



**Isle of Man**  
**Government**

*Reiltys Ellan Vannin*



## ROAD RACES BILL 2015

DEPARTMENT OF INFRASTRUCTURE  
HIGHWAY SERVICES DIVISION

## Introduction

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This consultation is designed to invite comments on the Department of Infrastructure's Road Racing Bill 2015. We welcome your views not only on the specific questions asked, but also on any other aspect of the proposed legislation.

With over 100 years of history, road racing is an important part of Manx life. We are proud to be the Road Racing Capital of the World and a centre of road racing excellence. As well as being enjoyed and supported by people on the Isle of Man, road racing is also an important part of the Island's economy. Thousands of visitors travel to the Island each year to both watch and take part in our motorcycling and rally events. Increasingly, these events are becoming road racing festivals. The courses and rally stages on the Island are known the world over and form part of what keeps the Isle of Man unique. Indirect benefits are not measured, but the worldwide recognition of events such as the TT should not be underestimated. It is important that we remain the centre of the road racing world, and that we protect our road racing heritage into the future by keeping it relevant to the modern world.

The Road Races Act 1982 is the legislative instrument under which the Department of Infrastructure (referred to below simply as "DOI") hands over part of the highway network to third party organisers of racing events. Inevitably, over the last 33 years the 1982 Act has become increasingly out of step with the need of the organisers of motor racing events and the public's expectations about key safeguards. We believe that the time is right to replace it with a new Road Racing Act that will help continue the legacy of road racing on the Isle of Man.

Phil Gawne, MHK

Minister of the Department of  
Infrastructure

John Houghton, MHK

Member for the Highway Services  
Division

## Part 1- The Need for Road Racing Legislation

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DOI wishes to restrict the use of the Road Races Act to powered vehicles and to limit the Highways Act 1986 to other types of entertainment such as bicycle races, soap box derbies and carnivals, thus eliminating a confusing overlap between the two pieces of legislation.

DOI has considered the relative hazards and decided that racing using powered machines such as motorbikes and motorcars present a significantly greater risk to the public, spectators and competitors than other forms of racing such as running, cycling and soap box derbies. DOI believes that the legislation should be appropriate and proportionate to these risks.

Road racing currently takes place under both the Highways Act 1986 and the Road Races Act 1982. There is no clear differentiation between the types of racing that should fall under the Road Races Act or the Highways Act. The term *race* in the Highways Act includes events as diverse as soap box derbies and running races through to major motorcycle events. The restrictive nature of the Road Races Act 1982 has resulted in an inconsistent approach to some events. For example, the Ramsey Sprint is authorised using the Highways Act on a Sunday and the Road Races Act on a Tuesday. This Bill will make clear when it is appropriate to use road racing legislation.

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### **Question 1**

***Should the Isle of Man continue to allow road racing on its highways?***

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### **Question 2**

***Do you think that there should be specific legislation to permit and control road racing with motorcycles, motorcars and other powered vehicles?***

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## Part 2 Substantive Provisions

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### *Event Management and Safety*

Event organisers are not only responsible for race safety but also for the safety of the whole event. This includes the safety of spectators and other people on whom the event may have an impact. It is not the responsibility of the Police or DOI.

The DOI, as the Highway Authority, should only allow organisations to use the facility of racing on closed roads if it believes that they are competent, capable and willing to organise the event properly. The proposed legislation, through a Racing Authorisation, will give the organiser the legal powers it needs to manage the event safely.

### *Appointment of Marshals*

Under the existing legislation marshals are appointed by the Chief Constable but they are managed by the organiser. It is not appropriate for the Chief Constable to continue to appoint marshals when the police may have to investigate an incident relating to the marshalling of an event; as this may create a conflict of interest. This Bill facilitates the appointment of marshals by the race organiser.

*A marshal's appointment could be immediately revoked at the request of the police*

Under the proposed legislation, the organiser may revoke a marshal's appointment at any time and must do so if the police request it. The Department considered placing restrictions on the appointment of a marshal by an organiser, but in practice this was difficult to achieve. Restricting marshals' appointments to people eligible to becoming police constables, for example, would potentially exclude many good, decent and capable marshals, the appointment of whom would raise no concern to the police. Alternatively, identifying specific offences, for which a person would be excluded from becoming a marshal, is practically difficult for the organiser who would have to have all marshals' histories checked with the Disclosure and Barring Service via the IOM Vetting Bureau.

For these reasons, DOI believes that it is better to have the power to require the organiser to revoke a specific marshal's appointment under the proposed legislation; a power that organisers currently do not have.

### *Marshals' Powers*

The Bill will give marshals the powers that they need to manage the event. It also gives those same powers to the police. These include the powers to remove people, animals and vehicles from closed roads and prohibited areas. Importantly, it will allow the marshals to detain a person who is obstructing the event until the police arrive.

Currently, marshals do not have the power to detain somebody for an offence under the existing Road Races legislation. Recent arrests have been under the Public Order Act for threatening behaviour.

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### **Question 3**

***Is it appropriate for marshals to have these powers?***

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### *Prohibited Areas*

Owners and occupiers of land will be able to prevent their property being designated prohibited or restricted areas if they so wish. The vast majority of people are happy to consent to their land being prohibited for safety reasons, but, bureaucratically, under the current legislation, both the land owner and occupier have to sign consent forms for every event. These hundreds of bits of paper every year represent a massive administrative task that is prone to errors and the DOI believes that the paper chase diverts attention away from more significant safety matters.

*Property owners and occupiers could stop their land being prohibited if they wish*

Under the proposed legislation the majority of land owners and occupiers who are happy to agree with the creation of prohibited areas on their land will not have to sign consent forms. The handful of people who object to having their land prohibited can simply notify the Department of their wishes and it will not be prohibited.

During the development of this legislation the Department considered making prohibited and restricted areas mandatory on safety grounds and there was some legal support for this position. However, this was considered too much of an imposition on land owners and occupiers. There was concern that it was the state being draconian in its wish to protect people from harm.

Conversely, the Department also considered the implications of not having the power to create prohibited areas. In these circumstances it would be for the organiser to make the racing circuit or stage safe before allowing racing. This could be achieved by changing the route or by installing fencing similar to that recently installed in front of the scoreboard at the TT grandstand. The Department considered that this was not practical or desirable for events such as the TT or Southern 100. A requirement to do this would ruin the two events not only because of the cost, but also the open road racing character of the events would be lost.

To balance these competing interests DOI has concluded that an opt-out and warning sign system is appropriate. This will protect the rights of land owners/occupiers to enjoy their property, whilst allowing events to continue and flourish. The legislation will facilitate this by allowing objections to the creation of a prohibited area and the subsequent erection of warning signs.

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### **Question 4**

***Has the department struck the right balance on this issue?***

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### *Sunday Racing*

30 years ago, when the current legislation was written, people had an expectation that shops, cafés and pubs would not be open on a Sunday and that it was a day of peace without events or commercial entertainment. Since then, our culture and expectations have changed dramatically. Entertainment venues, bars, restaurants, cafés and shops are all expected to be open and people increasingly travel away at the weekend to events.

*TT and Southern 100  
races will not be  
allowed before 1 pm  
on a Sunday*

The proposed legislation will relax the restrictions on Sunday racing. This will allow events to be held at the weekend rather than during the week, which the Department of Economic Development believes will increase tourist numbers. Likewise, events such as hill climbs and sprints could take place on a Sunday. It is important to remember that although the legislation will allow the Department to permit racing on a Sunday, it is under no obligation to do so. Event organisers will have to demonstrate that they have consulted with affected communities. It is hoped that this change will help the Isle of Man maintain its status as the Road Racing Capital of the World, whilst protecting the interests of those not involved in an event.

The current Road Races Act 1982 effectively prohibits racing on a Sunday. This has created the unsatisfactory situation where the Ramsey Sprint takes place on a Sunday under the Highways Act and on a Tuesday under the Road Races Act.

Under the proposed legislation, racing will not be prohibited on a Sunday except on the TT and Billown courses before 1 pm. This does not mean that racing events on a Sunday will automatically be allowed, but it will give the possibility for them to take place. Organisers of events will still be required to consult with affected parties as part of the application process.

Allowing Sunday racing will help events survive into the future by increasing visitors to the Isle of Man and offering the potential of Sunday afternoon television coverage.

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### **Question 5**

***Should racing be allowed on a Sunday?***

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### *Offences*

The proposed legislation increases the penalties that can be imposed by courts. For the first time, a court will be able to imprison a person for an offence under the Act and not just impose a fine, which is the case under the current legislation. The proposed legislation will introduce the possibility of a sentence of custody of up to 6 months; some breaches of the legislation can seriously endanger the wellbeing of others.

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### **Question 6**

***Should the courts be empowered to sentence someone to custody for an offence under this legislation?***

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## Feedback to the Consultation

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The draft Bill attached below has been prepared for the purpose of consultation. Further refinement of the layout and content of the Bill may be undertaken in light of the responses to the consultation.

If you wish to submit your views, or there is some point of clarification you would like to receive, you are invited to respond:

By email at [doiconsultation@gov.im](mailto:doiconsultation@gov.im)

Or by writing to Jeffrey Robinson, Director of Highway Services, Department of Infrastructure, the Sea Terminal Building, Douglas, IM1 2RF.

The closing date for consideration of responses is Thursday 17<sup>th</sup> September 2015.

Unless specifically requested otherwise, any responses received may be published either in part or in their entirety, together with the name of the person or body which submitted the response. If you are responding on behalf of a group please make clear your position. It would be helpful, when giving your feedback to make specific reference to the number and title of the specific provision set out in the draft Bill.

The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation. In any consultation the responses received do not guarantee that changes will be made to what has been proposed.

**IMPACT ASSESSMENT**

DEPARTMENT: Infrastructure (DoI)		
IMPACT ASSESSMENT OF: The Road Races Bill 2015		
Stage: Public Consultation	Version: 1	Date: 9 <sup>th</sup> July 2015
Related Publications: Road Races Act 1982, Highway Act 1986		
Responsible Officer: Jeffrey Robinson, Director of Highway Services		
Email Address: Jeffrey.Robinson@gov.im		Telephone: 686655



## SUMMARY: INTERVENTION AND OPTIONS

### **What is the Bill intended to do**

This Bill is intended to help road racing remain an important part of Manx culture and the economy by modernising the legislation. In this it sets out to do three things:

- a) Reduce bureaucracy
- b) Increase safety
- c) Increase the period over which events can take place

The Road Races Act 1982 has become dated and no longer reflects the needs of road racing organisers, the Department of Infrastructure and health and safety standards.

It forces a very bureaucratic approach to event management that takes focus away from event safety. The allocation of duties is out of step with modern event management and this has resulted in blurred lines of responsibility between the police, DOI, the promoter and the organiser.

There is an increasing expectation that motor sports events should take place at the weekend to allow increased participation for locals and visitors. There is also an expectation that the long term viability and success of some events will be improved through the increased use of weekends.

### **Options that have been considered**

#### *Do Nothing*

If this Bill is not progressed the future development of road racing on the Isle of Man will be hindered. Safety will continue to be undermined by a mix of bureaucracy and unclear responsibilities and, increasingly, Government agencies will not have the staff to administer events effectively and some events may be put at risk. The Isle of Man Government risks embarrassment at future inquests such as that for the 26<sup>th</sup> Milestone incident in 2007.

#### *Adopt the Bill as Drafted*

In the event that the Bill is promoted as drafted, bureaucracy will be reduced for all parties and responsibilities will be made clear. The appropriate powers will be put in place to ensure that events can be managed and marshalled and managed effectively by the organiser and the current reliance on the use of Government employees will be reduced. In addition, the commercial viability of events may be improved

#### *Use of a Code of Conduct for Organisers and Spectators*

DOI do not think that this is an appropriate control mechanism for very hazardous activities such as road racing where death and serious injury are, unfortunately, all too common.

#### *Do not have a Road Racing Act*

One option open to DOI is to repeal of the Road Races Act 1982 after its clause have been incorporated into other Acts, including the Highways Act 1986. DOI take the view that this legislative approach would add complexity and risk confusion. Racing on roads is a high risk activity for competitors, spectators and the public in general, it is important that race organisers, promoters, the police and DOI have legislation that makes clear the responsibilities and requirements of all parties. DOI believe that this is best achieved by retaining a separate Road Racing Act.

**Link to Government Strategic Plan**

To promote a safe and enhanced environment.

**Responsible Departmental Member**

Mr J Houghton MHK

**Ministerial sign off**

I have read the Impact Assessment and I am satisfied that the balance between the benefit and any costs is the right one in the circumstances.

Signed by:

Hon Phil Gawne, MHK,

Department of Infrastructure

Date:

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## IMPACT OF PROPOSAL

### Resource Issues - Financial (including manpower)

#### Statement:

The Bill is not expected to increase public expenditure nor reduce the income of any public body, although there will be some benefits to both the organisers and Government from reduced administration.

Clause 17 enhances the potential for the Isle of Man Constabulary to charge organisers for the costs that it incurs and as a result there may be a small increase to Government's revenue account.

### Likely Financial Costs

None

### Likely Financial Benefits

May lead to a small increase in Government income if organisers are charged the costs of the Isle of Man Constabulary and/or the Department of Infrastructure.

The Department of Economic Development anticipates that the development of Sunday racing may increase visitor numbers to the Isle of Man. No attempt has been made to quantify this.

### Are there any costs or benefits that are not financial i.e. social?

The adoption of the Bill and its provisions should help to ensure the continued success of road racing on the Isle of Man. This will continue and increase the opportunity for public entertainment and increase generally the vibrancy and culture of the Isle of Man.

### Which business sectors/organisations will be impacted, if any, and has any direct consultation taken place?

Racing organisations such as the Auto Cycle Union (ACU), the Motor Sport Association (MSA) and marshals' associations have not been formally consulted though some informal consultations have taken place. Formal consultation will take place in the Summer of 2015.

The Department of Economic Development has been consulted extensively during the development of the Bill.

The Isle of Man Constabulary has been consulted extensively during the development of the Bill.

In respect of Sunday racing, consideration was given to church service attendance; indirectly, it was suggested that not allowing racing before 1 pm would reduce the impact on church congregations. In respect of racing on the TT and Southern 100 courses racing will not be allowed before 1 pm.

**Does the proposal comply with privacy law? Please provide a brief statement as to any issue of privacy or security of personal information.**

Yes.

**Has Treasury Concurrence been given for the preferred option?**

Not at this stage

**Date of Treasury Concurrence:** Not applicable.

**Key Assumptions/Sensitivities/Risks**

An assumption has been made that political and public support for motor racing on the Isle of Man remains strong.

There are sensitive clauses that will impact on the rights of some land owners or occupiers to enjoy their property if they do not jointly ask for their land not to be made prohibited after the Department has advertised its wish to make it prohibited during racing.

Parts of the community may be sensitive to the intention to increase the scope for road racing on Sundays.

There is a risk that the police and or the DOI will seek to transfer its costs to road racing organisers and make their events unviable.

**Approximate date for legislation to be implemented if known**

It is hoped that Royal Assent can be obtained and the Bill brought into statute before the 2016 TT in May and June.

SUMMARY: CONSULTATION

**Consultation in line with Government standard consultation process?** Yes.

Date

**1st Consultation:** July 2015.      **2nd Consultation:**

**Summary of Responses:**

To be advised.

EVIDENCE BASE

The DOI has considered the public consultation on Sunday racing undertaken by the former Department of Tourism and Leisure (now DED).

The DOI has also considered the finding of the inquest into the June 2007, 26<sup>th</sup> Milestone incident.