

TYNWALD

Tinvaal



ORDER PAPER

Claare Obbyr

DOUGLAS
Tuesday 15th January 2019
at 10.30 am

1. To lay before the Court –

Data Protection Act 2018

GDPR and LED Implementing Regulations (Amendment) Regulations 2018
[\[SD No 2018/0309\]](#) [\[MEMO\]](#)

Government Departments Act 1987

Transfer of Functions (Safeguarding) Order 2018 [\[SD No 2018/0322\]](#)
[\[MEMO\]](#)

Safeguarding Act 2018

Safeguarding Board (Qualifications and Procedures) Regulations 2018
[\[SD No 2018/0323\]](#) [\[MEMO\]](#)

Rehabilitation of Offenders Act 2001

Rehabilitation of Offenders Act 2001 (Exceptions) Order 2018
[\[SD No 2018/0327\]](#) [\[MEMO\]](#)

Beneficial Ownership Act 2017

Beneficial Ownership (Civil Penalties) Regulations 2018 [\[SD No 2018/0310\]](#)
[\[MEMO\]](#)

Social Security Contributions and Benefits Act 1992

Employed Person's Allowance (General) (Amendment) (No. 2) Regulations
2018 [\[SD No 2018/0315\]](#) [\[MEMO\]](#)

Social Security Contributions and Benefits Act 1992
Income Support (General) (Isle of Man) (Amendment) (No. 2) Regulations
2018 [[SD No 2018/0316](#)] [[MEMO](#)]

Reports

Isle of Man Government's Road Safety Strategy 2019-2029 [[GD No 2018/0050](#)]

Ecclesiastical Committee of Tynwald Second Report for the Session 2018-2019
Draft Ecclesiastical Jurisdiction and Care of Churches Measure (Isle of Man)
[[PP No 2018/0176](#)]

The remaining items are not the subject of motions on the Order Paper

Documents subject to no procedure

Payment of Members' Expenses Act 1989
Payment of Members' Expenses (Specified Bodies) (Amendment) (No.2)
Order 2018 [[SD No 2018/0317](#)]

Merchant Shipping Act 1985
Merchant Shipping (Amendment) Regulations 2019 [[SD No 2018/0324](#)]
[[MEMO](#)]

Document subject to negative resolution

Immigration Act 2014
Immigration and Nationality (Fees) (Amendment) Regulations 2018
[[SD No 2018/0259](#)] [[MEMO](#)]

Equality Act 2017
Employment and Equality Tribunal Rules 2018 [[SD No 2018/0314](#)] [[MEMO](#)]

Fisheries Act 2012
Sea Fishing Licensing (No.2) Regulations 2018 [[SD No 2018/0336](#)] [[MEMO](#)]

Appointed Day Orders

Equality Act 2017
Equality Act 2017 (Appointed Day) (No.5) Order 2018 [[SD No 2018/0329](#)]

Safeguarding Act 2018
Safeguarding Act 2018 (Appointed Day) Order 2018 [[SD No 2018/0321](#)]

Reports

Tynwald Commissioner for Administration Refusal to Investigate a Complaint – Statement of Reasons [[TCA1818](#)]

Criminal Injuries Compensation Scheme Report for 2017/18 [[GD No 2018/0027](#)]

Financial Information and Miscellaneous Accounts year-ended 31 March 2015 [[GD No 2018/0055](#)]

Financial Information and Miscellaneous Accounts year-ended 31 March 2016 [[GD No 2018/0056](#)]

Financial Information and Miscellaneous Accounts year-ended 31 March 2017 [[GD No 2018/0057](#)]

Safeguarding Together Guidance for collective working to safeguard children and vulnerable adults in the Isle of Man [[GD No 2018/0089](#)]

Independent Review of the Isle of Man Health and Social Care System Progress Report [[GD 2018/0092](#)]

Council of Ministers' Response to the Social Affairs Policy Review Committee Mental Health Second Report 2018-19 [[GD No 2018/0094](#)]

Isle of Man Schools' Attainment Level 2017-2018 [[PP No 2019/0002](#)]

2. Questions

See Question Paper.

3. Public Defender Scheme Project

Statement by the Treasury Minister.

4. Independent Review of the Isle of Man Health and Social Care System Progress Report

Statement by the Treasury Minister.

5. Road Safety Strategy

The Minister for Home Affairs to move –

That Tynwald receives and endorses the Isle of Man Government's Road Safety Strategy 2019-2029 [[GD No 2018/0050](#)].

6. Social Affairs Policy Review Committee

The Chair of the Social Affairs Policy Review Committee (Mr Cretney) to move –

That the Social Affairs Policy Review Committee Second Report for the Session 2018-19: Mental Health [[PP No 2018/0151](#)] be received and the following recommendations be approved:

Recommendation 1

That the Department of Health and Social Care should review the operational and legal basis for the confidentiality protocols in place in the Mental Health Service and disseminate clear guidance to all staff.

Recommendation 2

That Tynwald is of the opinion that every effort should be made to ensure that patients' records are retained and referred appropriately, and that patients and, where appropriate, next of kin should be kept informed insofar as practical and in conformity with relevant confidentiality law.

Recommendation 3

That further provision be put in place by the Department to support carers and that this provision should be available throughout the Island.

Recommendation 4

That the Department for Health and Social Care make available clear guidance for service users and families on how they can access the available complaints systems.

Recommendation 5

That the Mental Health Service review its training procedures relating to the 1998 Act and disseminate guidance to all staff on its relevant requirements and provisions.

Recommendation 6

That mental capacity legislation containing Deprivation of Liberty Safeguards be drafted and introduced into the Branches of Tynwald.

Recommendation 7

That the Department of Health and Social Care submit a yearly report to Tynwald on the progress towards the goals of the Mental Health and Wellbeing Strategy. In particular this report should focus on waiting times for patients in all service areas, support for carers and signposting and communication between service areas.

[\[GD No 2018/0094\]](#) is relevant to this item.

7. Ecclesiastical Committee of Tynwald

The Chair of the Ecclesiastical Committee of Tynwald (Mr Cannan) to move –

That the Second Report for the Session 2018-2019 – Draft Ecclesiastical Jurisdiction and Care of Churches Measure (Isle of Man) *[\[PP No 2018/0176\]](#)* be received and the following recommendation be approved:

That the draft Ecclesiastical Jurisdiction and Care of Churches Measure (Isle of Man) *[\[PP 2018/0176A\]](#)* in the form laid before Tynwald be presented to Her Majesty for Her Royal Assent, as required by Schedule 1 to the Church Legislation Procedure Act 1993.

8. Select Committee on Public Service Media (Combined vote under Standing Order 3.19(1))

(Extract from the December 2018 Votes and Proceedings)

Mrs Caine withdrew for this item with the leave of the President.

Motion made –

That the Interim and Second Reports of the Select Committee on Public Service Media 2017-18 and 2018-19 [\[PP No 2018/0107 \(Volume 1 and Volume 2\)\]](#) and [PP No 2018/0145\]](#) be received and that the following recommendations be approved:

Recommendation 1

That the definition of “public service broadcasting” in primary legislation should be redrafted to distinguish between mandatory and discretionary components. The mandatory components should be limited to impartial news and other distinctly Manx content. The other elements of the existing definition, such as entertainment which responds to the tastes, interests and concerns of the community, should be discretionary components.

Recommendation 2

That the Island’s public service media provider should “leapfrog” DAB and move straight from the existing distribution framework, which relies only on FM and AM, to a future framework in which FM sits alongside an Internet Protocol-based infrastructure.

Recommendation 3

That Tynwald calls on the Treasury as shareholder of Manx Radio to work towards a delivery model for public service media in which reliance on commercial advertising is progressively reduced and ultimately removed.

Recommendation 4

That legislation should be introduced to provide that a public service broadcaster in receipt of public funds for the purpose of meeting public service obligations should be obliged to budget for a surplus each year; and if such a broadcaster should find itself in the position of forecasting a loss in any particular year, then before the end of that year it should be obligatory for Tynwald to be asked, on behalf of the broadcaster, to approve a Supplementary Vote.

Recommendation 5

That the public body which owns Radio Manx Limited should play an active role in the strategic direction of the company including engagement with medium- and long-term planning, and recruitment of the directors of the company. If the Treasury does not have time to do this, ownership should be transferred to another body.

Recommendation 6

That legislation should be introduced to provide that no public funds may be committed to public service broadcasting, and no broadcasting licence or station format may be issued or amended, in the absence of agreement between the Treasury, the Communications Commission, and the owners and directors of the public service broadcaster.

Recommendation 7

That Tynwald calls on the Office of Fair Trading to assess whether Manx Radio's ability to supply a greater amount of advertising space is creating unfair competition in the radio advertising market.

Recommendation 8

That Manx Radio's licence conditions should be altered to provide for a level playing field in terms of its ability to place advertising during times of peak listenership generated by taxpayer-funded programming.

Recommendation 9

That the Treasury should reassess the long-term cost and benefit of Broadcasting House as compared with alternative Government-owned or commercially rented premises.

Recommendation 10

That the Treasury should examine the apparent lack of value for money which Manx Radio is achieving with respect to FM broadcasting infrastructure.

Recommendation 11

That the Council of Ministers should pursue negotiations with the UK Government and the BBC aimed at securing one of the following outcomes:

- (a) as a first preference, an increase in financial support for Radio Manx Limited sufficient to allow the station to provide high quality public service radio broadcasting (and other public service media provision) without the need for cross-subsidy from commercial income and without any increase in substantial financial support from the Isle of Man Government; or*
- (b) as a second preference, for the BBC to supply high quality locally produced news and other public service content for broadcast (and for distribution via other media) by Radio Manx Limited, on a scale and to the extent that Radio Manx Limited could thereby fulfil its public service remit without the need for cross-subsidy from commercial income and without significant financial support from the Isle of Man Government; or*
- (c) as a third preference, the establishment of a BBC radio station for the Isle of Man similar to those operating in Jersey and Guernsey, allowing the public service broadcasting obligations of Radio Manx Limited to be dismantled and the associated public financial support to be removed; or*
- (d) as a final fallback option, the release of Isle of Man residents from any obligation to pay the licence fee and at the same time the release of the*

BBC from any obligation to provide services to the Island on a licence fee basis. This option would keep some £4.8 million per year in the Island and would allow the Island to exercise for the first time true self-determination in relation to public service broadcasting.

Dr Allinson

Amendment moved –

To leave out all the words after “That” in the first line, and to add:

“Tynwald is of the opinion that the Council of Ministers should form a working party with Manx Radio, the Treasury, the Communications Commission and External Relations Division of the Cabinet Office to agree a basis for the management and funding of Manx Radio, with special reference to independent operational and editorial control; and that the Council of Ministers report on the outcome of the working party’s deliberations by October 2019.”

Mr Cretney

Amendment moved –

To leave out all the words after “That the Interim and Second Reports of the Select Committee on Public Service Media 2017-18 and 2018-19 be received and that”, and to add:

“Tynwald affirms its commitment to Independent Public Service Media based on the core values of Informing, Educating and Entertaining the public of the Isle of Man; calls on the Council of Ministers to pursue negotiations with the British Broadcasting Corporation aimed at securing improved outcomes for the Isle of Man; and calls on the Board of Radio Manx Limited to develop a sustainable operational and funding plan for Radio Manx Limited to be submitted to its Shareholder for presentation to Tynwald by October 2019.”

Mr Baker

Amendment moved –

To leave out all the words after “That” in the first line, and to add:

“the Council of Ministers should:

1) pursue negotiations with the BBC aimed at securing improved outcomes for the Isle of Man in all fields of broadcasting, and to report on this to Tynwald by May 2019; and

2) following such negotiations, develop a sustainable multi-year operational and funding plan for Radio Manx Limited, and report on this to Tynwald by October 2019; and

subsequently, Tynwald should appoint a Select Committee to report on the means to develop effective ownership, regulatory and governance mechanisms for the Island's public service broadcaster to ensure: accountability for any expenditure of public money to ensure value for money for the taxpayer; operational and editorial independence (free from actual or perceived political interference); clear articulation and effective regulation of public service broadcasting obligations to include, but not be limited to, balanced reporting and ensuring any commercial activities do not give rise to any actual or perceived conflicts of interest; and to report on this to Tynwald by June 2020."

Miss Bettison

Amendment moved –

To leave out all the words after "be received and that" and to add:

"Tynwald affirms its commitment to Independent Public Service Media based on the core values of Informing, Educating and Entertaining the public of the Isle of Man and calls on the Council of Ministers:

(1) to pursue negotiations with the BBC and the UK Government to obtain advice and funding, either full or partial, for an Isle of Man Public Service Media Centre, incorporating radio, TV, internet and all other cross media platforms and to report on this to Tynwald by May 2019;

(2) following such negotiations to draw up an overall Isle of Man Public Service Media Strategy incorporating all cross media platforms, together with a sustainable operational and funding plan and to report on this to Tynwald by October 2019; and

subsequently, Tynwald should appoint a Select Committee to report on the means to develop effective ownership, regulatory and governance mechanisms for the Island's Public Service Media to ensure: accountability for any expenditure of public money to ensure value for money for the taxpayer; operational and editorial independence; clear articulation and effective regulation of Public Service Media obligations to include, but not be limited to, balanced reporting and ensuring any commercial activities do not give rise to any conflicts of interest; and to report on this to Tynwald by June 2020."

Mrs Sharpe

Amendment moved –

To leave out the words “the Communications Commission”.

Mr Malarkey

[...]

Mr Cretney’s amendment lost.

Mr Baker’s amendment –

Court divided.

In the Keys - Ayes 15, Noes 7

For: Dr Allinson, Mr Ashford, Mr Baker, Mr Boot, Mr Callister, Mrs Corlett, Mr Cregeen, Ms Edge, Mr Harmer, Mr Malarkey, Mr Moorhouse, Mr Perkins, Mr Quayle, Mr Skelly, Mr Thomas

Against: Miss Bettison, Mr Cannan, Mr Hooper, Mr Peake, Mr Robertshaw, Mr Shimmins, Mr Speaker

In the Council – Ayes 3, Noes 5

For: Mr Cretney, Mr Henderson, Mrs Lord-Brennan

Against: Miss August-Hanson, Mr Crookall, Mrs Hendy, Mrs Poole-Wilson, Mrs Sharpe

Amendment lost.

Mr Baker gave notice under Standing Order 3.19(1) that he intended to move his amendment for a combined vote at the next sitting.

9. Non-Executive Directors of the Isle of Man Steam Packet Group Limited

The Treasury Minister to move –

That Tynwald approves the Treasury’s appointment of Mr P Dearden, Captain S Pressly and Mr D Oldfield as Non-Executive Directors of the Isle of Man Steam Packet Group Limited for a period of up to five years. [[MEMO](#)]

10. Data Protection Act 2018

The Minister for Policy and Reform to move –

That the GDPR and LED Implementing Regulations (Amendment) Regulations 2018 [[SD No 2018/0309](#)] [[MEMO](#)] be approved.

11. Government Departments Act 1987

The Minister for Policy and Reform to move –

That the Transfer of Functions (Safeguarding) Order 2018 [[SD No 2018/0322](#)] [[MEMO](#)] be approved.

12. Safeguarding Act 2018

The Minister for Policy and Reform to move –

That the Safeguarding Board (Qualifications and Procedures) Regulations 2018 [[SD No 2018/0323](#)] [[MEMO](#)] be approved.

13. Rehabilitation of Offenders Act 2001

The Minister for Home Affairs to move –

That the Rehabilitation of Offenders Act 2001 (Exceptions) Order 2018 [[SD No 2018/0327](#)] [[MEMO](#)] be approved.

14. Beneficial Ownership Act 2017

The Minister for the Treasury to move –

That the Beneficial Ownership (Civil Penalties) Regulations 2018 [[SD No 2018/0310](#)] [[MEMO](#)] be approved.

15. Social Security Contributions and Benefits Act 1992

The Minister for the Treasury to move –

That the Employed Person's Allowance (General) (Amendment) (No. 2) Regulations 2018 [[SD No 2018/0315](#)] [[MEMO](#)] be approved.

16. Social Security Contributions and Benefits Act 1992

The Minister for the Treasury to move –

That the Income Support (General) (Isle of Man) (Amendment) (No. 2) Regulations 2018 [[SD No 2018/0316](#)] [[MEMO](#)] be approved.