

IN THE KEYS

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

Explanatory Memorandum

1. The Bill is promoted by the Treasury.
2. *Clause 1* provides that the Payment of Members' Expenses Act 1989 (the "1989 Act") is amended.
3. *Clause 2* inserts a new section 1(3) and (4) into the 1989 Act. The new section 1(3) is to replace the existing section 7(7)(a) of the 1989 Act and the effect is to entitle a person who is no longer a Member of Tynwald to receive the sum prescribed for holding certain offices (namely, 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). This is necessary as a person can technically continue in office when he or she is no longer a member of Tynwald (for example, there may be a gap between the person ceasing to be a member and a successor being appointed to replace that person in an office). The new section 1(3) has to be considered alongside the statutory provisions which provide for when such a person continues in office. The new section 1(4) 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.
4. *Clause 3* amends section 6(3) of the 1989 Act. The effect of clause 3(a) is to require the Treasury to consult (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)) before making an order under the new section 1(3) of the 1989 Act. Clause 3(b) inserts a cross-reference to the new section 1(3) of the 1989 Act, so that where an order made under that section departs from any recommendation made by a committee or body designated by order under section 6(3) of that Act, the Treasury is required to lay before Tynwald a statement setting out those recommendations and its reasons for departing from them.
5. *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 inserted subsections (1) and (2) specifically deal with members of a Department and offices specified in an order under section 1(2)(g)

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of the 1989 Act. This is necessary as although section 4(4) and (5) of the Council of Ministers Act 1990 and section 2(3B) of the Civil Service Act 1990 deal with the continuation of persons holding the office of Chief Minister, Minister and the chairperson of the Civil Service Commission, there is nothing which deals with the continuation of office of a member of a Department or other offices specified by Order under section 1(2)(g) of the 1989 Act. The proposed section 6A(1)(b) deals with the position where the Governor in Council decides not to fill the office of a Departmental member. The proposed section 6A(3) is based on the existing section 7(7)(c) of the 1989 Act, but has been drafted more generally so as to apply to all members of the Keys (rather than members who do not hold an office mentioned in the existing section 7(7)(a) of that Act). The new provision 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 in Schedule 2 to the Representation of the People Act 1995.

6. The effect of *clause 5(1)* is to clarify the Tynwald procedure in respect of Orders made under the 1989 Act. The substituted section 7(5) provides that an order under section 4(1)(a) or (b) specifying a body for the purposes of section 4, or an order under section 11(2), must be laid before Tynwald as soon as practicable after it is made. All other Orders made under the 1989 Act are to be subject to Tynwald approval in accordance with section 7(4). Clause 5(2) repeals section 7(7) of the 1989 Act as that provision will be superseded by clause 4. Clause 5(3) contains a consequential repeal.

7. *Clause 6* states the short title of the Bill.

8. The Bill is not expected to increase the expenditure of Government nor to reduce the income of Government.

9. 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.

Arrangement of Sections

Section

1. Amendment of the Payment of Members' Expenses Act 1989
2. Section 1 amended
3. Section 6 amended
4. Section 6A inserted
5. Section 7 amended
6. Short title

A BILL

to amend further the Payment of
Members' Expenses Act 1989
and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by
and with the advice and consent of the Council and Keys in
Tynwald assembled, and by the authority of the same, as follows:—

1. The Payment of Members' Expenses Act 1989 is amended
as follows.

Amendment of
the Payment of
Members'
Expenses Act 1989
[c.4]

2. After section 1(2) add —

Section 1 amended

5 “(3) Unless the Treasury by order provides
otherwise, a person who holds an office specified in
subsection (2)(a) or (d) to (g) who is no longer a member
of Tynwald, shall nevertheless be entitled to the sum
for that office prescribed under this section.

10 (4) No person shall be entitled to an annual sum
under this section in respect of membership of more
than one Department.”.

3. In section 6(3) —

Section 6 amended

(a) after “subsection (1)” insert “or section 1(3),”; and

15 (b) after “where an order under subsection (1)” insert “or
section 1(3)”.

4. After section 6 insert —

Section 6A inserted

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	6A. (1) Where a person holding an office specified in section 1(2)(f) ceases to be a member of Tynwald then, despite section 1(2)(b) of the Government Departments Act 1987 but subject to section 2(1) of that Act, he or she shall continue to hold that office until —	5
[c.13]	(a) the next appointment to that office is made; or	
	(b) in the case of a Department consisting of more than one member (other than the Minister), the Governor in Council decides not to fill that office.	10
	(2) Where a person holding an office specified in section 1(2)(g) ceases to be a member of Tynwald he or she shall continue to hold that office until the next appointment to that office is made.	15
[c.13]	(3) A person who was a member of the Keys immediately before the dissolution of the Keys is deemed for the purposes of this Act to continue to be such a member until the returning officer makes a return of the writ in accordance with the election rules in Schedule 2 to the Representation of the People Act 1995.”.	20
Section 7 amended	5. (1) For section 7(5) substitute —	
	“(5) An order under —	
	(a) section 4(1)(a) or (b) specifying a body for the purposes of section 4; or	25
	(b) section 11(2),	
	must be laid before Tynwald as soon as practicable after it is made.”.	
	(2) Section 7(7) is repealed.	30
[c.11]	(3) Consequent on the repeal in subsection (2), section 3(2) of the Statute Law Revision Act 1992 is repealed.	
Short title	6. This Act may be cited as the Payment of Members' Expenses (Amendment) Act 2009.	

IN THE KEYS

**Payment of Members' Expenses
(Amendment)**

A BILL

*to amend further the Payment of
Members' Expenses Act 1989
and for connected purposes.*

Approved by the Council of Ministers for
introduction in the House of Keys.

MR. BRAIDWOOD

MAY 2009
