the points that he has made a clarification on.

The simple answer to Loayreyder's query is that anyone who is off sick for work, self-isolating, they will have already undertaken a test to provide something to say that they will have to be off work to indicate that they have an infection, or a coronavirus infection. As far as I am aware, this is what is happening in the Health Service –

2450

**The Speaker:** I would appreciate if the Hon. Member would clarify that and get back to us, please.

**Mr Henderson:** This is what is happening in the Health Service, Eaghtyrane, that staff will take lateral flow tests, or they *may*, and if that is positive they will report and book in for a test, the same as a proper PCR test; and if that proves positive they immediately leave work, or leave work following the lateral flow test. I can confirm that as a fact because I know certain employees within the healthcare setting who have had to undergo that, their friends, colleagues and other people throughout the Health Service. It also happens in the education system, as far as I am aware, if a lateral flow test proves ... But then again, youngsters in the education system are not eligible for what we are talking about here, Eaghtyrane.

2460

To go on to Loayreyder's further observations with regard to the major impact to Treasury. Yes, it will have an impact, but the current spike that we are seeing at the minute is predominantly younger people within the school-age setting. The spike in June, July, August with regard to older employed persons is starting to fall away at the minute. If the trend continues in the way it is continuing and everybody is prepared to keep safe and respect others and the vaccination programme rolls out as is, especially for our younger people, then I am sure any impact will be mitigated further.

2465

However, if Loayreyder wishes specific answers, I would invite him to get in touch with me following the sitting and we will just go over the items he wants further clarification on and I will be more than happy to find out the information for him.

2470

**The President:** Hon. Members, at Item 18 before us, Social Security Act 2000. All those in favour, please say aye; those against, please say no. The ayes have it. The ayes have it.

2475

Now, Hon. Members, that concludes the business on the Order Paper. I would just like to remind Members of the House of Keys that they are required to register their interests by the end of this week.

Council will now withdraw and leave Keys to transact such business as Loayreyder, the Speaker, may place before it.

*The Council withdrew.*

## House of Keys

2480 **The Speaker:** Hon. Members, I have no further business to put before the House. We will stand adjourned until Tuesday 26th, 10 o'clock, in our own Chamber.  
Thank you.

*The House adjourned at 3.29 p.m.*