



STATUTE LAW REVISION BILL 2016

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, HM Acting Attorney General

INTRODUCTION

1. These explanatory notes relate to the Statute Law Revision Bill 2016. They have been prepared by the Attorney General's Chambers in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the Legislative Council.
2. The Bill contains a series of minor and technical amendments to the Interpretation Act 2015 and the Legislation Act 2015 to address practical issues which have prevented the commencement of those Acts. It also make a series of minor corrections and adjustments to other statutes to remedy defects, some of which are longstanding.

EUROPEAN CONVENTION ON HUMAN RIGHTS

3. In the opinion of HM Acting Attorney General, the provisions of the Statute Law Revision Bill 2016 are compatible with the Convention rights.

FINANCIAL IMPLICATIONS

4. It is not anticipated that the resulting Act will involve any significant change to Government income or expenditure. The savings flowing from the Interpretation Act 2015 and the Legislation Act 2015 were detailed in the explanatory memoranda for the Bills leading to those Acts.

COMMENTARY ON CLAUSES

PART 1 - INTRODUCTORY

5. **Clause 1** states the short title the Act will have if the Bill is passed and **Clause 2** provides that it will come into operation on a day or days appointed by the Council of Ministers.

PART 2: INTERPRETATION ACT 2015 AMENDED

6. **Clause 3** introduces Part 2 which comprises clauses 3 to 15 and contains amendments to the Interpretation Act 2015 (and in this Part of these Notes "section" when used without further elaboration means a section of that Act).
7. **Clause 4** inserts a new section 10A which deals with the treatment of Measures of the Diocesan Synod made under the Church Legislation Procedure Act 1993. Conceptually

these instruments do not fit neatly into the category of either primary or secondary legislation, because they are made under an Act of Tynwald, but once enacted have the same status as such an Act. A similar dichotomy occurs in England with Measures of the General Synod of the Church of England. **Clauses 4, 6, 7, 9** and **15** make consequential adjustments to sections 9, 11, 15 and 16 and the Schedule to reflect the status of Measures once enacted.

8. **Clause 8** inserts a new section 15A, which is a provision of the kind sometimes called a legislative signpost. It may not be obvious to the reader of the Interpretation Act 2015 that some provisions of the Legislation Act 2015 apply equally to documents which are not legislative in character, so the new section 15A will draw this to their attention.
9. **Clause 10** amends the definition of "person" in the Interpretation Act 2015 to include unincorporated persons: this may appear conceptually untidy, but there are a number of instances of references to unincorporated persons in Manx legislation (e.g. the Legal Aid Committee) and the 2015 Act needs to work properly in relation to them.
10. **Clause 11** amends the standard scale of fines prescribed in section 55(1) to reflect the change in the value of money since the corresponding scale in England and Wales (on which the scale in section 55(1) was based) was last varied in October 1992.
11. **Clause 12** amends section 77 to restore the Chief Minister's power to making acting appointments to judicial offices. Although this necessarily breaches the conventional separation of powers, in a small jurisdiction it is sometimes necessary to make an appointment to such an office at speed and the absence of such a reserve power would be apt to cause considerable complications.
12. **Clause 13** makes a series of minor adjustments to the provision on the general fee power with a view to securing consistency across Manx legislation.
13. **Clause 14** repeals an entry contained in the table of repeals in section 105: it is not now intended that the entry in question should be commenced at all.
14. **Clause 15**, in addition to making the provision referred to in paragraph 7 above in connection with Measures, amends the Schedule to apply the definition of "enactment" generally.

PART 3: LEGISLATION ACT 2015 AMENDED

15. **Clause 16** introduces Part 3, which amends the Legislation Act 2015. In this Part of these Notes a reference to a "section" without more is a reference to the relevant section of the Legislation Act 2015.
16. **Clause 17** inserts a new Division 4 into Part 2 of the Legislation Act 2015 which provides for the application of earlier provisions of the Part to Measures as they apply to Acts.
17. **Clause 18** makes a series of amendments to Part 3 of the Legislation Act 2015 to restrict its application to statutory documents. The application of the Part to other public documents is now dealt with by the new section 15A of the Interpretation Act 2015 (see paragraph 8 above).
18. **Clause 19** makes a minor correction to section 39. Although it is unusual for an Act of Tynwald to be assented to by Her Majesty in Council in one year and announced to Tynwald in the following year, it is not unheard of (e.g. the Law Officers Act 2014

which was assented to by Her Majesty at a Privy Council meeting held on 10 December 2014 but which was not announced to Tynwald until 20 January 2015). On those rare occasions when this has happened the Act has been numbered by reference to the date of Assent and not that of announcement to Tynwald.

19. **Clause 20** makes special provision for the numbering of Measures, which have hitherto been numbered only as Statutory Documents, which tends to disguise their status as primary legislation.
20. **Clause 21** amends section 42, which deals with the filing and publication of Acts and statutory documents to deal with the special position of Measures.
21. **Clause 22** amends section 43 dealing with the publication in the electronic gazette and elsewhere of Acts of Tynwald, Measures and statutory documents. The amendment, in addition to addressing the position of Measures, also deals with the anomaly that some Manx legislation (for example Acts of Parliament extending directly to the Island and Orders in Council which apply here) is published by Her Majesty's Stationery Office.
22. **Clauses 23 and 24** amend sections 58 and 60 respectively to correct typographical errors.
23. **Clause 25** amends section 91 which deals with the publication of existing Manx legislation. The amendment reflects the fact that some existing Manx legislation is published by bodies other than the Attorney General's Chambers (for example, financial services legislation which is published on the website of the Isle of Man Financial Services Authority). It also makes a minor typographical correction.
24. **Clause 26** removes section 99(9) which has been overtaken by subsequent events.

PART 4: OTHER LEGISLATION AMENDED

25. **Part 4** contains a miscellaneous group of amendments to other legislation, which are mainly corrections of longstanding errors.
26. **Clause 27** amends the Building Control Act 1991 by substituting a clearer version of section 25 of that Act, clarifying the position with regard to the Department's exercise of the powers conferred by sections 22 to 24 of that Act on local authorities.
27. **Clause 28** corrects a defective cross-reference in section 1 of the Child Custody Act 1987.
28. **Clause 29** amends section 2 of the Church Legislation Procedure Act 1993 to make it clear that a Diocesan Synod Measure (whenever made) may make retrospective provision. This is significant because the Ministry of Justice expressed doubts as to whether, notwithstanding its status once enacted as equal to an Act of Tynwald, such provision could be included. This led to the need for the Bishop to undertake not to commence a provision (which was wholly relieving in nature) contained in section 7 of the Church Offices Measure 2011 which needed to be retrospective to be effective at all.
29. **Clause 30** amends the Customs and Excise Duties (General Reliefs) Act 1986, and **clause 31** amends the Customs and Excise Management Act 1986 to reflect changes in nomenclature relating to institutions within the EU.

30. **Clause 32** amends the Designated Businesses (Registration and Oversight) Act 2015 in order to update the list of enactments relating to the funding of terrorism.
31. **Clauses 33, 45 and 46** make amendments respectively to the Education Act 2001, the Value Added Tax Act 1996 and the Veterinary Surgeons Act 2005 to adjust references to the Isle of Man College in the light of its renaming as the University College, Isle of Man.
32. **Clause 34** reorders alphabetically the definitions in section 1(1) of the European Communities (Isle of Man) Act 1973. These are now out of order as a result of some omnibus amendments contained in the European Union (Amendment) Act 2011.
33. **Clause 35** makes amendments to section 7 of the Interception of Communications Act 1988 to make it clear that, whilst the powers of the Chief Minister will normally be exercised, in the Chief Minister's absence, by the Minister for Home Affairs, they may be exercised by another person specifically authorised, at present under section 20 of the Interpretation Act 1976.
34. **Clause 36** updates references in Schedule 1 to the Law Reform Act 1997 to certain EU bodies.
35. **Clause 37** corrects a defective cross-reference in a definition in paragraph 1 of Schedule 1 to the Local Government Act 2006, which correction is to be treated as having always had effect by subsection (2) of the clause.
36. **Clause 38** makes a series of minor corrections to the Marriage Act 1984. Subsection (3) reinstates the Bishop's power to grant licences for marriage at any convenient time, which was mistakenly removed by the Marriage and Civil Partnership (Amendment) Act 2016 because although there are now no civil restrictions on the time of marriage on the Island, a marriage according to the rites and ceremonies of the Church of England cannot take place except between the hours of 8 a.m. and 6 p.m. by virtue of Canon B35 para 3. Subsection (4) replaces section 17(2)(b) and (c) with provisions which more accurately reflect the existing law relating to marriage on the Island. The amendments all have retrospective effect.
37. **Clause 39** replaces an amendment to the Sharing of Church Buildings Act 1986 made by the Marriage and Civil Partnership (Amendment) Act 2016.
38. **Clause 40** amends the Mental Health Act 1998 to adjust references to husbands and wives to include not only spouses and civil partners but also persons living together as spouses.
39. **Clause 41** amends the Peel Town Commissioners (Acquisition and Disposal of Land) Act 1975 to remove a spent reference to the Local Government Board and to relocate the definition of "encumbrancer" which is now of relevance only in section 1, enabling the repeal of section 4 in its entirety.
40. **Clauses 42 to 44** respectively amend the Post Office Act 1993, the Road Traffic Act 1985 and the Value Added Tax Act 1996 to reflect changes in EU terminology.
41. **Clause 46** amends two Church Measures to reflect transfers of functions in relation to town and country planning from the Department of Infrastructure to the Department of Environment, Food and Agriculture.

42. **Clause 47** repeals section 174(5) of the Employment Act 2006, and the Electricity (Amendment) Act 2010 so far as it is still in operation. The 2010 Act is repealed subject to a saving of section 11 for its effect in relation to the revenues of the Manx Electricity Authority for financial years prior to 2010-11.
43. **Financial impact** None of the amendments have any financial implications, other than the change to section 91 of the Legislation Act 2015 which has the capacity to reduce government expenditure by a negligible amount.