



## **PAYMENT OF MEMBERS' EXPENSES (AMENDMENT) BILL 2009**

### **EXPLANATORY NOTE**

*These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Hon. R P Braidwood, MHK*

#### **Introduction**

1. These explanatory notes relate to the Payment of Members' Expenses (Amendment) Bill 2009. They have been prepared by the Treasury in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. In the case of this Bill, the explanatory memorandum contains considerable detail about each of the clauses. These notes are therefore only intended to provide a brief summary of the Bill and some background information.
3. The Bill was drafted to reflect a recommendation contained in the First Report of the Joint Committee on the Emoluments of Certain Public Servants 2006-2007, which was approved by the Keys and Council at sittings during October 2007. The relevant part of the recommendation, which requires the Payment of Members' Expenses Act 1989 (the "1989 Act") to be amended, is as follows:
  - That the 1989 Act be amended to provide that when a Member of the Legislative Council goes out of office as a Member of the Council, he or she should continue in office as a Minister, [or] Member of a Department... until a successor is appointed and thereby receive the remuneration due for that Executive Government role.
4. As a result of that recommendation, the Treasury agreed in principle that where a member of the Keys or of the Council goes out of office due to the dissolution of the Keys or at the end of their period of tenure as a member of the Council, they should, with the exception of the President of Tynwald and the Speaker, continue to receive payment in respect of any office held under the terms of the 1989 Act until such time as a successor is appointed.

5. As the implementation of the policy requires the 1989 Act to be amended, the opportunity has also been taken to tidy up and clarify other provisions of that Act where appropriate.

### **Summary of Clauses**

6. Clause 1 provides that the 1989 Act is amended.
7. The effect of Clause 2 is, unless the Treasury by order provides otherwise, to entitle a person who is no longer a Member of Tynwald to receive the sum prescribed for holding certain offices<sup>1</sup> (see the proposed new section 1(3) to be inserted in the 1989 Act). This is required as person can technically continue in office when he or she is no longer a member of Tynwald if, for example, there is a gap between the person ceasing to be a member and a successor being appointed to replace that person in office. Clause 2 also clarifies that no person is entitled to an annual sum under section 1 of the 1989 Act in respect of membership of more than one Department (see the proposed new section 1(4) to be inserted in the 1989 Act).
8. The effect of Clause 3 is to require the Treasury to consult (if if the Governor in Council has designated a committee of Tynwald or other body for the Treasury to consult with for purposes of section 6(3) of the 1989 Act) before making an order under the new section 1(3) of the 1989 Act.
9. Clause 4 inserts a new section 6A into the 1989 Act and is to replace the existing section 7(7)(b) of that Act. The new subsections (1) and (2) deal with the continuation of office of a member of a Department and other offices specified by order under section 1(2)(g) of the 1989 Act<sup>2</sup>, as there is no statutory provision which deals with the continuation of those offices. The new subsection (3) will enable a person who was a member of the Keys immediately before the dissolution of the Keys to continue to receive their salary for being a member of Keys until the return of the writ in accordance with the election rules.
10. The effect of clause 5 is to clarify the Tynwald procedure in respect of orders made under the 1989 Act and to make some consequential repeals.
11. Clause 6 provides the short title.
12. The Bill is not expected to increase the expenditure of Government nor to reduce the income of Government.
13. In the view of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

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<sup>1</sup> Namely, the offices of Chief Minister, Minister, Chairman of the Civil Service Commission, member of any Department or such other office specified for the purpose of section 1(2)(g) of the 1989 Act by an order made by the Treasury.

<sup>2</sup> See the Members of Tynwald (Annual Sums) (Designation of Office) Order 1997 (SD 509/97) which designates the office of chairman of the Planning Committee of the Department of Local Government and the Environment.