ONCHAN DISTRICT COMMISSIONERS

Hawthorn Villa, 79 Main Road, Onchan.

ORDINARY MEETING

4th September 2025

Sir/Madam

You are hereby summoned to attend an **ORDINARY Meeting of the Authority** to be held in the Boardroom at **HAWTHORN VILLA, 79 MAIN ROAD, ONCHAN** to transact the undernoted business on:

Monday 8th September 2025

7:00 pm - Board Meeting

which will be followed by a meeting of the Board sitting **IN COMMITTEE**. Items on this agenda marked **(P)** will be considered in private, and correspondence is circulated separately.

Please note that the minutes referred to in the agenda have yet to be confirmed by the Authority as a true and correct record of proceedings at the various meetings, and will be published after ratification.

Yours faithfully

R PHILLIPS
CHIEF EXECUTIVE/CLERK

AGENDA

The order of business at every meeting of the Authority shall be in accordance with that laid down in Standing Order No. 17 or by a resolution duly moved and seconded and passed on a motion which shall be moved and put without discussion.

Chief Executive/Clerk to provide emergency evacuation procedure for Hawthorn Villa at the commencement of the Meeting.

1. To choose a person to preside if the Chair and Vice-Chair be absent:

2. Declarations of Interest of Members and Officers (in accordance with Standing Order 18):

None.

None.

- To deal with any business required by statute to be done before any other business:

 None.
- 4. To approve as a correct record and sign the Minutes of the:
 - 4.1 Minutes of the Ordinary Meeting held on Tuesday 26th August 2025

(Appendix 4.1)

To dispose of any relevant business arising from such minutes if not referred to in the Minutes of any Special Committee:

None.

6. To dispose of any relevant business adjourned from a previous meeting:

None.

7. To deal with any business expressly required by statute to be done:

None.

8. To consider any planning decisions/communications from the Department of Infrastructure Planning Committee:

None.

9. Finance and General Purposes:

None.

Consideration of any Reports from the Clerk or other Officer:

10.1 Tynwald Commissioner for Administration (Amendment) Bill – Consultation Draft (Appendix 10.1) Response

10.2 Commissioners Surgery

(CEO to Report)

ODC MEETING 8th September 2025

ORDINARY MEETING

- 11. Consideration of any relevant correspondence (already circulated unless indicated):
 - 11.1 Consultation on Mooir Vannin Offshore Wind Farm Limited's application for Marine Infrastructure Consent

(Appendix 11.1)

12. To answer any questions asked under Standing Order 25:

None.

13. To answer any Motions in the order in which notice has been received:

None.

14. Environmental and Technical Services:

14.1 Refuse Garage – Heating Options

(Appendix 14.1)

14.2 Street Lighting Project – Phase 2

(Appendix 14.2)

15. Housing Matters:

None.

16. Dates for the Diary:

Date	Organisation	Event	Time
8 th September 2025	Onchan District Commissioners	Board Meeting	7:00 pm
12 th September 2025	Onchan District Commissioners	Commissioners Surgery - Heywood Court - Commissioners Allen and Lockwood attending	2:00 pm to 3:00 pm
13 th September 2025	Fire Island Chilli & BBQ Festival	Onchan Pleasure Park	12 noon to 9:00 pm
20 th September 2025	Onchan Methodist Church	Afternoon Quiz	3:00 pm
22 nd September 2025	Onchan District Commissioners	Board Meeting	7:00 pm

17. Any other URGENT business as authorised by the Chair for consideration:



REPORT

Report to:	Board of Onchan District Commissioners		
Reporting Officer:	Chief Executive/Clerk		
Date of the Meeting:	8 th September 2025		
Subject:	Tynwald Commissioner for Administration (Amendment) Bill –		
_	Consultation Draft Response		
Public or Private	Public		
Document:			

Introduction:

The Authority received correspondence at the beginning of August 2025 regarding providing a response to the Tynwald Commissioner for Administration (Amendment) Bill consultation.

The deadline for receipt of responses is Tuesday 16th September 2025.

Background:

- The Tynwald Commissioner for Administration ("TCA") was set up by the Tynwald Commissioner for Administration Act 2011, which came into operation on 1st January 2018. Previous postholders have requested that the Act be amended in various ways. Some of these have been referred to in the TCA's annual reports, while others have been recorded in files originally held by the Cabinet Office, since transferred to the Clerk of Tynwald's Office.
- In January 2023, the Cabinet Office advised that the Government had decided to remove the Bill from its Legislative Programme and asked if the Tynwald Management Committee would be prepared to pick it up, to which it agreed in May 2023.
- An initial consultation on general principles was held between 26th October to 24th November 2023. This invited comment from Tynwald Members, Departments, Statutory Boards, Local Government, and the incumbent and outgoing TCAs. Following the preparation of a marked-up proposal (or "Keeling Schedule"), the Committee is now consulting the public and inviting feedback.
- The Committee intends to report to Tynwald Court with detailed proposals and attach a draft Bill, alongside their report. If approved, the Bill would then be introduced into the House of Keys.

Previously Considered by the Board:

Ordinary Meeting of the Board held on Monday 11th August 2025.

Minute Reference C25/08/01/11

Recommendation/s or Action/s Taken:

Option 1

That the Board resolves to submit the draft responses as provided by the Chief Executive/Clerk on behalf of the Authority in relation to the Tynwald Commissioner for Administration (Amendment) Bill consultation.

Option 2

That the Board resolves to submit a collective response as provided by the Board Members on behalf of the Authority in relation to the Tynwald Commissioner for Administration (Amendment) Bill consultation.

Supporting Rationale:

Consultation Questions and Draft Responses:

Question 1 – Do you agree it would be beneficial to make the composition of the Selection Committee more flexible?

Current legislation specifies a Selection Committee for the TCA comprising the Chair of the Tynwald Management Committee, the Chair of the Tynwald Public Accounts Committee, and the Chief Minister.

Practically, the individuals holding these offices may not readily be available or concurrently hold more than one role – as is currently the case, where the Chair of the Tynwald Management Committee (Mr Speaker) also serves as Chair of the Public Accounts Committee. Currently, the Vice-Chair of the PAC has been co-opted onto the Committee.

In future, it would be preferable to have more flexibility to ensure the Selection Committee can deliver its functions effectively.

Response – Yes, in agreement that it would be beneficial to make the composition of the Selection Committee more flexible as proposed within the Keeling Schedule.

Question 2 – Do you agree it would be beneficial to clarify and streamline the process of appointing Deputy and Acting TCAs?

In certain circumstances, a need arises to appoint either a Deputy or Acting TCA. For example, where the TCA has a declared conflict of interest, or is otherwise unable to serve. Current legislative provision on this is somewhat unclear, and it is proposed to improve this.

Response – Yes, in agreement that it is beneficial to clarify and streamline the process of appointing a Deputy and Acting Commissioners when required.

Question 3 – Do you agree with the creation of a new power for the TCA to appraise complaint procedures in Government Departments (and Statutory Boards and Offices)?

Isle of Man Government Departments (and Statutory Board and Offices) operate their respective complaints procedures – which are periodically reviewed internally. It is proposed that the TCA be given the ability to appraise these from time to time, in the interests of best practice and constructive feedback, and for any appraisal to be reported to Tynwald.

Response – Yes, in agreement with the creation of a new power for the Commissioner to appraise complaint procedures within Government Departments, Statutory Boards, and Offices.

Question 4 – Do you agree with clarifying the power for the TCA to commence their own investigation, if a Department (Board or Offices') own investigation is taking three months?

The timescale for Departmental investigations has the capacity to be protracted and lengthy. The current Act assumes that Departments/Boards will respond within a month and allows the TCA to extend this to three months in exceptional circumstances.

In practice, extensions to three months are commonplace. To recognise this but ensure the three month deadline is met where possible, it is proposed to clarify the power for the TCA to commence their own investigation after three months – affording clarity to both the complainant and the Department (Statutory Board or Office).

Response – Yes, in agreement with clarifying the power for the Commissioner to commence their own investigation if a Government Department, Statutory Board, or Office's investigation exceeds three months.

Question 5 – Do you agree with clarifying the relationship with Manx Care by making HSCOB a "relevant investigator"?

Current legislation is unclear on the relationship between Manx Care and the Health and Social Care Ombudsman Body (HSCOB), which is a legally established body, independent from both the Department of Health and Social Care and Manx Care. It is proposed to update this and make HSCOB a "relevant investigator".

Response – No response to be provided as not relevant to the Authority.

Question 6 – Do you agree with adding the Safeguarding Board to the listed authorities in the Bill?

Current legislation does not include the Isle of Man Safeguarding Board, established under the Safeguarding Board Act 2018. This improvement was suggested by the Tynwald Social Affairs Policy Review Committee and approved by Tynwald in 2016.

Response – Yes, in agreement with adding the Safeguarding Board to the listed authorities within the Bill.

Question 7 – Do you agree with protecting the TCA from being sued for defamation – in respect of drafts, or work in progress – which they may circulate (or publish) as part of the process of producing a report?

The current Act protects the TCA against being sued for defamation in respect of their published reports, but not in respect of drafts, or work in progress, which they may circulate or publish as part of the process of producing a report. This was raised with the Committee by a previous TCA and is considered an appropriate technical amendment.

Response – Yes, in agreement that the Commissioner should be protected from being sued for defamation in respect of drafts or work in progress reports.

Question 8 – Do you agree with the TCA's accounts being inspected, as opposed to being audited?

The Committee proposes that the TCA's accounts be inspected as opposed to being subject to a formal audit, as is currently the case. This is considered a technical improvement that is preferable given the scale of the TCA budget – comprising one part-time individual (notwithstanding the possibility for a deputy or acting Commissioner).

Response – Yes, in agreement that the Commissioner's accounts be inspected as opposed to audited if this proves to save money or resources.

Issues not addressed by the Bill

For completeness, the Committee has reflected on the following areas but decided against progressing or including them in the proposed draft Bill at the current time. These areas and reasons are as follows:

Issue A – Appeal against refusal to investigate. Do you have any comments?

The Committee has considered the matter of a mechanism to enable a complainant to appeal when the Commissioner refuses to investigate.

This was previously recommended by the Tynwald Environment & Infrastructure Policy Review Committee and approved by Tynwald in 2016, but on closer examination was found to be impractical.

However, it is proposed to ensure that reasons for not investigating are laid before Tynwald.

Response – in agreement that a list of reasons as to why the Commissioner can decide not to investigate should be agreed upon and made publicly available.

Issue B – Chief Minister's power to make directions about co-operation between TCA and others. Do you have any comments?

The above arose during the course of the Committee's discussion of the draft Bill. In summary, the Committee is unsure that this is altogether appropriate and would welcome comments and suggestions.

Response – No comment.

Issue C – Detaching the list of authorities from Personal Liability (Ministers, Members and Officers) Act 2007. Do you have any comments?

The above arose during the course of the Committee's discussion of the draft Bill. Under the existing Act, some Listed Authorities are defined by reference to the Personal Liability (Ministers, Members and Officers) Act 2007.

In summary, the Committee is unsure whether this is preferable, or not, and would welcome comments and suggestions.

Response – No Comment.

Alternatives Considered but not Recommended:

That the Authority does not submit a response to the consultation.

Standing Orders:

Not applicable.

Resource Impact:

Not applicable.

Financial Impact:

Not applicable.

Legal and/or Insurance Impact:

Tynwald Commissioner for Administration Act 2011, Schedule 2

1) Listed authorities

The following bodies and offices are listed authorities—

- (a) Departments;
- (b) Statutory Boards;
- (c) local authorities;
- (d) a joint committee of two or more local authorities;
- (e) a joint board being a body corporate established under an enactment and consisting of members appointed
 - (i) by 2 or more local authorities; or
 - (ii) by the Department of Infrastructure and one or more local authorities;
- (f) the Manx Museum and National Trust;
- (g) the Public Services Commission;
- (h) the Attorney General's Chambers;
- (i) the General Registry;
- (j) the Cabinet Office;
- (k) Industrial Relations Officers appointed under section 5 of the Trade Disputes Act 1985; and
- (I) Laxey Glen Flour Mills Ltd.

2) Other listed authorities

A person is also a listed authority if he or she is for the time being specified in section 3 of the Personal Liability (Ministers, Members and Officers) Act 2007 except—

- (a) the Chief Minister;
- (b) a Minister;
- (c) a Member of a Department;
- (d) the Clerk of Tynwald and any officer serving in the Clerk of Tynwald's Office.

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Not applicable.

Climate Change Impact:

Not applicable.

Consultation with Others:

None.

General Data Protection Regulations and/or Confidentiality Impact:

Not applicable.

Appendices:

See enclosed the Tynwald Commissioner for Administration (Amendment) Bill Keeling Schedule.

For Members Consideration.

ROSS PHILLIPS

CHIEF EXECUTIVE/CLERK



TYNWALD MANAGEMENT COMMITTEE

Tynwald Commissioner for Administration (Amendment) Bill

Consultation on Draft Bill

August 2025

Keeling Schedule

This Keeling Schedule is provided to assist with Public Consultation – to aid understanding of the legislation by showing amendments in context.

Proposed amendments are shown in coloured text, the original text of the Act is shown in black.

Words which come under headings in the form "Amendment of section 4" are there to show how the proposals would be presented in the eventual amending Bill.

For completeness, please reference the original:

<u>Tynwald Commissioner for Administration Act 2011</u>¹

¹ AT 13 of 2011

OMBUDSMAN

PART 1 – OPENING PROVISIONS

1 Short title

The short title of this Act is the Tynwald Commissioner for Administration Act 2011.

2 Commencement

- (1) This Act, other than section 1 and this section, shall come into operation on such day as the Council of Ministers may by order appoint.
- (2) An order under subsection (1) may
 - (a) appoint different days for different provisions and for different purposes;
 - (b) make such consequential, transitional or transitory provisions and savings (including transitory modifications to this Act) as the Council of Ministers considers necessary in connection with—
 - (i) any provision brought into operation by the order; or
 - (ii) the partial operation of this Act.

3 Interpretation

(1) In this Act —

"acting Commissioner" means the holder of the office created by section 4(2)(b);

"action" includes failure to act (including a failure to provide reasons);

"appointed officer" means, as appropriate, the Commissioner, the Deputy Commissioner or an acting Commissioner;

"the Commissioner" means the holder of the office created by section 4(1)(a);

"complaint" means a complaint to the Commissioner an appointed officer;

"complainant" has the meaning given in section 10(2) means a person making a complaint under section 10;

"**Deputy Commissioner**" means the holder of the office created by section 4(2)(a);

"listed authority" has the meaning given in section 8(1) and (2) means the persons and classes of persons specified in Schedule 2;

"relevant function", "relevant investigator" and "relevant supervisor" have the meanings assigned by subsection (3);

"request" (except in section 17) means a request for investigation under section 7(2)(b);

"service failure" has the meaning given in section 9(2); "service failure" means —

- (a) any failure in a service provided by a listed authority;
- (b) any failure of the listed authority to provide a service which it was a function of that authority to provide;
- "the Selection Committee" means the committee constituted under paragraph 1(1) of Schedule 1;
- "the Tynwald Management Committee" and "the Tynwald Public Accounts Committee" mean the respective Committees of Tynwald specified in a resolution of Tynwald.
- (2) For the purposes of this Act, action taken by or on behalf of a listed authority includes action taken by
 - (a) a member or committee of the authority;
 - (b) an officer or member of staff of the authority;
 - (c) any person acting on behalf of the authority; and
 - (d) any person to whom the authority has delegated functions.
- (3) For the purposes of this Act, but subject to subsection (4)
 - (a) the following are "relevant supervisors"—
 - (i) the Communications and Utilities Regulatory Authority;
 - (ii) the Isle of Man Financial Services Authority;
 - (iii) an adjudicator under the Financial Services Ombudsman Scheme;
 - (iv) [Repealed]
 - (v) the Isle of Man Gambling Supervision Commission;
 - (vi) the Isle of Man Office of Fair Trading, but only in respect of its functions under the Financial Services Ombudsman Scheme;
 - (b) the following are "relevant investigators"—
 - (i) the Tynwald Auditor General;
 - (ii) the Isle of Man Information Commissioner;
 - (iii) the Commissioner appointed under paragraph 2(1) of Schedule 1 to the *Police Act 1993*;
 - (iv) the Commissioner appointed under section 28 of the *Regulation of Surveillance*, etc. Act 2006;
 - (v) an inspector within the meaning of the Audit Act 2006; and
 - (vi) [Repealed];
 - (vii) the Health and Social Care Ombudsman Body.
 - (c) "relevant functions" are functions conferred on a relevant supervisor or a relevant investigator by or under an enactment.
- (4) For the sake of clarity, the person mentioned in subsection (3)(b)(v) is a relevant investigator only in connection with that officer's conduct of inspections under the *Audit Act* 2006.

PART 2 — APPOINTMENT AND FUNCTIONS OF THE COMMISSIONER

Appointment

4 Appointment

S2002/11/1

- (1) There shall be a Tynwald Commissioner for Administration (referred to in this Act as "the Commissioner").
- (2) The Commissioner, in exercise of that officer's functions, is not subject to the direction or control of
 - (a) Tynwald or any Committee of Tynwald;
 - (b) the Legislative Council;
 - (c) the House of Keys; or
 - (d) the Council of Ministers;

or any member of those bodies, except as provided by this Act (see, in particular, section 6).

- (3) The Commissioner shall be an officer of Tynwald.
- (4) Schedule 1 makes further provision about the appointment and functions of the Commissioner.
- (2) There may be
 - (a) a Deputy Tynwald Commissioner for Administration (the "Deputy Commissioner");
 - (b) an acting Tynwald Commissioner for Administration (an "acting Commissioner").

More than one Deputy and acting Commissioner may be appointed.

- (3) A person referred to in subsection (1) or (2) shall be an officer of Tynwald (an "appointed officer").
- (4) Except as otherwise provided in this Act, an appointed officer is not, in the exercise of their functions in that capacity, subject to the direction or control of
 - (a) Tynwald or any Committee of Tynwald;
 - (b) the Legislative Council or any committee of the Council;
 - (c) the House of Keys or any committee of the Keys;
 - (d) the Council of Ministers or any committee of the Council; or
 - (e) any member of a body referred to in paragraphs (a) to (d).
- (5) Schedule 1 makes further provision about the appointment and functions of an appointed officer.

Amendment of section 4

In section 4 (appointment), for subsections (2) to (4) substitute –

- «(2) There may be
 - (a) a Deputy Tynwald Commissioner for Administration (the "Deputy Commissioner");
 - (b) an acting Tynwald Commissioner for Administration (an "acting Commissioner").

More than one Deputy and acting Commissioner may be appointed.

- (3) A person referred to in subsection (1) or (2) shall be an officer of Tynwald (an "appointed officer").
- (4) Except as otherwise provided in this Act, an appointed officer is not, in the exercise of their functions in that capacity, subject to the direction or control of
 - (a) Tynwald or any Committee of Tynwald;
 - (b) the Legislative Council or any committee of the Council;
 - (c) the House of Keys or any committee of the Keys;
 - (d) the Council of Ministers or any committee of the Council; or
 - (e) any member of a body referred to in paragraphs (a) to (d).
- (5) Schedule 1 makes further provision about the appointment and functions of an appointed officer.».

5 General functions

The general functions of the Commissioner an appointed officer are to conduct investigations in accordance with section 7 into the actions and service failures of listed authorities, subject to directions given by Tynwald under section 6 and the terms of their appointment.

Amendment of section 5

In section 5 (general functions) –

- (a) for "the Commissioner" substitute «an appointed officer»;
- (b) at the end insert «and the terms of their appointment».

Investigations by the Commissioner

6 Directions given by Tynwald

- (1) The Commissioner An appointed officer shall, in carrying out the functions of that their office, comply with any directions given by Tynwald.
- (2) Any direction to the Commissioner an appointed officer under this section may, in particular
 - (a) make provision as to the procedure to be followed by the Commissioner that officer when conducting investigations into complaints falling within such class or classes as may be specified in the direction (and different provision may be made in relation to different classes of complaint); or
 - (b) require the Commissioner that officer to make a report to Tynwald upon such matter relating to the exercise of the functions of the Commissioner their functions as may be specified in the direction.
- (3) But no direction to the Commissioner by Tynwald under this section may direct the Commissioner an appointed officer as to whether, or how, any particular investigation is to be carried out.

- (1) Section 6 (directions given by Tynwald) is amended as follows.
- (2) In subsection (1)
 - (a) for "The Commissioner" substitute «An appointed officer»;
 - (b) for "that" substitute «their».
- (3) In subsection (2)
 - (a) in the words before paragraph (a), for "the Commissioner" substitute «an appointed officer»;
 - (b) in paragraph (a), for "the Commissioner" substitute «that officer»;
 - (c) in paragraph (b)-
 - (i) for "the Commissioner" substitute «that officer»;
 - (ii) for "the functions of the Commissioner" substitute «their functions».
- (4) In subsection (3)-
 - (a) omit "to the Commissioner by Tynwald";
 - (b) for "the Commissioner" substitute «an appointed officer».

7 Power of investigation

- (1) Subject to directions under section 6 and the terms of their appointment, the Commissioner an appointed officer may investigate any matter, arising after the passing of this Act, if the matter—
 - (a) consists of an action alleged to have been taken, or an alleged service failure, by or on behalf of a listed authority;
 - (b) is one which the Commissioner is entitled to investigate referred to in section 9; and
 - (c) is not the subject of an investigation by a committee of Tynwald specially empowered to take evidence in accordance with sections 3 and 4 of the *Tynwald Proceedings Act* 1876.
- (2) Subject to directions under section 6, the Commissioner an appointed officer may also investigate any matter, arising after the passing of this Act, if
 - (a) subsection (1) is satisfied; and
 - (b) the listed authority liable to investigation has requested that the Commissioner appointed officer investigate the matter.
- (3) It is for the Commissioner an appointed officer to decide whether to initiate, continue or discontinue an investigation under subsection (1) or (2).

Nothing in this subsection limits the operation of section 4(2)(4).

- (4) The Commissioner An appointed officer may take such action in connection with the complaint or request as the Commissioner appointed officer thinks may be of assistance in reaching any such decision.
- (5) That action may, in particular, include action with a view to resolving the complaint or request.
- (6) In exercising his or her functions in relation to a complaint or request which involves or affects matters some of which are capable of investigation by a relevant supervisor or a relevant investigator the Commissioner an appointed officer must have regard to the principles that so far as possible—
 - (a) the Commissioner appointed officer and the relevant supervisor or relevant investigator should co-operate in the conduct of linked inquiries;
 - (b) matters should only be inquired into once; and
 - (c) evidence should only be taken once.
- (7) If the Commissioner an appointed officer and the relevant supervisor or investigator cannot agree the way in which the principles in subsection (6) are to be applied in a particular case, they must seek, and comply with, the directions of the Chief Minister on the application of those principles.
- (8) In a case where subsection (7) applies and the relevant supervisor or investigator is appointed by the Governor or the Governor in Council, the Chief Minister must consult the Governor before giving directions under that subsection.

- (1) Section 7 (power of investigation) is amended as follows.
- (2) In subsection (1)
 - (a) in the words before paragraph (a) -
 - (i) after "6", insert «and the terms of their appointment»;
 - (ii) for "the Commissioner" substitute «an appointed officer»;
 - (b) omit paragraph (a);
 - (c) in paragraph (b), for "which the Commissioner is entitled to investigate" substitute «referred to in section 9».
- (3) In subsection (2)
 - (a) for "the Commissioner" substitute «an appointed officer»;
 - (b) in paragraph (b), for "Commissioner" substitute «appointed officer».
- (4) In subsection (3), for
 - (a) "the Commissioner" substitute «an appointed officer»; and
 - (b) "(2)" substitute "(4)".
- (5) In subsection (4)-
 - (a) for The Commissioner may" substitute «An appointed officer may»;
 - (b) for "Commissioner thinks" substitute «appointed officer thinks».
- (6) In subsection (6)
 - (a) In the words before paragraph (a) -
 - (i) omit "his or her";
 - (ii) for "the Commissioner" substitute «an appointed officer»;
 - (b) in paragraph (a), for "Commissioner" substitute «appointed officer».
- (7) In subsection (7), for "the Commissioner" substitute «an appointed officer».

8 Persons liable to investigation

S2002/11/3

- (1) The persons liable to investigation under this Act are the persons and classes of persons specified in Schedule 2. A listed authority is liable to investigation under this Act.
- (2) References in this Act to a listed authority are references to any such person.
- (3) The Council of Ministers may by order amend Schedule 2.
- (4) No order under subsection (3) may be made unless the Council of Ministers has consulted
 - (a) every listed authority to which the order relates; and
 - (b) every person who, if the order were made, would become a listed authority.
- (5) An order under subsection (3) must not come into operation unless it is approved by Tynwald.

- (1) Section 8 (persons liable to investigation) is amended as follows.
- (2) For subsection (1) substitute
 - « (1) A listed authority is liable to investigation under this Act.».
- (3) Omit subsection (2).

9 Matters which may be investigated

S2002/11/5(1) & (2)

- (1) The matters which the Commissioner and the Deputy Commissioner are is entitled to investigate are
 - (a) any action taken by or on behalf of a listed authority in the exercise of administrative functions of the authority; and
 - (b) any alleged service failure.

(See section 10(1) or (3)).

- (1A) An acting Commissioner may investigate any specific matter –
- (a) which the Commissioner or the Deputy Commissioner could have dealt with; and
- (b) which the Selection Committee has appointed them to investigate.
- (2) In this Act "service failure" means
 - (a) any failure in a service provided by a listed authority;
 - (b) any failure of the listed authority to provide a service which it was a function of that authority to provide.

- (1) Section 9 (matters which may be investigated) is amended as follows.
- (2) In subsection (1)
 - (a) for "is" substitute «and the Deputy Commissioner are»;
 - (b) at the end, add as full-out words «(See section 10(1) or (3)).».
- (3) After subsection (1), insert
 - « (1A) An acting Commissioner may investigate any specific matter
 - (a) which the Commissioner or the Deputy Commissioner could have dealt with; and
 - (b) which the Selection Committee has appointed them to investigate.».
- (4) Omit subsection (2).

10 Complaints from members of the public

- (1) The Commissioner and the Deputy Commissioner may investigate a matter falling within section 9(1) by virtue of a complaint only if
 - (a) a member of the public a complainant claims to have sustained injustice or hardship in consequence of
 - (i) maladministration in connection with an action falling within paragraph (a) of that subsection; or
 - (ii) a service failure;
 - (b) that member of the public complainant has objected about the action or service failure in writing to the listed authority whom the complainant alleges is responsible for it;
 - (c) the listed authority in question
 - (i) has in its view taken all reasonable steps to deal with the matter to which the allegation relates; or
 - (ii) having been requested to do so by the member of the public complainant has not, within a period of 28 days following the objection, or, in exceptional circumstances, such longer period not exceeding 3 months, as appears to the to be reasonable, conducted a proper investigation into the matter and reported its conclusions to the member of the public complainant; and
 - (d) the member of the public complainant has complained to the Commissioner or, as the case may be, the Deputy Commissioner within the time limit (see section 13).
- (2) A member of the public making such a claim is referred to in this Act as the "complainant".
- (3) The Commissioner or, as the case may be, the Deputy Commissioner may investigate a matter falling within section 9(1) by virtue of a request from a listed authority only if the Commissioner is satisfied that
 - (a) it has been alleged publicly (whether or not by a complainant) that one or more members of the public have sustained injustice or hardship as mentioned in subsection (1): and
 - (b) the listed authority in question has taken all reasonable steps to deal with the matter to which the allegation relates.
- (4) In this section "member of the public" means any individual or body of persons (whether incorporated or not) other than
 - (a) a listed authority; or
 - (b) any other authority or body whose revenues consist wholly or mainly of money provided by Tynwald (whether directly or indirectly).
- (5) This section is subject to section 11.

- (1) Section 10 (complaints from members of the public) is amended as follows.
- (2) In subsection (1)
 - (a) in the words before paragraph (a), after «The Commissioner" insert "and the Deputy Commissioner»;
 - (b) in paragraph (a), for "a member of the public" substitute «a complainant»;
 - (c) in paragraph (b), for "member of the public" substitute «complainant»;
 - (d) in paragraph (c)(ii)
 - (i) for "member of the public" (twice) substitute «complainant»;
 - (ii) omit the words beginning with "28 days" and ending with «exceeding»;
 - (iii) omit the words "as appears to the to be reasonable,";
 - (e) in paragraph (d) -
 - (i) for "member of the public" substitute « complainant»; and
 - (ii) after "the Commissioner" insert «or, as the case may be, the Deputy Commissioner».
- (3) Omit subsection (2).
- (4) In subsection (3)
 - (a) After "The Commissioner" insert «or, as the case may be, the Deputy Commissioner»; and
 - (b) omit "the Commissioner is".

11 Excluded matters

S2002/11/8

- (1) The Commissioner An appointed officer must not investigate any matter specified in or under subsection (2).
- (2) Those matters are
 - matters certified by the Chief Minister to affect relations or dealings between the Government and any other government or international organisation;
 - (b) action taken in any country or territory outside the Island by or on behalf of a listed authority;
 - (c) action taken by or with the consent or authority of the Attorney General or Chief Constable for the purposes of, or in connection with, the detection, investigation or prevention of crime or the protection of the security of the Island or the United Kingdom;
 - (d) an act or omission of a relevant investigator if the act or omission relates to the discharge of the relevant functions of that investigator;
 - (e) the commencement or conduct of
 - (i) civil or criminal proceedings before any court of law; or
 - (ii) proceedings before any international court or tribunal;
 - (iii) proceedings before any tribunal established under the law of the Island;
 - (f) action taken by any office-holder in, or member of the administrative staff of, any court or tribunal, so far as that action is taken by, at the direction of, or on the authority (whether express or implied) of, any person acting in a judicial capacity or in the capacity of a member of a tribunal;
 - (g) action taken by a person acting in an official capacity under the Criminal Injuries Compensation Scheme;
 - (h) action taken in respect of appointment or removal, pay, discipline, or superannuation of staff or other personnel matters;
 - (i) action concerning
 - (i) the giving of instruction, whether secular or religious; or
 - (ii) conduct, curriculum or discipline,
 - in any educational establishment provided or maintained by the Department of Education, Sport and Culture,
 - (j) action taken in matters relating to contractual or other commercial transactions of a listed authority, whether in the Island or elsewhere, except —
 - transactions relating to the compulsory acquisition of land or where the circumstances are such that the land could be acquired compulsorily;

- (ii) the disposal as surplus of land acquired compulsorily or in circumstances where the land could have been so acquired;
- (iii) whether any relevant procedures laid down in an enactment or the governing instruments of the listed authority were observed;
- (k) action in respect of which the complainant has a statutory right of appeal or reference to, or review by, an adjudicator, tribunal or other body, but subject to subsection (3);
- (l) action in respect of which the complainant has a remedy by way of proceedings in any court, but subject to subsection (3).
- (m) a matter which could constitute a complaint referred to in section 38 of the National Health Service Act 2001 (complaints in respect of health services) except where the complaint is about the handling, consideration or disposal of such a complaint by the person, or body, who provided the service in question (see section 38(2)(b) of that Act).
- (3) Despite subsection (2)(k) and (l) the Commissioner appointed officer may conduct an investigation, even though the complainant has or had such a right or remedy as is mentioned there, if satisfied that it is neither reasonable nor expedient to expect the complainant to exercise, or have exercised, that right or invoke that remedy, having regard to—
 - (a) the inability of the complainant to bear the costs likely to be incurred;
 - (b) the likelihood that those costs will be disproportionate;
 - (c) the inability to obtain sufficient evidence to justify the institution of proceedings; or
 - (d) any other reason which appears sufficient to the Commissioner appointed officer.
- (4) The Council of Ministers may by order amend subsection (2).
- (5) An order under subsection (4) may include such consequential, incidental and transitional provisions (including consequential amendments to other provisions of this Act) as appear necessary or expedient in consequence of the amendment made to subsection (2) by the order.
- (6) An order under subsection (4) must not come into operation unless it is approved by Tynwald.

Amendment of section 11

«;

- (1) Section 11 (excluded matters) is amended as follows.
- (2) In subsection (1), for "The Commissioner" substitute «An appointed officer».
- (3) In subsection (2), after paragraph (l) add
 - (m) a matter which could constitute a complaint referred to in section 38 of the National Health Service Act 2001 (complaints in respect of health services) except

where the complaint is about the handling, consideration or disposal of such a complaint by the person, or body, who provided the service in question (see section 38(2)(b) of that Act).».

(4) In subsection (3), for "Commissioner" (twice) substitute «appointed officer».

12 Complaints: who may complain

S2002/11/9

- (1) A complaint may be made—
 - (a) by the complainant; or
 - (b) by a person authorised in writing for the purpose by the complainant.
- (2) Despite subsection (1)
 - (a) if an individual by whom a complaint might have been made has died or is for any reason unable to act, the complaint may be made by
 - (i) any person authorised for the purpose of subsection (1)(b) before the individual's death or inability to act;
 - (ii) the individual's personal representatives or a member of the individual's family; or
 - (iii) any other person appearing to the Commissioner an appointed officer to be suitable to represent the individual;
 - (b) if a person (P) by whom a complaint might have been made is for any reason unable to act, the complaint may be made by another person appearing to the Commissioner an appointed officer to be suitable to represent him or her P.
- (3) The complainant must be resident in the Island at the time the complaint is made (or, if the person has died, must have been so resident at the time of death).

This is subject to subsection (4)

- (4) Subsection (3) does not apply if the complaint relates to action taken
 - (a) in relation to a person while the person was present
 - (i) in the Island; or
 - (ii) aboard a ship or aircraft registered in, or operating on a scheduled service to or from, the Island; or
 - (b) in relation to rights or obligations which accrued or arose in the Island or on such a ship or aircraft.

Amendment of section 12

In section 12 (complaints: who may complain), in subsection (2) –

- (a) in paragraph (a)(iii), for "the Commissioner" substitute «an appointed officer»;
- (b) in paragraph (b) -
 - (i) after "a person" insert «(P)»;
 - (ii) for "the Commissioner" substitute «an appointed officer»;
 - (iii) for "him or her" substitute «P».

13 Complaints: time limits and procedure

- (1) The Commissioner An appointed officer must not consider a complaint made more than 6 months after a final decision of the listed authority has been notified to the complainant.
 - (1A) Where a listed Authority has not concluded its consideration of the complaint within 3 months of receiving it, a complainant may refer the complaint to the Commissioner for consideration.
 - (1B) Where subsection (1A) applies the listed authority may do either of the following -
 - (a) continue to deal with the complaint; or
 - (b) with the consent of the relevant appointed officer, suspend its consideration of the complaint until the conclusion of the officer's investigation of the complaint.
 - (1C) The relevant appointed officer may investigate a complaint referred under subsection (1A) regardless of which of the courses of action referred to in subsection (1B) the listed authority chooses to follow.
- (2) A complaint must be made in writing and addressed to the Commissioner even where the post of Commissioner is vacant.
- (3) It is for the Commissioner relevant appointed officer to determine whether a complaint has been duly made and to deal with the complaint.
- (4) In this section "relevant appointed officer" means the person specified in section 13A or, as the case may be, section 13B as the person to deal with a complaint specified in those sections.

- (1) Section 13 (complaints: time limits and procedure) is amended as follows.
- (2) In subsection (1), for "The Commissioner" substitute «An appointed officer».
- (3) In subsection (1A), at the end add «of the complaint within 3 months of receiving it, a complainant may refer the complaint to the Commissioner for consideration».
- (4) After subsection (1A), insert
 - «(1B) Where subsection (1A) applies the listed authority may do either of the following -
 - (a) continue to deal with the complaint; or
 - (b) with the consent of the relevant appointed officer, suspend its consideration of the complaint until the conclusion of the officer's investigation of the complaint.

- (1C) The relevant appointed officer may investigate a complaint referred under subsection (1A) regardless of which of the courses of action referred to in subsection (1B) the listed authority chooses to follow.».
- (5) In subsection (2), at the end add «and addressed to the Commissioner even where the post of Commissioner is vacant».
- (6) In subsection (3), for "Commissioner" substitute «relevant appointed officer».
- (7) After subsection (3), add
 - "(4) In this section "relevant appointed officer" means the person specified in section 13A or, as the case may be, section 13B as the person to deal with a complaint specified in those sections.".

13A Commissioner dealing with complaint

- (1) The current Commissioner must deal with a complaint against the following listed authorities
 - (a) a former Commissioner;
 - (b) a current Deputy Commissioner;
 - (c) a former Deputy Commissioner;
 - (d) an acting Commissioner;
 - (e) a former acting Commissioner;
 - (f) any other listed authority.
- (2) The current Commissioner must not deal with a complaint referred to in subsection (1) where the current Commissioner considers that there would be a conflict of interest on their part in doing so.
- (3) Where the complaint is one against an authority listed in subsection(1)(a), (c), (d), (e) or (f) and subsection(2) applies, a Deputy Commissioner must deal with the complainant.
- (4) Where the complaint is one against an authority listed in subsection(1)(b) and subsection (2) applies, the current Commissioner must ask the Selection Committee to appoint an acting Commissioner to deal with it.
- (5) If there is no Deputy Commissioner in post, or the Deputy Commissioner in post considers that there would be a conflict of interest on the Deputy's part in dealing with the complaint, the current Commissioner must ask the Selection Committee to appoint an acting Commissioner to deal with it.

13B Deputy Commissioner dealing with complaint

- (1) A current Deputy Commissioner, in addition to dealing with a complaint where section 13A(3) [former Com/former DC/acting C/former acting C/a.n.other where current C conflicted] applies, must also deal with a complaint against the following listed authorities
 - (a) a current Commissioner;
 - (b) any other listed authority where there is no current Commissioner.
- (2) A Deputy Commissioner must not deal with a complaint referred to in subsection (1) where the Deputy Commissioner considers that there would be a conflict of interest on their part in doing so.
- (3) In the circumstances referred to in subsection (2), a Deputy Commissioner must, as soon as it may reasonably be done, ask the Selection Committee to appoint an acting Commissioner to deal with the complaint.

13C Complaints where no Commissioner and Deputy Commissioner in post

- (1) This section applies where, at the time of receipt of a complaint, the posts of Commissioner and Deputy Commissioner are both vacant.
- (2) The Clerk of Tynwald must ensure that arrangements are in place to ensure that any complaint, and correspondence in respect of it ("subsection (1) material"), addressed to the Commissioner is forwarded to the Clerk.
- (3) The Clerk of Tynwald must, as soon as it may reasonably be done,
 - (a) give the complainant written acknowledgement of the subsection (1) material; and
 - (b) inform the compliant that the post of both Commissioner and Deputy Commissioner are currently vacant.
- (4) The Clerk must not, except as required by law disclose or otherwise deal with all or any part of the subsection (1) material.
- (5) As soon as it may reasonably be done after the filling of a vacancy referred to in subsection (1), the Clerk
 - (a) must forward all of the subsection (1) material to the person appointed as Commissioner, or as the case may be, Deputy Commissioner; and
 - (b) must not keep any of that material or copies of it.

New sections 13A to 13C

After section 13 (complaints: time limits and procedure) add – "13A....

14 Decision not to investigate

S2002/11/11

(1) If the Commissioner, after considering a complaint, decides not to investigate a complaint, the Commissioner must send a statement of the reasons for the decision to the persons specified in subsection (2).

If an appointed officer, after considering a complaint, decides not to investigate it, that officer must –

- (a) send a statement of the reasons for the decision to the persons specified in subsection (2); and
- (b) lay a copy of that statement before Tynwald.
- (2) Those persons are
 - (a) the complainant;
 - (b) the listed authority in question;
 - (c) any other person who is alleged in the complaint to have taken the action, or to have been responsible for the service failure, that is the subject of the complaint;
 - (d) if the complaint was made by a person authorised for the purpose of section 12(1)(b), that person; and
 - (e) if the complaint was made by a person other than the complainant under section 12(2), that other person.
- (3) If a person referred to in subsection (2)(d) was authorised for the purpose of section 12(1)(b) in a particular capacity, but no longer acts in that capacity, the Commissioner appointed officer must send the statement of reasons instead to such person acting in that or a similar capacity as the Commissioner appointed officer thinks fit.
- (4) If the Commissioner, after considering a request that the Commissioner investigate a matter, decides not to investigate it, the Commissioner must send a statement of the reasons for the decision to the listed authority that made the request. Where a listed authority requests an appointed officer to investigate a matter and the officer decides not to, the officer must
 - (a) send a statement of the reasons for the decision to the authority that made the request; and
 - (b) lay a copy of that statement before Tynwald.
- (5) The duty referred to in subsection (1)(b) may be discharged by the inclusion of a copy of the statement in question in the Commissioner's annual report.

- (1) Section14 (decision not to investigate) is amended as follows.
- (2) For subsection (1), substitute –

- «(1) If an appointed officer, after considering a complaint, decides not to investigate it, that officer must
 - (a) send a statement of the reasons for the decision to the persons specified in subsection (2); and
 - (b) lay a copy of that statement before Tynwald.».
- (3) In subsection (3), for "Commissioner" (twice), substitute «appointed officer».
- (4) For subsection (4), substitute
 - « (4) Where a listed authority requests an appointed officer to investigate a matter and the officer decides not to, the officer must
 - (a) send a statement of the reasons for the decision to the authority that made the request; and
 - (b) lay a copy of that statement before Tynwald.
 - (5) The duty referred to in subsection (1)(b) may be discharged by the inclusion of a copy of the statement in question in the Commissioner's annual report.».

15 Investigation procedure

S2002/11/12

- (1) An investigation under section 7 must be conducted in private.
- (2) If an investigation is pursuant to a complaint, the Commissioner appointed officer must give
 - (a) the listed authority in question; and
 - (b) any other person who is alleged in the complaint to have taken the action which is its subject;

an opportunity to comment on any allegations contained in the complaint.

- (3) In other respects the procedure for conducting the investigation is to be such as the Commissioner appointed officer thinks fit.
- (4) The Commissioner appointed officer may, in particular
 - (a) obtain information from such persons and in such manner, and make such inquiries, as the Commissioner officer thinks fit;
 - (b) determine whether any person may be represented, by an advocate or otherwise, in the investigation.

Paragraph (a) is subject to sections 16 (evidence) and 25 (disclosure of information relating to a person's tax affairs).

- (5) The Commissioner appointed officer may pay to
 - (a) the person by whom the complaint was made (where an investigation follows a complaint); and
 - (b) any other person who attends or supplies information for the purposes of an investigation (whether or not following a complaint),

such allowances in respect of expenses properly incurred by the person and by way of compensation for loss of time as the Treasury may by order determine.

- (6) The conduct of an investigation does not affect
 - (a) any action taken by the listed authority in question;
 - (b) any power or duty of the listed authority to take further action with respect to any matter being investigated.

This is subject to section 17 (staying other action).

(7) An order under subsection (5) shall not come into operation unless it is approved by Tynwald.

- (1) Section 15 (investigation procedure) is amended as follows.
- (2) In subsections, (2), (3), (4)(twice) and (5), for "Commissioner" substitute «appointed officer».

16 Evidence

S2002/11/13

- (1) Subject to subsections (10) to (12), the Commissioner an appointed officer may, for the purposes of an investigation, require the listed authority in question and any of the persons mentioned in subsections (2) and (3) to supply information or produce documents relevant to the investigation.
- (2) Those persons are
 - (a) any member, officer or member of staff of the listed authority; and
 - (b) any other person,

who in the Commissioner's appointed officer's opinion is able to supply such information or to produce such documents.

- (3) If the listed authority in question is an office-holder in a Department or Statutory Board, the Commissioner appointed officer may also require
 - (a) any other office-holder in the Department or Statutory Board; or
 - (b) any employee of the Public Services Commission assigned to assist the office-holder under investigation in the exercise of the office-holder's functions,

to supply information or to produce documents relevant to the investigation.

- (4) For the purposes of any such investigation the Commissioner appointed officer has the same powers as the High Court in respect of
 - (a) the attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad); and
 - (b) the production of documents.
- (5) No obligation to maintain secrecy or other restriction on the disclosure of information, whether imposed by any enactment or by any rule of law, applies to the disclosure of information for the purposes of an investigation by the Commissioner an appointed officer, except as provided by subsections (8) and (10).
- (6) A listed authority is not entitled in relation to any investigation by the Commissioner an appointed officer to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- (7) Subject to subsections (5) and (6), no person is compelled, for the purposes of an investigation by the Commissioner an appointed officer, to give any evidence or produce any document which that person could not be compelled to give or to produce in civil proceedings in the High Court.
- (8) No person is or may be required or authorised by virtue of this Act to supply any information or answer any question relating to proceedings of the Council of Ministers or of any committee of the Council of Ministers, or to produce so much of any document as relates to such proceedings.
- (9) For the purposes of subsection (8), a certificate issued by the Chief Minister certifying that any information, question, document or part of a document so relates is conclusive.

- (10) Section 25 contains special rules about the disclosure of information relating to a person's tax and customs affairs.
- (11) This Act does not authorise the Commissioner an appointed officer to require the production of documents that are in the custody of a member or officer of Tynwald, or a member or officer of a Branch of Tynwald, in that person's capacity as such a member or officer.
- (12) This Act does not authorise the Commissioner an appointed officer to require any person to produce, or the listed authority in question and any of the persons mentioned in subsection (2), to produce to the Commissioner appointed officer, any information or document originating from any person outside the Island unless
 - (a) that person's written consent has first been obtained;
 - (b) the listed authority already holds the information in the exercise of its statutory functions; or
 - (c) the listed authority is entitled to require the provision of that information in the exercise of those functions.

- (1) Section 16 (evidence) is amended as follows.
- (2) In subsection (1) for "the Commissioner" substitute «an appointed officer».
- (3) In subsection (2), for "Commissioner's" substitute « appointed officer's».
- (4) In subsection (3), for "Commissioner" substitute «appointed officer».
- (5) In subsection (5), for "the Commissioner" substitute «an appointed officer».
- (6) In subsection (6), for "the Commissioner" substitute «an appointed officer».
- (7) In subsection (7), for "the Commissioner" substitute «an appointed officer».
- (8) In subsection (11), for "the Commissioner" substitute «an appointed officer».
- (9) In subsection (12), for "the Commissioner" substitute «an appointed officer».

17 Staying other action

- (1) If the Commissioner an appointed officer decides to conduct an investigation and takes the view that giving effect to the decision of the listed authority which is the subject of the complaint is likely to cause serious harm to the complainant, the Commissioner appointed officer may request the listed authority not to give effect to it pending the determination of the complaint.
- (2) Any rule of law that would preclude the listed authority from complying with the Commissioner's an appointed officer's request under subsection (1) shall not apply until the complaint has been determined, and the listed authority shall instead be taken to have a discretion to give effect to the decision that is the subject of the complaint during the investigation.

- (1) Section 17 is amended as follows.
- (2) In subsection (1), for
 - (a) "If the Commissioner" substitute «If an appointed officer»;
 - (b) "Commissioner may" substitute «appointed officer may».
- (3) In subsection (2), for "the Commissioner's" substitute «an appointed officer's».

18 Obstruction and contempt

- (1) If -
- (a) a person, without lawful excuse, obstructs the Commissioner appointed officer in the exercise of the Commissioner's appointed officer's functions; or
- (b) a person does any act or fails to take any action in relation to an investigation which, if the investigation were a proceeding in the High Court, would constitute contempt of court,

the Commissioner appointed officer may apply by petition to the High Court for the person to be dealt with in accordance with subsection (2).

- (2) If such a petition is presented, the High Court may inquire into the matter and after hearing
 - (a) any witnesses who may be produced against or on behalf of the person in question; and
 - (b) any statement which may be offered in defence,

may deal with the person as if the person had committed a contempt of court in relation to the High Court.

- (3) If a person
 - (a) without lawful excuse, obstructs the Commissioner an appointed officer in the course of the Commissioner's officer's functions; or
 - (b) with the intention of obstructing the Commissioner an appointed officer in the course of the Commissioner's appointed officer's functions, destroys or falsifies any document or other evidence relevant to those functions;

that person commits an offence.

- (4) A person who commits an offence under subsection (3) is liable—
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both; or
 - (b) on summary conviction to custody for not more than 6 months, or a fine not exceeding £5,000, or both.
- (5) No one shall be liable to be prosecuted for an offence under subsection (3) if a petition has been presented under subsection (1) in respect of the same conduct, and no one shall be the subject of a petition under subsection (1) if a prosecution has been commenced against him or her that person in respect of the same conduct.
- (6) Nothing in subsections (1) to (5) this section is to be construed as applying to
 - (a) any action taken by the listed authority in question;
 - (b) any power or duty of the listed authority to take further action with respect to any matter being investigated.

- (1) Section 18 (obstruction and contempt) is amended as follows.
- (2) In subsection (1), for
 - (a) "Commissioner" (twice) substitute «appointed officer»; and
 - (b) "Commissioner's" substitute «appointed officer's».
- (3) In subsection (3)
 - (a) in paragraph (a)-
 - (i) for "the Commissioner" substitute «an appointed officer»;
 - (ii) for "Commissioner's" substitute «officer's»;
 - (b) in paragraph (a)-
 - (i) for "the Commissioner" substitute «an appointed officer";
 - (ii) for "Commissioner's" substitute «officer's».
- (4) Omit subsection (5).
- (5) In subsection (6), for "subsections (1) to (5)" substitute «this section».

19 Reports on investigations

S2002/11/15

- (1) After conducting an investigation, the Commissioner an appointed officer must
 - (a) if the investigation is pursuant to a complaint, send a report of the investigation to the persons specified in section 14(2) and to the Council of Ministers:
 - (b) if the investigation is pursuant to a request, send a report of the investigation to the listed authority that made the request and to the Council of Ministers;

and lay a copy of the report before Tynwald.

- (2) If a person referred to in subsection (1)(a) above was authorised for the purpose of section 12(1)(b) in a particular capacity, but no longer acts in that capacity, the Commissioner appointed officer must send the report instead to such other person acting in that or a similar capacity as the Commissioner appointed officer thinks fit.
- (3) Apart from identifying the listed authority in question, the report must not
 - (a) name any person; or
 - (b) contain any particulars which, in the Commissioner's appointed officer's opinion, are likely to identify any person and can be omitted without impairing the effectiveness of the report,

unless the person to whom that information relates has consented to the disclosure or the Commissioner appointed officer determines that the disclosure is necessary to ensure the effectiveness of the report.

- (4) The listed authority in question must, unless the Commissioner appointed officer otherwise directs
 - (a) make arrangements, having effect for a period of at least 3 weeks, for allowing any person to
 - (i) inspect the report at any reasonable time;
 - (ii) obtain a copy of it, or any part of it (whether or not on payment of a reasonable fee); and
 - (b) publicise those arrangements.
- (5) In considering whether—
 - (a) to make a determination under subsection (3); or
 - (b) to give a direction under subsection (4);

the Commissioner appointed officer must take into account the public interest as well as the interests of the complainant (if the investigation is pursuant to a complaint) and of any other persons.

(6) Any person who obstructs another person seeking to inspect a report or obtain a copy of it or any part of it in pursuance of arrangements made under subsection (4) is guilty of an offence and liable, on summary conviction, to a fine not exceeding £2,500.

- (1) Section 19 (reports on investigations) is amended as follows.
- (2) In subsection (1), for "the Commissioner" substitute «an appointed officer».
- (3) In subsection (2), for "Commissioner" (twice) substitute «appointed officer».
- (4) In subsection (3) for-
 - (a) "Commissioner's" substitute «appointed officer's»;
 - (b) "the Commissioner" substitute «appointed officer»;
 - (c) at the end add «to ensure the effectiveness of the report».
- (5) In subsection (4), for "Commissioner" substitute «appointed officer».
- (6) In subsection (5), for "Commissioner" substitute «appointed officer».

20 Special reports

S2002/11/16

- (1) This section applies where a report under section 19 contains a finding that the complainant has sustained injustice or hardship as mentioned in section 10(1)(a).
- (2) If, following the making of the report, it appears to the Commissioner to an appointed officer that the injustice or hardship has not been, or will not be, remedied, the Commissioner may appointed officer may make a special report on the case.
- (3) If the Commissioner an appointed officer makes a special report he or she they must
 - (a) send it to the persons to whom the report under section 19 was sent; and
 - (b) lay a copy of the report before Tynwald.
- (4) Apart from identifying the listed authority in question, the special report must not—
 - (a) mention the name of any person; or
 - (b) contain any particulars which, in the Commissioner's appointed officer's opinion, are likely to identify any person and can be omitted without impairing the effectiveness of the report;

unless the person to whom that information relates has consented to the disclosure or the Commissioner appointed officer determines that the disclosure is necessary to ensure the effectiveness of the report.

- (5) The Commissioner appointed officer may make arrangements for the special report to be available to the public in such manner (whether or not on payment of a reasonable fee) as the Commissioner appointed officer thinks fit.
- (6) The listed authority to which the special report relates is liable to reimburse the Commissioner appointed officer in respect of any expenses incurred by the Commissioner appointed officer by virtue of subsection (5).

- (1) Section 20 (special reports) is amended as follows.
 - (2) In subsection (2) for
 - (a) "to the Commissioner" substitute «to an appointed officer»;
 - (b) "Commissioner may" substitute «appointed officer may».
- (3) In subsection (3), for
 - (a) "the Commissioner" substitute «an appointed officer»;
 - (b) "he or she" substitute «they»,
- (4) In subsection (4), for
 - (a) "Commissioner's" substitute «appointed officer's»;
 - (b) "Commissioner" substitute «appointed officer»; and
 - (c) at the end add «to ensure the effectiveness of the report».

- (5) In subsection (5), for "Commissioner" (twice) substitute »appointed officer».
- (6) In subsection (6), for "Commissioner" (twice) substitute «appointed officer».

21 Annual reports

P2002/11/17

- (1) The Commissioner must lay before the ordinary sitting of Tynwald in July of each year, or the next practicable sitting, an annual report on the general exercise of the Commissioner's, Deputy Commissioner's and, where appropriate, an acting Commissioner's functions.
- (2) Such a report may include, in particular, any general recommendations which the Commissioner may have arising from the exercise of those functions in the period in question.
- (3) Tynwald may
 - (a) give the Commissioner directions as to the form and content of a report under subsection (1); and
 - (b) may impose a requirement that the Commissioner include in the report matters specified in the direction.
- (4) The Commissioner must comply with any direction under subsection (3).
- (5) The Commissioner may from time to time lay before Tynwald such other reports with respect to the exercise of the Commissioner's functions as the Commissioner thinks fit.
- (6) For the sake of clarity, in subsection (1) "the ordinary sitting of Tynwald in July" means a sitting in that month which is not—
 - (a) a meeting of Tynwald convened under section 3 of the *Isle of Man Constitution Amendment Act 1919*; or
 - (b) a sitting of Tynwald at St John's.
- (7) Where the Commissioner is unable to act (for whatever reason) or the post of Commissioner is vacant, the functions referred to in this section shall be performed by the Deputy Commissioner and references to the "Commissioner" are to be read accordingly.

- (1) In section 20 (annual reports) is amended as follows.
- (2) In subsection (1), after "Commissioner's" insert «, Deputy Commissioner's and, where appropriate, an acting Commissioner's».
- (3) after subsection (6) add-
 - « (7) Where the Commissioner is unable to act (for whatever reason) or the post of Commissioner is vacant, the functions referred to in this section shall be performed by the Deputy Commissioner and references to the "Commissioner" are to be read accordingly.».

PART 3 — MISCELLANEOUS AND GENERAL

22 Privileges of complainants, persons making requests and witnesses

- (1) A person has the same privileges in relation to -
 - (a) making a complaint or request;
 - (b) giving information to the Commissioner an appointed officer;
 - (c) answering the Commissioner's appointed officer's questions; and
 - (d) producing documents or information to the Commissioner appointed officer,

as the person would have as a witness in proceedings in the High Court.

- (2) Compliance with a requirement of the Commissioner an appointed officer under section 16—
 - (a) is not a breach of any relevant obligation of secrecy or non-disclosure or of an enactment imposing such an obligation; and
 - (b) no person is liable to prosecution for any offence by reason only of the person's compliance with a requirement imposed by the Commissioner appointed officer under that section.
- (3) Except in proceedings for perjury or under section 18 (obstructions and contempt) or subsection (4)—
 - (a) no statement made or answer given by any person in the course of an investigation by the Commissioner appointed officer is admissible in evidence against any person in any proceedings (whether in court or otherwise); and
 - (b) no evidence of proceedings before the Commissioner appointed officer may be given against any person.

In subsection (3), for "Commissioner" (twice) substitute "appointed officer".

- (4) A person ("A") commits an offence if A—
 - (a) refuses to employ or to continue to employ a person ("B");
 - (b) threatens to dismiss or demote B or threatens to penalise B in any other way in relation to B's employment or any term or condition of that employment;
 - (c) treats B less favourably in relation to B's employment or any term or condition of that employment; or
 - (d) intimidates, coerces or imposes any penalty upon B,

in order to prevent B or any other person from making a complaint under this Act, or to punish B or any other person for having done so or having given information or produced documents in the course of an investigation.

(5) If the Commissioner has an appointed officer has reasonable grounds to believe that a person has contravened subsection (4) the Commissioner may appointed officer may give details of the alleged conduct to the Attorney General.

- (6) A person guilty of an offence under subsection (4) is liable—
 - (a) on conviction on information to custody for not more than 2 years, a fine or both; or
 - (b) on summary conviction to custody for not more than 6 months, a fine of £5,000 or both.
- (7) Proceedings for an offence under subsection (4) may only be instituted by, or with the consent of, the Attorney General.

- (1) Section 22 (privileges of complainants, persons making requests and witnesses) is amended as follows.
- (2) In subsection (1)
 - (a) in paragraph (b), for "the Commissioner" substitute «an appointed officer»;
 - (b) in paragraph (c), for "Commissioner's" substitute «appointed officer's»;
 - (c) in paragraph (d), for "Commissioner" substitute «appointed officer».
- (3) In subsection (2), for "Commissioner" substitute «appointed officer».
- (4) In subsection (3), for "Commissioner" (twice) substitute «appointed officer».
- (5) In subsection (5), for
 - (a) "the Commissioner has" substitute «an appointed officer has»;
 - (b) "Commissioner may" substitute «appointed officer may».

- 23 Privilege: statements made by or at behest of the Commissioner an appointed officer
- (1) For the purposes of the law of defamation absolute privilege attaches to any statement
 - (a) by the Commissioner in pursuance of section 14, 19, 20 or 21; or
 - (b) in pursuance of arrangements under section 19(4) or 20(5).

For the purposes of the law of defamation absolute privilege attaches to any statement made by an appointed officer in pursuance of their functions under this Act.

- (1A) Without limiting it, subsection (1) applies to-
 - (a) any communication between an appointed officer and any listed Authority or complainant;
 - (b) any determination of an appointed officer; and
 - (c) any report or publication of an appointed officer.
- (2) In subsection (1), "statement" means words, pictures, visual images or any other method of signifying meaning.

- (1) Section 23 (privilege: statements made by or at behest of the Commissioner) is amended as follows.
- (2) In the heading, for "the Commissioner" substitute «an appointed officer».
- (3) For subsection (1), substitute
 - « (1) For the purposes of the law of defamation absolute privilege attaches to any statement made by an appointed officer in pursuance of their functions under this Act.».
- (4) After subsection (1), insert
 - « (1A) Without limiting it, subsection (1) applies to
 - (a) any communication between an appointed officer and any listed Authority or complainant;
 - (b) any determination of an appointed officer; and
 - (c) any report or publication of an appointed officer.».

24 Confidentiality of information

S2002/11/19 and 20

- (1) Information obtained by the Commissioner or an appointed officer or any of the Commissioner's appointed officer's advisers in connection with any matter in respect of which a complaint or a request has been made must not be disclosed except
 - (a) for any of the purposes specified in subsection (2); or
 - (b) as permitted by subsection (3) or (5).
- (2) The purposes mentioned in subsection (1) are
 - (a) the purposes of
 - (i) any consideration of the complaint or request (including any statement under section 14);
 - (ii) any investigation of the matter (including any report of such an investigation);
 - (b) the purposes of any proceedings for
 - (i) an offence under the Official Secrets Act 1911 (an Act of Parliament), as that Act has effect in the Island, alleged to have been committed in respect of information obtained by the Commissioner appointed officer;
 - (ii) an offence of perjury alleged to have been committed in the course of any investigation of the matter;
 - (c) the purposes of an inquiry with a view to the taking of any of the proceedings mentioned in paragraph (b); and
 - (d) the purposes of any proceedings under section 18.
- (3) If information referred to in subsection (1) is to the effect that any person is likely to constitute a threat to the health or safety of others, the Commissioner may appointed officer may disclose the information to any person to whom the Commissioner thinks appointed officer thinks it should be disclosed in order to safeguard the interests of those whose health and safety may be threatened as a result.
- (4) In relation to information disclosed under subsection (3), the Commissioner appointed officer must inform the person from whom the information was obtained of the disclosure.
- (5) The Commissioner may—appointed officer may disclose relevant information to a relevant supervisor or investigator if the information appears to the Commissioner to appointed officer to relate to a relevant function.

Here "relevant information" means obtained by, or supplied to, the Commissioner or appointed officer or any of the Commissioner's appointed officer's advisers under or for the purposes of this Act.

(6) Neither the Commissioner appointed officer nor the Commissioner's officer's advisers are competent to give evidence in any proceedings (other than proceedings referred to in subsection (2)) of matters coming to the knowledge of the Commissioner appointed

- officer or those advisers in connection with any matter in respect of which a complaint or request has been made.
- (7) The Attorney General may give notice in writing ("a non-disclosure notice") to the Commissioner an appointed officer with respect to
 - (a) any document or information specified in the notice; or
 - (b) any class of document or information so specified.
- (8) The Attorney General may only give the Commissioner an appointed officer a non-disclosure notice if satisfied that the disclosure of the document or information, or of documents or information of that class, would prejudice the security, economic well-being or international relations of the Island or of the United Kingdom.

In subsection (8), for "the Commissioner" substitute "an appointed officer".

- (9) If a non-disclosure notice is given, nothing in this Act authorises or requires the Commissioner an appointed officer or any of the Commissioner's appointed officer's advisers to communicate to any person or for any purpose any document or information specified in the notice, or any document or information of a class so specified.
- (10) References in this section to the Commissioner's advisers an appointed officer's advisers are to persons from whom the Commissioner appointed officer obtains assistance or advice under paragraph 13 of Schedule 1.
- (11) Section 25 contains special rules about the disclosure to the Commissioner an appointed officer of information that relates to a person's tax and customs affairs.

- (1) Section 24 (confidentiality of information) is amended as follows.
- (2) In subsection (1), for-
 - (a) "the Commissioner or" substitute «an appointed officer or";
 - (b) "Commissioner's" substitute «appointed officer's".
- (3) In subsection (2)(b)(i), for "Commissioner" substitute «appointed officer".
- (4) In subsection (3), for-
 - (a) "the Commissioner may" substitute «an appointed officer may»;
 - (b) "Commissioner thinks" substitute «appointed officer thinks»".
- (5) In subsection (4), for "Commissioner" substitute «appointed officer».
- (6) In subsection (5) for
 - (a) "Commissioner may" substitute «appointed officer may»;
 - (b) "Commissioner to" substitute «appointed officer to»;
 - (c) "Commissioner or" substitute «appointed officer or»;
 - (d) "Commissioner's" substitute «appointed officer's».
- (7) In subsection (6), for
 - (a) "Commissioner" (twice) substitute «appointed officer»;
 - (b) "Commissioner's" substitute «appointed officer's».

- (8) In subsection (7), for "the Commissioner" substitute «an appointed officer».
- (9) In subsection (8), for "the Commissioner" substitute «an appointed officer».
- (10) In subsection (9), for -
 - (a) "the Commissioner" substitute «an appointed officer»;
 - (b) "commissioner's" substitute «appointed officer's».
- (11) In subsection (10), for
 - (a) "the Commissioner's advisers" substitute «an appointed officer's advisers»;
 - (b) "Commissioner" substitute «appointed officer».
- (12) In subsection (11), for "the Commissioner" substitute «an appointed officer».

25 Disclosure of information that relates to a person's tax and customs affairs

- (1) Nothing in this Act authorises
 - (a) the Commissioner an appointed officer to require; or
 - (b) the relevant authority to give to the Commissioner an appointed officer, information that relates to a person's tax and customs affairs except in accordance with this section.
- (2) Information "relates to a person's tax and customs affairs" if it is information about, acquired as a result of, or held in connection with the exercise of, a function of the relevant authority that relates to the collection, assessment or enforcement of
 - (a) any tax;
 - (b) any duty of customs;
 - (c) any duty of excise,

in respect of the person, but it does not include information about internal administrative arrangements of the relevant authority in relation to those matters.

- (3) Information that relates to a person's tax and customs affairs may only be supplied by the relevant authority to the Commissioner an appointed officer with the person's written consent.
- (4) In this section—

"the relevant authority" means —

- (a) in relation to value added tax, any duty of customs and any duty of excise, the Collector of Customs and Excise;
- (b) in relation to National Insurance contributions, the Treasury; and
- (c) in relation to any other tax, the Assessor of Income Tax; and

- (1) Section 25 (disclosure of information that relates to a person's tax and customs affairs) is amended as follows.
- (2) In subsection (1), for "the Commissioner" (twice) substitute «an appointed officer».
- (3) In subsection (3), for "the Commissioner" substitute «an appointed officer».

[&]quot;tax" includes National Insurance contributions of any class.

26 Consultation with relevant supervisors and relevant investigators

S2002/11/21

- (1) If the Commissioner an appointed officer, at any stage in the course of considering a complaint or request, forms the opinion that the complaint or request relates partly to a matter which could be the subject of an investigation by a relevant supervisor or relevant investigator the Commissioner must appointed officer must consult the relevant supervisor or relevant investigator about the complaint or request.
- (2) If the Commissioner an appointed officer considers it necessary, the Commissione r must appointed officer must inform the complainant or the person who made the request of the steps necessary to initiate a complaint to the relevant supervisor or relevant investigator.
- (3) If the Commissioner an appointed officer consults a person in accordance with this section, the consultations may extend to any matter relating to the complaint or request, including
 - (a) the conduct of any investigation into the matter to which the complaint or request relates, and
 - (b) the form, content and publication of any report of the result of such an investigation.
- (4) Nothing in section 24(1) applies in relation to the disclosure of information in the course of consultation or co-operation under this section.

- (1) Section 26 (consultation with relevant supervisors and relevant investigators) is amended as follows.
- (2) In subsection (1), for
 - (a) "the Commissioner" substitute «an appointed officer»
 - (b) "Commissioner must" substitute «appointed officer must»".
- (3) In subsection (2), for
 - (a) "the Commissioner" substitute « an appointed officer»;
 - (b) "Commissioner must" substitute «appointed officer must».
- (4) In subsection (3), for "the Commissioner" substitute «an appointed officer».

27 Information about right to make complaint

S2002/11/22

- (1) A listed authority must take reasonable steps to publicise the application and effect of this Act in relation to the authority including, in particular, providing information about
 - (a) the right conferred by this Act to make a complaint;
 - (ab) C's right to refer a complaint to an appointed officer where –
 - (i) the authority has concluded its consideration of the complaint and made a final decision on it; and
 - (ii) C is dissatisfied with that decision;
 - (ac) C's right to refer a complaint to an appointed officer where at least 3 months have passed since the making of the complaint even though the authority is continuing to consider that complaint;
 - (b) the time limit for doing so making a complaint emphasising the need to act promptly; and
 - (c) how to contact the Commissioner an appointed officer.
- (2) Information about the matters specified in subsection (1)(a) to (c) must be included in or provided with
 - (a) any document published by the listed authority and containing information about services provided by the authority to members of the public or about the procedures of the authority for dealing with complaints;
 - (b) any document issued by the listed authority responding to a complaint made to it by any person who might be entitled to make a complaint to the Commissioner appointed officer.
- (3) The Commissioner An appointed officer may issue guidance with respect to the performance by listed authorities of their duties under this section.
- (4) The Commissioner or, the Deputy Commissioner where the Commissioner is unable to act or the office of Commissioner is vacant, may also issue guidance about the Commissioner's functions and how it is proposed to exercise them.
- (5) A listed authority must have regard to any guidance issued under this section.
- (6) Guidance referred to in this section must be laid before Tynwald as soon as it can reasonably be done.
- (7) Where C makes a complaint on behalf of another person, references to C are (where appropriate) to be read as a reference to that other person.
- (8) "C" means a complainant.

Amendment of section 27

(1) Section 27 (information about right to make a compliant) is amended as follows.

- (2) In subsection (1), -
 - (a) after paragraph (a), insert
 - «(ab) C's right to refer a complaint to an appointed officer where
 - (i) the authority has concluded its consideration of the complaint and made a final decision on it; and
 - (ii) C is dissatisfied with that decision;
 - (ac) C's right to refer a complaint to an appointed officer where at least 3 months have passed since the making of the complaint even though the authority is continuing to consider that complaint;»;
 - (b) in paragraph (b), for "doing so" substitute «making a complaint emphasising the need to act promptly»;
 - (c) in paragraph (c), for "the Commissioner" substitute «an appointed officer».
- (3) In subsection (2), for "Commissioner" substitute «appointed officer».
- (4) In subsection (3), for "the commissioner" substitute «An appointed officer».
- (5) After subsection (3), add
 - «(4) The Commissioner or, the Deputy Commissioner where the Commissioner is unable to act or the office of Commissioner is vacant, may also issue guidance about the Commissioner's functions and how it is proposed to exercise them.
 - (5) A listed authority must have regard to any guidance issued under this section.
 - (6) Guidance referred to in this section must be laid before Tynwald as soon as it can reasonably be done.
 - (7) Where C makes a complaint on behalf of another person, references to C are (where appropriate) to be read as references to that other person.
 - (8) "C" means a complainant.».

27A Appraisals of section 27 duties

- (1) An appointed officer may carry out an appraisal of a listed authority's compliance with its duties under section 27.
- (2) An appraisal may be carried out at the request of any person or at the appointed officer's own volition.
- (3) An appointed officer is not obliged to comply with a request referred to in subsection (2).
- (4) An appraisal may cover
 - (a) how a listed authority discharges the section 27 duties;
 - (b) the scope and content of materials published pursuant to them;
 - (c) any other matter the appointed officer reasonably considers relates to their discharge.
- (5) A listed authority must-
 - (a) facilitate an appraisal being undertaken, or to be undertaken, under this section; and
 - (b) give an authorised officer access to all materials and documents relevant to its section 27 duties.
- (6) An authorised officer may, for the purposes of an appraisal, remove or take copies of the materials and documents referred to in subsection (5).

27B Reports on appraisals

- (1) After conducting an appraisal under section 27A, the appointed officer must send a report of the appraisal to—
 - (a) the listed authority which is the subject of the appraisal; and
 - (b) the Council of Ministers.
- (2) The listed authority in question must, unless the appointed officer otherwise directs
 - (a) make arrangements which enable any person to
 - (i) inspect the report at any reasonable time;
 - (ii) obtain a copy of it, or any part of it (whether or not on payment of a reasonable fee); and
 - (b) publicise those arrangements.
- (3) The arrangements referred to in subsection (2) must last for at least a period of 3 weeks.
- (4) Any person who obstructs another person seeking to inspect a report or obtain a copy of it or any part of it in pursuance of arrangements made under subsection (2) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (5) A report under this section may form part of annual report referred to in section 21, but where it does not it must be laid before Tynwald as a separate report as soon as it can reasonably be done.

27C Directions

- (1) All directions under this Act must be in writing.
- (2) Directions under
 - (a) sections 7(7) and 19(5) must be laid before Tynwald as soon as it may reasonably be done after they are given;
 - (b) sections 6 and 21 do not need to be laid before Tynwald.
- (3) Directions are not statutory or public documents for the purposes of the Legislation Act 2015 or the Interpretation Act 2015.

New sections 27A to 27C

After section 27 (information about right to make a compliant), add -

"27A Appraisals of section 27 duty

- (1) An appointed officer may carry out an appraisal of a listed authority's compliance with its duties under section 27.
- (2) An appraisal may be carried out at the request of any person or at the appointed officer's own volition.

- (3) An appointed officer is not obliged to comply with a request referred to in subsection (2).
- (4) An appraisal may cover
 - (a) how a listed authority discharges the section 27 duties;
 - (b) the scope and content of materials published pursuant to them;
 - (c) any other matter the appointed officer reasonably considers relates to their discharge.
- (5) A listed authority must-
 - (a) facilitate an appraisal being undertaken, or to be undertaken, under this section; and
 - (b) give an authorised officer access to all materials and documents relevant to its section 27 duties.
- (6) An authorised officer may, for the purposes of an appraisal, remove or take copies of the materials and documents referred to in subsection (5).

27B Reports on appraisals

- (1) After conducting an appraisal under section 27A, the appointed officer must send a report of the appraisal to—
 - (a) the listed authority which is the subject of the appraisal; and
 - (b) the Council of Ministers.
- (2) The listed authority in question must, unless the appointed officer otherwise directs
 - (a) make arrangements which enable any person to
 - (i) inspect the report at any reasonable time;
 - (ii) obtain a copy of it, or any part of it (whether or not on payment of a reasonable fee); and
 - (b) publicise those arrangements.
- (3) The arrangements referred to in subsection (2) must last for at least a period of 3 weeks.
- (4) Any person who obstructs another person seeking to inspect a report or obtain a copy of it or any part of it in pursuance of arrangements made under subsection (2) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (5) A report under this section may form part of annual report referred to in section 21, but where it does not it must be laid before Tynwald as a separate report as soon as it can reasonably be done.

27C Directions

- (1) All directions under this Act must be in writing.
- (2) Directions under –

- (a) sections 7(7) and 19(5) must be laid before Tynwald as soon as it may reasonably be done after they are given;
- (b) sections 6 and 21 do not need to be laid before Tynwald.
- (3) Directions are not statutory or public documents for the purposes of the Legislation Act 2015 or the Interpretation Act 2015.».

SCHEDULE 1

[Section 4(4)]

THE COMMISSIONER

1 Selection of a candidate

- (1) A candidate for appointment as the Commissioner an appointed officer must be selected by a committee ("the Selection Committee") consisting of—
 - (a) the Chair of the Tynwald Management Committee or another member of that Committee appointed by it;
 - (b) the Chair of the Tynwald Public Accounts Committee or another member of that Committee appointed by it; and
 - (c) the Chief Minister or another Minister appointed by the Chief Minister.
 - For the sake of clarity, sections 77 (acting appointments: general provisions), 78 (acting appointments: directions about appointor) and 79 (power of appointment includes certain incidental powers) of the Interpretation Act 2015 apply to each of the members of the Selection Committee, but section 80 of that Act (deputies) does not. The Chair of the Selection Committee shall be the person referred to in paragraph (1)(a).
- (2) The Selection Committee must nominate a candidate for appointment after consulting such persons and bodies as appear to the Selection Committee to be appropriate.

The Selection Committee may before –

- (a) nominating a candidate for appointment as the Commissioner or Deputy Commissioner; or
- (b) appointing an acting Commissioner,consult any person it considers appropriate.
- (3) In the case of the Commissioner and the Deputy Commissioner, the The Selection Committee must seek the approval of Tynwald to the candidate it has selected, and if such approval is not obtained, must propose an alternative candidate.
 - (4) The selection Committee may only appoint an acting Commissioner for a purpose or purposes specified in the appointment and where
 - (a) the Commissioner and any Deputy Commissioner are unable to act; and
 - (b) the Committee reasonably considers that it would not be in the public interest to appoint another Deputy Commissioner to act.
 - (5) The selection Committee must notify Tynwald in writing of the appointment of an acting Commissioner as soon as it may be done.
- (2) For paragraph 1 (selection of a candidate) substitute –

«1 Selection of a candidate

- (1) A candidate for appointment as an appointed officer must be selected by a committee ("the Selection Committee") consisting of—
 - (a) the Chair of the Tynwald Management Committee or another member of that Committee appointed by it;
 - (b) the Chair of the Tynwald Public Accounts Committee or another member of that Committee appointed by it; and
 - (c) the Chief Minister or another Minister appointed by the Chief Minister.

The Chair of the Selection Committee shall be the person referred to in paragraph (1)(a).

- (2) The Selection Committee may before
 - (a) nominating a candidate for appointment as the Commissioner or Deputy Commissioner; or
 - (b) appointing an acting Commissioner,

consult any person it considers appropriate.

- (3) In the case of the Commissioner and the Deputy Commissioner, the Selection Committee must seek the approval of Tynwald to the candidate it has selected, and if such approval is not obtained, must propose an alternative candidate.
- (4) The selection Committee may only appoint an acting Commissioner for a purpose or purposes specified in the appointment and where
 - (a) the Commissioner and any Deputy Commissioner are unable to act; and
 - (b) the Committee reasonably considers that it would not be in the public interest to appoint another Deputy Commissioner to act.
- (5) The selection Committee must notify Tynwald in writing of the appointment of an acting Commissioner as soon as it may be done.».

2 Qualifications

A candidate for appointment as the Commissioner an appointed officer must be a person whom the Selection Committee believes—

- (a) has an appropriate knowledge and experience of the law; and
- (b) will command the confidence of the public and Tynwald.

In paragraph 2 (qualifications) for "the Commissioner" substitute «an appointed officer».

3 Disqualification

(1) A person is not eligible to be a candidate for appointment as the Commissioner an appointed officer if that person is —

- (a) a member of Tynwald;
- (b) a member or officer of a local authority;
- (c) a member or officer of a body that is required to have its accounts inspected in accordance with the *Audit Act 2006*;
- (d) an officer of Tynwald or a Branch of Tynwald (other than the Tynwald Auditor General);
- (e) a member of the staff of Tynwald or a Branch of Tynwald;
- (f) an officer or servant of a Department or a Statutory Board;
- (g) a member of the Isle of Man Constabulary.

This is subject to sub-paragraphs (3) and (4).

- (2) The Commissioner An appointed officer is not qualified for election or appointment to an office or employment mentioned in sub-paragraph (1).
- (3) Nothing in this paragraph prevents the Commissioner an appointed officer from being appointed also as the Tynwald Auditor General.
- (4) A person who would be disqualified for appointment as Commissioner an appointed officer by sub-paragraph (1) may nevertheless
 - (a) be considered as a candidate if the person undertakes to resign the office or employment if appointed as Commissioner an appointed officer; and
 - (b) be appointed as Commissioner an appointed officer once the person's resignation from the office or appointment by virtue of which he or she is they are disqualified has become effective.

In paragraph 4 (disqualification) -

- (a) in sub-paragraphs (1), (2) and (3), for "The Commissioner" substitute «An appointed officer»;
- (b) in sub-paragraph (4) -
 - (i) for "Commissioner" substitute «an appointed officer»;
 - (ii) for "he or she is" substitute «they are».

4 Terms and conditions

The terms and conditions of employment and the term of office of the Commissioner shall be such as Tynwald may determine, after a recommendation by the Selection Committee.

- (1) The Selection Committee shall determine the—
 - (a) terms and conditions of employment; and
 - (b) term of office,

of an appointed officer.

(2) A document containing details of the matters referred to in sub-paragraph (1) must be laid before Tynwald: that document is not a statutory document or a public document for the purposes of the *Interpretation Act 2015* and the *Legislation Act 2015*.

For paragraph 4 (terms and conditions), substitute –

"4 Terms and conditions

- (1) The Selection Committee shall determine the—
 - (c) terms and conditions of employment; and
 - (d) term of office,

of an appointed officer.

(2) A document containing details of the matters referred to in sub-paragraph (1) must be laid before Tynwald: that document is not a statutory document or a public document for the purposes of the *Interpretation Act* 2015 and the *Legislation Act* 2015.».

5 Appointment of the Commissioner and Deputy Commissioner

- (1) Once the Selection Committee's selection of the Commissioner or, as the case may be, [the] [a] Deputy Commissioner, has been approved by Tynwald, the Commissioner shall that person shall, with effect from such date as the Commissioner and they and the Selection Committee may agree, be employed by Tynwald.
- (2) The Commissioner and Deputy Commissioner shall hold office for such term as is determined under paragraph 4, and may (but need not) be reappointed upon the expiry of that term.

In paragraph 5 (appointment of the Commissioner and Deputy Commissioner) –

- (a) in sub-paragraph (1)
 - (i) after "selection" insert «of the Commissioner or, as the case may be, the Deputy Commissioner,»;
 - (ii) for "the Commissioner shall" substitute «that person shall»;
 - (iii) for "Commissioner and" substitute «they and»;
- (b) in sub-paragraph (2), after "Commissioner" insert «and Deputy Commissioner».

5A Appointment of an acting Commissioner

- (1) An acting Commissioner shall, from such date as they and the Selection Committee may agree, be employed by Tynwald.
- (3) An appointed officer shall hold office for such term as is specified in their appointment by the Selection Committee.

After paragraph 5 (appointment of the Commissioner and Deputy Commissioner), add-

"5A Appointment of an acting Commissioner

(1) An acting Commissioner shall, from such date as they and the Selection Committee may agree, be employed by Tynwald.

(2) An appointed officer shall hold office for such term as is specified in their appointment by the Selection Committee.».

6 Restrictions

- (1) The Commissioner An appointed officer must not
 - (a) enter into any other contract of employment;
 - (b) hold any other office (other than that of Tynwald Auditor General); or
 - (c) carry on any profession, trade or vocation,

except with the approval of the Selection Committee.

(2) The Selection Committee may attach conditions to such approval.

In paragraph 6 (restrictions), for "The Commissioner" substitute «An appointed officer».

7 Resignation and removal

The person holding the office of Commissioner an appointed officer —

- (a) may resign by written notice to the Clerk of Tynwald; and
- (b) may be removed from office by resolution of Tynwald in accordance with paragraph 8.

In paragraph 7 (resignation and removal), for "Commissioner" substitute «an appointed officer».

8 Procedure for removal

(1) Tynwald may revoke the appointment of a person to the office of Commissioner an appointed officer on a motion in respect of which sub-paragraphs (2) to (5) are satisfied.

In sub-paragraph (1), for "Commissioner" substitute «an appointed officer».

- (2) A motion under this paragraph may only be tabled in the names of the President of Tynwald and the Speaker acting jointly and on the advice of the Clerk of Tynwald.
- (3) The motion must allege one of the following grounds for revocation, namely that the person holding the office of Commissioner the appointed officer in question—
 - (a) has not carried out the duties of the office in question in a competent manner;
 - is incapacitated either mentally or physically from carrying out the duties of the office that office;
 - (c) has neglected to carry out all or any of the duties of the office that office;
 - (d) has failed to comply with the requirements of paragraph 6(1) (restrictions on other employment and professional activity);
 - (e) has failed to comply with any term or condition of the their appointment;

- (f) has engaged in conduct incompatible with the office of Commissioner in question;
- (g) has taken leave of absence not provided for by the terms and conditions of the appointment their appointment; or
- (h) has been convicted of an offence (in the Island or elsewhere) and by reason of that conviction shown himself or herself themselves not to be a fit and proper person to continue to hold the office in question.

In sub-paragraph (3) –

- (a) In the words before paragraph (a), for "the person holding the office of Commissioner" substitute «the appointed officer in question»;
- (b) In paragraph (a), after "office" insert «in question»;
- (c) In paragraph (b), for "the office" substitute «that office»;
- (d) In paragraph (c), for "the office" substitute «that office»;
- (e) In paragraph (e), for "the" substitute «their»;
- (f) In paragraph (f), for "of Commissioner" substitute «in question»;
- (g) In paragraph (g), for "the appointment" substitute «their appointment»;
- (h) In paragraph (h)
 - (i) for "himself or herself" substitute «themselves»;
 - (ii) at the end add «in question».
- (4) The motion must not be moved unless the person holding the office of Commissioner in question—
 - (a) has been given a copy of a statement in support of the motion setting out details of the evidence relied upon in support of the alleged grounds for revocation; and
 - (b) has been given such reasonable opportunity as the circumstances permit to prepare a written statement in respect of that evidence.
 - (5) In sub-paragraph (4), for "of Commissioner" substitute "in question".
- (6) The Clerk of Tynwald must forward a copy of the statements to each member of Tynwald with the Order Paper for the sitting at which the motion is to be considered.
- (7) Once the motion has been tabled, the Selection Committee may suspend the Commissioner from office Commissioner appointed officer in question from their appointed office and any remuneration or benefits that would, but for the suspension, have accrued during any part of the suspension are suspended.

In sub-paragraph (7), for "Commissioner from office" substitute «the appointed officer in question from their appointed office and any remuneration or benefits that would, but for the suspension, accrued during any part of the suspension are suspended.».

- (8) If the motion
 - (a) is withdrawn;
 - (b) is lost after debate;
 - (c) is not debated within 3 months of being tabled; or

(d) is debated but not voted upon within that time,

the Commissioner appointed officer must be restored to their appointed office without loss of remuneration or any other benefits (including those referred to in sub-paragraph (8)).

In sub-paragraph (8) -

- (i) for "Commissioner" substitute «appointed officer»;
- (ii) after "to" inserted «their appointed»;
- (iii) after "benefits" add «(including those referred to in sub-paragraph (8))».".
- (9) In reckoning the period of 3 months referred to in sub-paragraph (7)(c) disregard August and September.
- (10) For the sake of clarity, the definition of "the Speaker" in Part 1 of the Schedule to the *Interpretation Act 2015* (definitions for all Manx legislation) does not apply for the purposes of this paragraph.
- 9 When office of Commissioner an appointed officer becomes vacant
- (1) The office of Commissioner an appointed officer becomes vacant if the term of appointment of the person holding the office expires and is not renewed.
- (2) It also becomes vacant if the person (P) holding the office—
 - (a) dies;
 - (b) gives the Clerk of Tynwald written notice of resignation;
 - (c) accepts nomination to become a member of Tynwald;
 - (d) takes up an appointment by virtue of which he or she P would be disqualified for appointment by virtue of paragraph 3(1);
 - (e) is compulsorily detained as a patient in a hospital (but otherwise than by virtue of Schedule 2A to the *Summary Jurisdiction Act 1989*, Schedule 1A to the *Criminal Jurisdiction Act 1993*, or section 2, 4, 5 or 132 of the *Mental Health Act 1998* (short term detentions));
 - (f) has a receiver appointed in respect of P's his or her property;
 - (g) becomes bankrupt or makes a composition or arrangement with his or her P's creditors;
 - (h) is convicted, in the Island or elsewhere, of an offence involving corruption; or
 - (i) is convicted, in the Island or elsewhere, of an offence and sentenced to custody.
- (3) It also becomes vacant if Tynwald acting in accordance with paragraph 8 revokes the appointment.

Paragraph 9 (when office of Commissioner becomes vacant) –

- (a) in the heading, for "Commissioner" substitute «appointed officer»;
- (b) in sub-paragraph (2) –

- (i) in the words before paragraph (a), after "person" insert «(P)»;
- (ii) in paragraph (d), for "he or she" substitute «P»;
- (iii) in paragraphs (f) and (g), for "his or her" substitute «P's».

10 Exercise of functions during absence, inability or vacancy and delegation

Sections 77 (acting appointments: general provisions), 78 (acting appointments: directions about appointor) and 79 (power of appointment includes certain incidental powers) of the *Interpretation Act 2015* apply to the office of the Commissioner, but section 80 of that Act (deputies) does not.

Omit paragraph 10 (exercise of functions during absence, inability or vacancy and delegation).

11 General powers

- (1) The Commissioner may, with the approval of the Treasury
 - (a) enter into contracts; and
 - (b) acquire and dispose of land and other property.
- (2) This paragraph does not limit the operation of section 26(3) of the *Interpretation Act* 1976 section 69(3) of the *Interpretation Act* 2015.
- (3) Where the Commissioner is unable to act (for whatever reason) or the post of Commissioner is vacant, [a][the] Deputy Commissioner may do any of the things referred to in paragraph and references to the "Commissioner" are to read accordingly.

In paragraph 11 (general powers) –

- (a) in sub-paragraph (2), for "section 26(3) of the *Interpretation Act 1976*" substitute « section 69(3) of the *Interpretation Act 2015*»;
- (b) after sub-paragraph (2), add
 - « (3) Where the Commissioner is unable to act (for whatever reason) or the post of Commissioner is vacant, the Deputy Commissioner may do any of the things referred to in paragraph and references to the "Commissioner" are to read accordingly.».

12 Staff

- (1) The Commissioner may, with the approval of the Tynwald Management Committee as to numbers, appoint staff to assist in carrying out the Commissioner's functions.
 - (2) The terms and conditions of appointment of such staff, including arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of staff of the Commissioner shall be determined by the Commissioner in accordance with overall annual financial limits determined by the Tynwald Management Committee.

(3) Where the Commissioner is unable to act (for whatever reason) or the post of Commissioner is vacant, the function referred to in this section shall be performed by the Deputy Commissioner and references to the "Commissioner" are to read accordingly.

In paragraph 12 (staff), after sub-paragraph (3), add –

« (3) Where the Commissioner is unable to act (for whatever reason) or the post of Commissioner is vacant, the function referred to in this section shall be performed by the Deputy Commissioner and references to the "Commissioner" are to read accordingly.».

13 Appointment of persons to provide services

- (1) The Commissioner An appointed officer may, with the approval of the Tynwald Management Committee, appoint any person to provide services by assisting or advising the Commissioner them in carrying out his or her their functions.
 - (2) The fees and allowances to be paid to that such a person shall be determined by the Commissioner appointed officer in accordance with overall annual financial limits determined by the Tynwald Management Committee.

In paragraph 13 (appointment of persons to provide services) –

- (a) in sub-paragraph (1) for-
 - (i) "The Commissioner" substitute «An appointed officer»;
 - (ii) "the Commissioner" substitute «them»;
 - (iii) "his or her" substitute «their»;
- (b) in sub-paragraph (2), for "Commissioner" substitute «appointed officer».

14 Delegation of functions

- (1) Any function of the Commissioner an appointed officer may be exercised by a person—
 - (a) a member of the Commissioner's staff; or
 - (b) a person providing services to the Commissioner,

authorised by the Commissioner them for that purpose.

- (3) Tynwald may by resolution impose limitations and conditions on the exercise of the Commissioner's power to authorise others to discharge functions under sub-paragraph (1).
- (4) Any authorisation given under sub-paragraph (1) does not affect the responsibility of the Commissioner appointed officer for the exercise of the function.

In paragraph 14 (delegation of functions) –

(a) in sub-paragraph (1) –

- (i) in the words before paragraph (a), for «the Commissioner" substitute "an appointed officer»;
- (ii) in paragraph (a), for "the Commissioner's" substitute «their»;
- (iii) in paragraph (b), for "the Commissioner" (twice) substitute «them»;
- (b) in sub-paragraph (3), omit «the Commissioner's»;
- (c) in sub-paragraph (4), for "the Commissioner" substitute «appointed officer».

15 Validity of acts

The validity of any act of the Commissioner" an appointed officer is not affected by any defect in the appointment of the holder of that office, including a disqualification (if any) for holding that appointment.

In paragraph 15 (validity of acts), for "the Commissioner" substitute « an appointed officer».

16 Financial provision

The following shall be a charge on the General Revenue —

- (a) the salary, pension and allowances of the Commissioner an appointed officer; and
- (b) any expenses incurred by the Commissioner an office holder referred to paragraph (a) in the exercise of the Commissioner's their functions.

In paragraph 16 (financial provision) –

- (a) in paragraph (a), for "the Commissioner" substitute «an appointed officer»;
- (b) in paragraph (b) -
 - (i) for "the Commissioner" substitute «an office holder referred to paragraph (a)»; and
 - (ii) for "the Commissioner's" substitute «their».

17 Accounts and audit-inspection

- (1) The Commissioner must, in respect of the functions under this Act,
 - (a) keep accounts; and
 - (b) prepare annual accounts in respect of each financial year.
 - (2) The accounts of the Commissioner are to be audited inspected in accordance with arrangements made by the Treasury the Audit Act 2006.
 - (3) The financial year of the Commissioner is
 - (a) the period beginning with the date on which the first Commissioner is appointed and ending with 31 March next following that date; and
 - (b) each successive period of 12 months ending with 31 March.

(4) In the absence or unavailability of the Commissioner, the Deputy Commissioner must do the things referred to in subsection (1).

In paragraph 17 (accounts and audit)-

- (a) in the heading, for "audit" substitute «inspection»;
- (b) in sub-paragraph (2), for
 - (i) "audited" substitute «inspected»;
 - (ii) "arrangements made by the Treasury" substitute «the Audit Act 2006»;
- (c) after sub-paragraph (3), add-
 - « (4) In the absence or unavailability of the Commissioner, the Deputy Commissioner must do the things referred to in subsection (1).».

SCHEDULE 2 [Section 8(1)] LISTED AUTHORITIES

1 Listed authorities

The following bodies and offices (including their successors by whatever name known) are listed authorities—

- (a) Departments;
- (b) Statutory Boards;
- (c) local authorities;
- (d) a joint committee of two or more local authorities;
- (e) a joint board being a body corporate established under an enactment and consisting of members appointed
 - (i) by 2 or more local authorities; or
 - (ii) by the Department of Infrastructure and one or more local authorities;
- (f) the Manx Museum and National Trust;
- (g) the Public Services Commission;
- (h) the Attorney General's Chambers;
- (i) the General Registry;
- (j) [Repealed]
- (k) Industrial Relations Officers appointed under section 5 of the Trade Disputes Act 1985; and
- (l) Laxey Glen Flour Mills Ltd.
- (m) the Safeguarding Board established under the Safeguarding Act 2018.

2 Other listed authorities

A person is also a listed authority if he or she is for the time being specified in section 3 of the Personal Liability (Ministers, Members and Officers) Act 2007 except—

- (a) the Chief Minister;
- (b) a Minister;
- (c) a Member of a Department;
- (d) the Clerk of Tynwald and any officer serving in the Clerk of Tynwald's Office;
- (e) a member of the Health and Social Care Ombudsman Body.

3 Relevant supervisors and investigators

- (1) Despite paragraphs 1 and 2 a relevant supervisor (and any person serving on the staff of such a supervisor) is not a listed authority.
- (2) Despite those paragraphs a relevant investigator (and any persons serving on the staff of such an investigator) is only a listed authority in relation to the performance of functions that are not relevant functions.

Amendment of Schedule 2

- (1) Schedule 2 (listed bodies) is amended as follows.
- (2) In paragraph 1, after sub-paragraph (l) add
 - «(m) the Safeguarding Board established under the Safeguarding Act 2018.»;
- (3) In paragraph 2 (other listed authorities), after sub-paragraph (d) add
 - « (e) a member of the Health and Social Care Ombudsman Body.».





Consultation on Mooir Vannin Offshore Wind Farm Limited's application for marine infrastructure consent

Overview

The Council of Ministers is holding a public consultation on Mooir Vannin Offshore Wind Farm Limited's application for a marine infrastructure consent under the Marine Infrastructure Management Act 2016.

The application relates to the company's proposed development of an offshore windfarm off the North-East coast of the Island. You can <u>view Mooir Vannin's</u> <u>application at mima.gov.im (opens in a new tab)</u> or in person at Douglas City Library, 8 Duke Street, Douglas, IM1 2LB.

The consultation intends to gather public opinion on the application to both inform and enhance the examination of the application and its merits and demerits.

Further to legislative requirements, your response to the consultation must:

- 1. Be submitted in writing, physically or electronically, and clearly state your name and address, or that of the person or organisation on whose behalf you are responding
- 2. Provide detailed comments on the application, this can include:
 - Clearly stating whether you support or object to the application

- Explaining the reasons for your support or objection, these can be backed by evidence or personal experience
- Offering any suggestions for mitigating negative impacts or improving the project

3. Provide a summary should your response exceed 1500 words

Further guidance on how to shape your response is provided alongside this consultation.

Why your views matter

The Marine Infrastructure Management Act 2016 sets out the process which must be followed for applications for marine infrastructure consent in Manx territorial waters.

Further to the requirements of the Act, the Council of Ministers must arrange a public consultation on any application as soon as is reasonably practicable after its decision to accept it for examination has been notified to all relevant parties.

Reasonable adjustments and alternative formats

The Department is committed to equal opportunities and our aim is to make our documents easy to use and accessible to all.

We will take steps to accommodate any reasonable adjustments and provide such assistance as you may reasonably require to enable you to access or reply to this consultation.

If you need assistance with accessing or replying to this consultation, please call +44 1624 685711, email MIMA.Applications@gov.im or visit our office at:

3rd Floor Government Offices, Bucks Road, Douglas, IM1 3PN

Responding to this consultation and questions

You can respond to this consultation online by clicking on the 'View the online survey' link below. Alternatively you can download a paper version of this consultation in the 'Related' section below and email it to MIMA.Applications@gov.im or post it to:

3rd Floor Government Offices, Bucks Road, Douglas, IM1 3PN

Contact the Cabinet Office at MIMA.Applications@gov.im if you have any queries or are unclear about whether a particular comment is acceptable.

Marine Infrastructure Management Act **Guidance for respondents**

How to ensure your views are considered by the examining authority



Cabinet Office

Ork Cooncert ny Shirveishee gov.im/mima



Guidance for respondents

Section 24 (2) of the Marine Infrastructure Management Act 2016 allows the Council of Ministers to issue guidance on providing a response to a public consultation that is held for any application made for Marine Infrastructure Consent.

1. General Guidance for making a written representation or comments

How to make your views known about the application

- 1. ensure your comments are submitted before the relevant deadline;
- 2. be considered in your comments. Remember that your comments will be publicly available,
- 3. your written representation must be accompanied by a summary, if it exceeds 1500 words:
- 4. be ready to provide any further information about your response if requested.

In your written representation, please:

- 1. explain your views clearly, organise your comments in a logical order and keep to the point (using numbered paragraphs can be helpful in each case);
- 2. clearly explain the reasons for your views and avoid repeating the same point;
- 3. where possible, include supporting evidence (with source reference), such as:
 - A. extracts from documents.
 - B. maps, plans, drawings, or charts.
 - C. photographs of the local area or landmarks, but ensure these do not identify individuals, such as showing faces or vehicle number plates.
- 4. your views can be in support of or against the application & a mixture of both. For example, you may support the design of the proposed controlled marine activity but object to the location.
- 5. focus on the advantages and/or disadvantages of the proposed controlled marine activity in making your views known, such as:
 - A. how it could affect the surrounding area.
 - B. the design of the proposed marine development (what it might look like).
 - C. whether the proposed controlled marine activity could affect the enjoyment of your own property in any way.
 - D. the impacts the proposed controlled marine activity may have on your day-to-day life. See the information about personal and medical information in the 'Do not' guidance below.

When writing your written representation, please:

- 1. avoid referencing personal names (other than your own when requested). Use words such as 'family member' or 'neighbour' instead if required;
- 2. refrain from providing any personal information, and statements like "I live on my own" or "I will be on holiday in July";
- 3. ensure that any views shared in your response are evidence based and grounded in fact;
- 4. avoid including any information relating to personal medical data. Use more general terms such as "the proposed controlled marine activity may affect people with [medical condition physical or mental]" instead of specific details like "I have epilepsy and suffer from anxiety" or "This will affect my child's asthma". Do not include details which reveal a personal health aspect;
- 5. do not include slanderous or libellous comments, or any material that is vexatious, frivolous, threatening, offensive, abusive, hateful, or inflammatory, or invades another person's privacy;
- do not include any material that could identify vulnerable persons. This
 includes children or young adults, such as the names of schools or colleges they
 attend or photographs. You can refer to schools or colleges in the local area
 generally;
- 7. avoid including hyperlinks to websites as these will be deactivated before they are published and will not be seen by the Examining Body. It is preferrable to include the relevant section of the information (an extract) in your comment. Clearly explain the reasons why the information is relevant;
- 8. avoid comments based on race, sex, religion, nationality, disability, sexual orientation, or age, or any illegal activity or violence;
- 9. refrain from making a comment in breach of any legal duty owed to a third party; this includes a contractual duty or a duty of confidence, or infringing any copyright, database right, or trademark of any person;
- 10. avoid making a comment which is likely to deceive any person. Avoid comments that could be used to impersonate anyone or misrepresent your identity or affiliation with anyone or any organisation;
- 11. refrain from submitting repeated identical submissions. These can be unhelpful and affect the efficiency of the process. It is helpful if groups of individuals with similar views can form a group and make one submission on behalf of everyone in that group.

2. How your data is processed

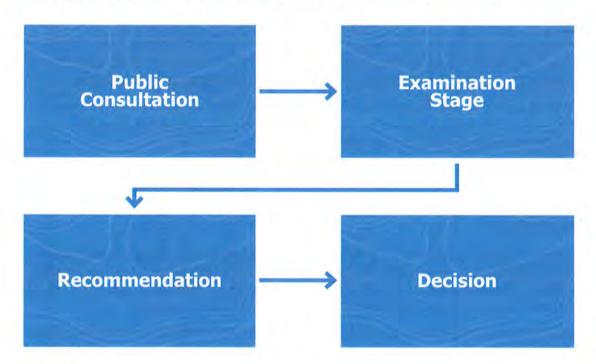
The Cabinet Office is administering the consenting process for applications made under the Marine Infrastructure Management Act 2016 on behalf of the Council of Ministers.

The Privacy Notice explains why your personal information is collected and how it will be used. Please read the Privacy Notice on our website www.mima.gov.im/privacy-notice

All consultation responses received will be published on our website, this will include the respondent's name and their comments. Any address and email address provided will be kept private.

By responding to the consultation, you are voluntarily giving consent for the Cabinet Office to process your personal data.

3. What happens after you have made a written representation



Public Consultation

This guidance aims to help people taking part in the consultation. Information about when and how to take part will be posted on the MIMA website (link to add) and publicised in the local media, including newspapers and social media.

Those who submit a response online or by email will receive an automated email acknowledgement; those submitting a paper copy of their response will receive a postal acknowledgement.

It is important to follow the few simple rules when submitting a comment to ensure it can be considered by the examining body.

Examination Stage

This is when the examiners consider all the information presented by the applicant and responses to the public consultation.

The examining body will ask questions about the proposed marine development and can invite the applicant and anyone participating in the consultation exercise to make further representations.

If you have submitted comments, you may be invited to attend hearings and meetings that take place as part of the examination.

Anyone can get involved and submit comments at each stage in the timetable so long as the Examining Body has been informed no later than 5 working days prior to a meeting.

This stage takes up to 6 months.

Recommendation

Following the close of the Examination, the examining body writes its recommendation report. This must be completed and sent to the Council of Ministers within 60-working days of the end of examination.

The Council of Ministers must publish this report as soon as is reasonably practicable.

Decision

The Council of Minsters then reviews the examining body's report and makes the final decision deciding whether to accept the recommendation or not. They have 30-working days to make a decision.

If a decision is made to accept a recommendation to grant a marine infrastructure consent, the consent must be issued.

The Council of Ministers must publish a statement of their reasons for granting or refusing a consent.

4. For further information about any aspect of the process

Contact the Cabinet Office at MIMA.Applications@gov.im, if you have any queries or are unclear about whether a particular comment is acceptable.



Response to a Public Consultation Held Under the Marine Infrastructure Management Act 2016

Please complete in BLOCK	CAPITALS and in black ink.
If you submit a representa	ation, your name and comments will be published on our website.
Your address and email ac	ddress will be kept private.
Full Name	
Project	Mooir Vannin Offshore Windfarm
Address	
Email Address	
Your consultation respe	onse

Please use the form below to provide your response to the consultation. The Council of Ministers is statutorily obliged to hold such a consultation for each application for marine infrastructure consent under the Marine Infrastructure Management Act 2016. Please return this form to the attention of the Case Manager—Offshore Energy Programme, 3rd Floor Government Offices, Bucks Road, Douglas, IM1 3PN.

Your response to the consultation must:

- 1. Be submitted in writing physically or electronically and clearly state your name and address, or that of the person or organisation on whose behalf you are responding.
- 2. Provide detailed comments on the application. This can include:
- Clearly state whether you support or object to the application.
- Explain the reasons for your support or objection, backed by evidence or personal experience.
- Offer any suggestions for mitigating negative impacts or improving the project.
- Provide a summary should your response exceed 1500 words.

Views expressed during the consultation can shape the timetable that is followed during the examination period and the issues that will be assessed. All feedback will be taken into account by the independent examining body when preparing their report and recommendations to the Council of Ministers. Therefore, by submitting a written response, you ensure your comments are considered as part of the examination process prior to the final decision being made. Further guidance on responding to the public consultation is publicly available on mima.gov.im and at 3rd Floor Government Offices, Bucks Road, Douglas, IM1 3PN.

Consent for storing submitted data

The Cabinet Office is administering the consenting process for applications made under MIMA on behalf of the Council of Ministers.

Our Privacy Notice explains why we need to collect personal information from you and how it will be used. Please read the Privacy Notice on our website mima.gov.im/privacy-notice.

on the Government's consultation hub website. Sensitive personal information will not be published.
I voluntarily give the Cabinet Office consent to process my personal data.
I want my comments to be published anonymously



Response to a Public Consultation Held Under the Marine Infrastructure Management Act 2016

Your Comments about the Project:	



Response to a Public Consultation Held Under the Marine Infrastructure Management Act 2016

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Response to a Public Consultation Held Under the Marine Infrastructure Management Act 2016



REPORT

Report to:	Board of Onchan District Commissioners
Reporting Officer:	Property Maintenance Manager
Date of the Meeting:	8 th September 2025
Subject:	Refuse Garage – Heating Options
Public or Private Document:	Public

Introduction:

The Authority's Refuse Depot is located at Snugborough Trading Estate and provides a base for the refuse vehicles and employees. It provides indoor parking for vehicles and welfare facilities for employees.

Currently, the welfare facilities are heated with electric tube heaters and electric hot water, which is inefficient and expensive to run. It is proposed that a new oil boiler system be installed to provide an efficient heat source for space heating and hot water provision.

Previously Considered by the Board:

Not applicable.

Recommendation/s or Action/s Taken:

Option 1

That the Board resolves to approve the use of £8,051.01 from the Authority's General Reserves to fund the installation of a new combination oil boiler and the associated system at the Refuse Depot based at Snugborough Trading Estate.

Option 2

That the Board resolves to include £9,000 within the 2026/27 Financial Year draft budget to fund the installation of a new combination oil boiler and the associated system at the Refuse Depot based at Snugborough Trading Estate.

The cost for Option 2 is higher to allow for any price increases between September 2025 and April 2026.

Supporting Rationale:

The annual electricity bills for the depot are approximately £5,500.

It is estimated that 80% of these costs are heating and hot water demand, equating to £4,400 per annum, leaving approximately £1,100 per annum for lighting and the canteen facilities.

It is estimated that the cost of using oil heating will be less than £1,000 per annum using today's oil prices. This equates to an approximate initial saving of £3,400 per annum.

 It is proposed to install a new oil combination boiler and radiators to provide space heating and hot water to the welfare facilities. Officers have received a quotation for £8,051.01, which includes all the necessary works required to install the system.

The estimated payback period for the initial expenditure is less than three years.

It is noted that there will be an annual service cost to be budgeted for; however, this will be a minimal cost of approximately £100 to £150 per annum.

 Electric heating creates fewer carbon emissions than other heating methods, and is best suited to smaller spaces.

Oil heating creates more carbon emissions than other heating methods, and is best suited to larger spaces.

The Refuse Depot is a large industrial unit, based on a steel portal frame construction method with uninsulated cladding and masonry walls.

Alternatives Considered but not Recommended:

That the Authority retains the existing electric heating system and continues to use the electric space heating and hot water.

Standing Orders:

On the Making of Contracts

2.3 (1) A contract for works or materials estimated to cost less than £10,000 may be sought or negotiated directly with a registered contractor or supplier.

Resource Impact:

Not applicable.

Financial Impact:

- It is estimated that the cost of using oil heating will be less than £1,000 per annum using today's oil prices. This equates to an approximate initial saving of £3,400 per annum.
- The estimated payback period for the initial expenditure is less than three years.

- The Refuse Department budget for electricity consumption could be reduced in line with the proposed savings.
- It is noted that there will be an annual service cost to be budgeted for; however, this will be a minimal cost of approximately £100 to £150 per annum.

Legal and/or insurance impact:

Climate Change Act 2020, Section 21 (Climate Change Duties of Public Bodies)

- (1) A public body, in performing its duties, must act in the way that it considers best to contribute to —
- (a) the meeting of the net zero emissions target by the net zero emissions target year;
- (b) the meeting of any interim target;
- (c) supporting the just transition principles and the climate justice principle;
- (d) sustainable development, including the achievement of the United Nations sustainable development goals; and
- (e) protecting and enhancing biodiversity, ecosystems and ecosystem services.
- (2) The Council of Ministers may make regulations that impose additional duties relating to the mitigation of climate change upon public bodies or remove such duties.

Equality Impact:	
Not applicable	
Not applicable.	
Climate Change Impact:	

Oil has significantly higher carbon emissions than electric alternatives when considering the entire life cycle, even accounting for electricity generation from fossil fuels.

Consultation with Others:

- District Surveyor and Chief Finance Officer Onchan District Commissioners.
- Lead Member for Environmental and Technical Services Onchan District Commissioners.

General Data Protection Regulations and/or Confidentiality Impact:

Not Applicable.				
Appendices:				
Not Applicable.				

For Members Consideration.

JOHN BOWNESS

PROPERTY MAINTENANCE MANAGER



REPORT

Report to:	Board of Onchan District Commissioners	
Reporting Officer:	District Surveyor	
Date of the Meeting:	8 th September 2025	
Subject:	Street Lighting Project – Phase 2	
Public or Private Document:	Public	

Introduction:

This paper is prepared to update Members regarding the street lighting refurbishment project and to ask for Members to consider providing a suitable funding mechanism to enable Phase 2 of further street lighting refurbishment projects.

Previously Considered by the Board:

Members were previously advised at the Ordinary Meeting held on 11th December 2023 that "should the pilot schemes prove successful it is proposed to roll out a program of replacements based on this model and further information would be reported following the pilot schemes."

Minute reference - C23/12/01/09 (Agenda item 9.2 (P))

At the meeting held 18th November 2024 Members resolved to apply for borrowings of £250,000 to complete Phase 1 of the street light refurbishment programme to be repaid over a 20 year period.

- Concerns were raised regarding how long it will take to improve the street lighting throughout the District as there are currently approximately 1100 street lights;
- Concerns were raised regarding the cost of improving street lighting throughout the District; and
- Some Members noted that the condition of the Authority's street lights and safety concerns were raised in 2017 so most of the Members currently in office should be aware of what is required to resolve the matter.

Minute reference - C24/11/02/13

Recommendation/s or Action/s Taken:

That the Authority petition under Section 51 of the Local Government Act 1985 to apply for borrowing for £897,245 to be repaid over a 20 year period to fund the street lighting replacement scheme to Birch Hill Close, Birch Hill Crescent, Briarfield Avenue, Cronk Avenue, Highfield Close, Highfield Crescent, Hillcrest Grove, Hollydene Avenue, Ivydene Avenue, Laurel Avenue, Rosedene Avenue, Rosedene Close, Seafield Close, Hazel Close, Seafield Crescent, Sunnybank Avenue, Willow Close, Maple Avenue, Maple Close, Hawthorn Close, Clypse View, Hillberry View, Poplar Close, Oak Close, Sycamore Close, Beech Avenue, and Beech Close. Furthermore, the initial loan repayments are to be included within the draft 2026/27 Financial Year budget and are to be further considered by the Board as part of the District Rate setting process.

Supporting Rationale:

Street lighting assets currently in the ownership and management of Onchan District Commissioners are of an ageing stock with various issues, most of which are becoming beyond economical repair and not installed to current street lighting design guidelines. This could leave the Authority open to prosecution should an accident occur involving a street light failure or a road traffic collision due to non-compliant lighting. The risks are becoming greater as the stock ages and subsequently further risks are now being identified as schemes are surveyed.

As part of the refurbishment programme if agreed by the Members following completion of the pilot schemes phase 2 will consist of the following:

Phase 2 - Schemes 26 and 27

Scheme 26 (£820,722.78)

Includes the following streets Birch Hill Close, Birch Hill Crescent, Briarfield Avenue, Cronk Avenue, Highfield Close, Highfield Crescent, Hillcrest Grove, Hollydene Avenue, Ivydene Avenue, Laurel Avenue, Rosedene Avenue, Rosedene Close, Seafield Close, Hazel Close, Seafield Crescent, Sunnybank Avenue, and Willow Close.

Scheme 26 will involve the replacement of all columns and a new private network to be installed, this will involve the removal of existing concrete columns which date back to the estate development in the early 1970s and installation of new galvanised steel columns. It will also include for new Thorn lamps to be installed and added to the computer management system (CMS).

Scheme 27 (76,521.77)

Includes the following streets Maple Avenue, Maple Close, Hawthorn Close, Clypse View, Hillberry View, Poplar Close, Oak Close, Sycamore Close, Beech Avenue, and Beech Close.

Scheme 27 will include for the replacement of 6 columns as you turn into the estate dating back to the 1970s, and addition of 10 new columns to meet the British Standards of the lighting design for the classification of the road. The remaining steel columns will have new Thorn lamps installed and added to the CMS.

Schemes 26 and 27 have an existing stock level of 151 assets. The replacement of these assets based on the existing stock level of 1100 represents approximately 13.7% of the Authority's existing street light assets.

Table 1 below shows the estimated electricity and carbon savings following the replacement of the phase 2 schemes. As detailed in the table it is estimated that these schemes could reduce annual electricity consumption by 6,965.06 Kwh per annum. At today's rate (29.1p/Kwh) would provide an anticipated annual saving of £2,026.74 per annum and reduce the carbon emissions by approximately 2.786 tonnes per annum.

Table 1

See Appendix A

Refurbishment Project Cumulative Figures

To date various schemes have been completed some which involve the complete replacement and new network infrastructure others which are new head replacement, all schemes have been funded from revenue, reserves or borrowings. Table 2 highlights some of the important figures estimated if all existing approved schemes and phase 2 was completed.

- 30.6% of Street light assets replaced or refurbished.
- Annual electricity savings £6,694.00.
- 9.201 Tonnes of CO2 emissions reduced per annum.

Table 2

See Appendix A

Alternatives Considered but not Recommended:

The Authority does not address the issues raised in relation to the current street lighting assets and continues to carry out responsive repairs as and when failures occur. This will be poor stock management and continue to be costly over a longer period of time, and lead to further complaints relating to faults.

Standing Orders:

Not applicable.

Resource Impact:

As more street lighting assets are replaced and converted onto the CMS less officer time is spent administering inquiries and complaints. Details of faults can be rectified earlier before public intervention.

Less officer time will be required in dealing with ad hoc repairs and faults.

Financial Impact:

- The costs associated with borrowing £897,245 at a rate of 4.62% would be £11,215.56 capital and £10,363.18 interest. This is a repayment of £21,578.74 per quarter. This equates to approximately a 11 pence increase to the District Rate, and a 3% increase to the current rate;
- Alternatively to reduce the impact of borrowings part of the project could be funded from existing reserves.

 Continuation to invest in street lighting assets will reduce annual maintenance and utility cost expenditure.

Legal and/or insurance impact:

- Health and Safety at Work Act 1974;
- British Standard BS 5489-1:2020, Design of Road Lighting lighting of roads and public amenity areas, Code of Practice;
- The Authority's Combined Insurance policy does provide cover for accidents that
 may occur relating to public liability but will not cover any costs of prosecution from
 the Health and Safety Inspectorate.

Equality Impact:

Not applicable.

Climate Change Impact:

From the data included in Table 1 in the "Supporting Rationale" section of this report it is estimated that Phase 2 will save a total of 2.786 tonnes of CO2 emissions per annum.

This is equivalent to approximately:



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single Economy flights between

Zurich and London

Consultation with Others:

- Chief Finance Officer Onchan District Commissioners.
- Lead Member for Environmental and Technical Services.

General Data Protection Regulations and/or Confidentiality Impact:

Not applicable.

Appendices:

Appendix A - Tables 1 and 2

For Members Consideration.

RYAN FORGIE

DISTRICT SURVEYOR

Appendix A

Table 1

	Existing				Proposed						
		umber of olumns	KWH/Annum	Cost/annum	Emissions tCO2/annum	Number of Columns	KWH/Annum	Cost/annum	Emissions tCO2/annum	Annual Saving	CO2 reduction
Scheme 26 - Birch Hill Crescent Sunnybank Avenue Highfield Crescent and assosiated Avenues	e de dis	11	19967	£5,810.49	7.987	159	9 12926.97	£3,761.75	5.171	E2,048.74	2.816
Scheme 27 - Maple Avenue Beech Avenue and all cul de sacs		3	7 5893	£1,714.97	2.357	49	5968.97	£1,736.97	2.388	-£22.00	-0.030
	Totals	15	1 2586:	£7,525.46	10.344	20	8 18895.94	£5,498.72	7.558	£2,026.74	2.786

Table 2

		Ex	isting			Pro	posed			
	Number of Columns	KWH/Annum	Cost/annum	Emissions tCO2/annum	Number of Columns	KWH/Annum	Cost/annum	Emissions tCO2/annum	Annual Saving	CO2 reduction
Scheme 1 - Governors Road		14 47	19 £1,373.2	1.888	2	2 2043	£594.42	0.817	£778.82	1.07
Scheme 2 - The Park & Hague Drive		12 26	79 £779.5	1.072	1	8 1378	£400.9:	0.551	E378.63	0.52
Scheme 3 - Sea Cliff Road		4 5	96 £173.5	0.239		4 160	£46.5	0.064	£126.98	0.17
Scheme 4 - The Rec (NEW)		0	0 £0.0	0.000		3 365	£106.30	0.146	-£106.30	-0.14
Scheme 5 - Turnberry & Wentworth Avenue		17 25	27 £735.4	3 1.011	2	8 1322	£384.7	0.529	£350.72	0.48
Scheme 6 - Imperial Terrace		6 17	07 £496.7	9 0.683		6 373	£108.4	0.149	£388.32	0.53
Scheme 7 - King Edward Road		42 89	16 £2,594.6	3,566	4	4 7249	£2,109.3	2.899	£485.22	0.66
Scheme 8 - Howe Road & Links View		21 36	28 £1,055.7	8 1.451	2	7 1677	£488.1	0.671	£567.66	0.78
Scheme 9 - Manor Park		14 19	43 £565.4	9 0.777	1	4 1402	£407.8	0.561	E157.64	0.21
Scheme 10 - King Edward Park & King Edward Close		14 31	06 £903.9	2 1.243	1	4 624	£181.5	0.249	£722.41	0.99
Scheme 24 - Groude View, Windemere Avenue & Ennerdale Avenue		42 54	99 £1,600.3	0 2.200	4	2 1878.66	£546.6	9 0.751	£1,053.61	1.44
Scheme 26 - Birch Hill Crescent Sunnybank Avenue Highfield Crescent and assosiated Avenues		114 199	67 E5,810.4	9 7.987	15	9 12926.97	£3,761.7	5.171	£2,048.74	2.81
Scheme 27 - Maple Avenue Beech Avenue and all cul de sacs		37 58	93 £1,714.9	7 2.357	4	9 5968.97	£1,736.9	7 2.388	£22.00	-0.03
Scheme 28 - Whitebridge Road LA (NEW)		0	0 £0.0	0.000		6 81	£236.4	7 0.325	-£236.47	-0.32
	Totals	337 611	.82 £17,894.1	0 24.473	43	6 38179	£11,110.1	0 15.272	£6,694.00	9.20