



**LEGISLATIVE COUNCIL  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH**

**PROCEEDINGS**

**DAALTYN**

**(HANSARD)**

**Douglas, Tuesday, 20th May 2008**

**Present:**

The Attorney General (Mr W J H Corlett QC),  
 Mr D A Callister, Mrs C M Christian, Mr E A Crowe, Mr A F Downie,  
 Mr E G Lowey, Mr J R Turner and Mr G H Waft,  
 with Mr J King, Clerk of the Council.

**Business transacted**

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*The Council adjourned at 10.25 a.m.*

## Legislative Council

*The Council met at 10.00 a.m.*

**The Clerk:** Hon. Members, good morning.  
In the absence of the Bishop, the Chaplain and the President, it falls to me to lead prayers.

### PRAYERS

*The Clerk of the Council*

### Election of Acting President Mrs Christian elected

**The Clerk:** Hon. Members, according to the Standing Orders, if the President is absent from any sitting, Council shall elect a Member as Acting President in advance.

**Mr Lowey:** Could I propose the Hon. Member, Mrs Christian.

**Mr Downie:** I would be pleased to second that.

**Members:** Agreed.

**Mrs Christian:** Thank you.

*Mrs Christian took the Chair.*

**Mr Lowey:** Could I, before you take this... It is a particularly historic day today, because it is the first time that this Legislative Council has ever had a lady presiding.

My sisters will be delighted that, at long last, sisters have got equality and it is a great honour. I am delighted that Mrs Christian accepted the Chair.

**Members:** Hear, hear.

**The Acting President:** Thank you very much, Mr Lowey – albeit briefly!

## Order of the Day

### Joint Committee on the Emoluments of Certain Public Servants First Report 2007-08 received and recommendations approved

1. Mr Lowey to move:

*That the First Report of the Joint Committee on the Emoluments of Certain Public Servants 2007-2008 be received and the following recommendations be approved –*

*(i) that in linking Isle of Man posts to the UK scale, the following revised system of analogues be adopted:*

<i>Isle of Man post</i>	<i>UK Group analogue</i>	<i>Salary w. e. f. 1st April 2007 (£)</i>	<i>Salary w. e. f. 1st November 2007 (£)</i>
<i>First Deemster</i>	<i>Group 4</i>	<i>164,430</i>	<i>165,900</i>
<i>Second Deemster</i>	<i>Group 4 minus 7.5%</i>	<i>152,098</i>	<i>153,457</i>
<i>Attorney General</i>	<i>Group 4 minus 7.5%</i>	<i>152,098</i>	<i>153,457</i>
<i>Deputy Deemster</i>	<i>Group 6.1</i>	<i>122,105</i>	<i>123,200</i>
<i>High Bailiff</i>	<i>Group 7 plus 10%</i>	<i>107,743</i>	<i>108,790</i>
<i>Deputy High Bailiff</i>	<i>Group 7 plus 5%</i>	<i>102,845</i>	<i>103,845</i>

*(ii) that the posts of Attorney General, Deputy Deemster, High Bailiff and Deputy High Bailiff should be remunerated with effect from 1st April 2007 using the revised system of analogues set out in recommendation (i). For the avoidance of doubt, back payments for the period from 1st April 2007 to 31st October 2007 are to be calculated with reference to the UK rate applicable during that period;*

*(iii) that with respect to the posts of the First Deemster and Second Deemster, the Branches note the Committee's conclusions as set out in recommendation (i) as proposals which might be considered by the Governor in Council;*

*(iv) that legislation be introduced to place the Members of Tynwald Resettlement Grant on a statutory basis;*

*(v) that rates payable to chairmen and members of tribunals either should be linked to another scale which is subject to regular review, or should be reviewed at least once every two years; and*

*(vi) that the operation of the Tribunals Act 2006 be reviewed to see if a more efficient way can be found to ensure tribunals have access to the necessary legal expertise.*

**The Acting President:** Right, can we move to Item 1 of our Agenda Paper and that is the motion to be moved by Mr Lowey in relation to the Joint Committee on the Emoluments of Certain Public Servants.

**The Attorney General:** Madam Acting President, I wonder if it would be appropriate at this stage to suggest that it be appropriate that I should leave this sitting. Clearly, the only matter on the Agenda Paper is a matter which concerns myself and others, and I think it would be appropriate if I were to leave, subject to your views.

**The Acting President:** I am sure that is an appropriate action for you to take and we appreciate you raising the matter, as it is a matter which is of direct concern to yourself. Thank you.

**The Attorney General:** Thank you.

*The Attorney General left the Council Chamber.*

**The Acting President:** Mr Lowey.

**Mr Lowey:** Thank you, Madam Acting President.

Before I get into the detail of the Report before us today, I would just like to make it clear that this Report covers three completely separate matters. Recommendations (i), (ii) and (iii) deal with how much we pay the Attorney General and

the Deemsters. Recommendation (iv) is about the Members of Tynwald Resettlement Grant. Recommendations (v) and (vi) are about the allowances we pay to members of various tribunals appointed under the Tribunals Act 2006.

Turning first to the Attorney General and the Deemsters, I would like to start by reminding Hon. Members how much the Attorney General and the Deemsters are paid at the moment. Their pay is calculated with reference to the pay of UK judges.

The system for doing the calculation is set out in paragraph of 1.6 of the Report. The First Deemster gets the same as a judge in UK Group 5. The Second Deemster and the Attorney General get the same as a judge in UK Group 6.1 and so on. The meaning of the UK groups is set out in Annex 1 of our Report.

This system has served the Isle of Man well for at least the last 20 years. It has the advantage that the UK scale is regularly updated: that takes care of the need for regular inflationary increments.

So why the change now? The Committee was approached back in November 2006 by the then Chief Minister, Mr Gelling, and we were asked to consider increasing the Attorney General's pay over and above the annual increments which he had always had. We agreed that he should have such an increase and there are three main reasons for this. They are set out in paragraphs 1.1 to 1.2 of the Report and they are: the increasing international role of the Attorney General – and that cannot be stressed too much; (2) the fact that the post of the Attorney General used to be seen as a stepping stone to being a Deemster – this is no longer the case; and (3) the fact that we will wish to attract applicants from the increasingly prosperous private sector, when the time comes to appoint a new Attorney General.

However, as I mentioned earlier, the Attorney General is paid the same as the Second Deemster. Both of these salaries are part of a coherent pay structure as set out in paragraph 1.6. The Committee decided that it could not review the Attorney General's pay without also reviewing the pay of the First and Second Deemsters, the Deputy Deemster, the High Bailiff and the Deputy High Bailiff.

When the Committee looked at the Deemsters' pay, we concluded that it, too, should be increased. The reasons for this are set out in paragraphs 1.15 to 1.16 of the Report and, as the Report says, the diversity and complexity of the work of the Island's judiciary has changed considerably. The Island's prosperity, its improved international standing and its improved reputation as a centre for international commercial activity have led to more court proceedings and to more complex litigation.

Madam Acting President, only last week we passed the Administration of Justice Bill. That Bill aims to update the operation of our legal system in a number of ways and among other things it will introduce a second tier of High Court judges, to optimise the valuable time of the Deemsters and will enable the Rules of Court to be completely revised.

Madam Acting President, updating our court procedures is an important thing to do in its own right, but it is also important because it is absolutely central to the reputation of the Isle of Man as a jurisdiction. By the same token, the way we treat our judiciary is also a sign to the outside world of what sort of jurisdiction we are. Just as we value our ability to make our own laws in this legislature, so also we must value the role of our completely independent judiciary system in applying those laws. We are competing in a global

market and the judiciary are part of the package. We should not take them for granted.

So much for the principle; what about the figures? The Committee looked at the Channel Islands as a possible model. They pay their equivalent office holders a lot more than we do. The Committee concluded there was no need at this stage to go quite that far. Instead we have come up with the figures set out in recommendation (i) and these are, roughly speaking, about half way between where we are now and where the Channel Islands are.

As the Report explains, however, we think these figures are justified because they represent a better comparison between the Isle of Man roles and their nearest equivalents in the UK. So the First Deemster moves up from the level of a UK Senior Circuit judge to a level of a UK High Court judge and so on.

Madam Acting President, before moving on, I need to say a word about the structure of recommendations (i), (ii) and (iii).

Recommendation (i) is the key one, but it needs to be applied in slightly different ways to the different posts in the scale. Recommendation (ii) talks about the Attorney General, Deputy Deemster, High Bailiff and Deputy High Bailiff. The salary for those posts is the responsibility of the Emoluments Committee. For these posts therefore, we can make a straightforward recommendation in the normal way, which we have done in the Report.

Recommendation (iii) talks about the First and Second Deemsters. The salary for these posts is the responsibility of the Governor in Council, by virtue of the High Court Act 1991.

Madam Acting President, I must confess that the result is a bit of a constitutional muddle, with different people responsible for salaries which cannot really be considered separately. This will be resolved in future. Under the Administration of Justice Bill, all these salaries will go, or will be able to go, to the Governor in Council. Meanwhile, the Committee took the view that for the First and Second Deemsters, it would simply ask the Branches to note its conclusions. This is the best we can do for the moment. I am sure the Council of Ministers will take note of the views of another place and of this Council.

Madam Acting President, I would now like to move on and say something about the other two subjects in this Report. I am glad to say that the other recommendations are rather less complex and also less expensive.

The Members of Tynwald Resettlement Grant provides for the payment of the equivalent of six months' basic salary if a Member under pensionable age fails to be re-elected either to the House of Keys or to the Legislative Council. The scheme was set up in 1997; a number of improvements were made in January 2008, when Tynwald approved Government Circular 75/07. Since then, the Committee has come up with another proposed improvement, which will come before Tynwald in due course.

Meanwhile, the specific concern underlying recommendation (iv) is that there is no express statutory basis for this scheme. This is true of a number of other schemes, most notably the Tynwald Members' Pension Scheme. The Committee understands that action is in hand to place the Tynwald Members' Pension Scheme on a statutory basis. We are suggesting in this recommendation that the same should be done to the Resettlement Grant Scheme.

Madam Acting President, I turn finally to recommendations

(v) and (vi). These are about the allowances paid to people who serve on various tribunals, appointed under the Tribunals Act 2006. There is a list at annex 3 which gives an indication of the kind of tribunals we are talking about.

Madam Acting President, the Committee has been consulted by the Treasury about certain proposed changes to the attendance allowances. The detail of those proposals will come before Tynwald in due course. Meanwhile, however, the Committee has decided to make two recommendations which are not directly related to the figures.

The first is to say that the attendance allowance should be reviewed more frequently. When the Treasury came to us about the allowances they wanted us to review, they had been in place for six years without review. In our view, this is far too long. As we say in recommendation (v), the rates should either be linked to another scale which is subject to regular review or they should themselves be reviewed at least every two years.

Our last recommendation is about legal expertise. In our conversation with the Appointments Commission, we picked up evidence that there may be over provision of legal expertise. For example, there may be some cases where you end up with two lawyers on the same tribunal.

Madam Acting President, we obviously have to make sure our tribunals system is properly resourced, just the same as the High Court, but lawyers are not cheap and the Committee thought it was important to draw the Branches' attention to the risk of inefficiency in this area and to have it looked at much more closely.

Madam Acting President, it seems as if it has been very complex, dealing with three separate issues in the one Report, but that concludes my summary of the content of this Report.

I beg to move that the Report be received and that the recommendations as set out on the Order Paper be approved.

**Mr Waft:** I beg to second Madam Acting President and reserve my remarks.

**The Acting President:** Mr Crowe.

**Mr Crowe:** I beg to second and can I just –

**The Acting President:** It has been seconded.

**Mr Crowe:** Oh, sorry. Can I support the Report of the Committee and just comment there are two issues that strike me straight away. First of all, the increasing international role of those people we are recommending for pay awards and also the comparison with the private sector.

I cannot emphasise the international aspect enough. Since 1995, when we had the Edwards Review, we have had a series of international threats and challenges – FATF, EU, OECD, UN and others – and the Island is a major player in the international market place, not only in financial services but in e-business, the space industry, industrial markets etc. So the legal complexities of trading in a global nature of our trade means that we need the highest calibre people in these very prominent roles and, especially for the Attorney General, the sheer scale and diversity of our legislation programme is a witness to the diversity and complicated nature of the world we live in.

So I am happy for all of those pay awards to be approved

and recommended as stated in the recommendation and, as for the other recommendations, I support them as stated in the Report.

**The Acting President:** Mr Turner.

**Mr Turner:** Thank you very much, Madam Acting President.

I fully support this Report as well and concur with the comments of my hon. colleague, Mr Crowe. I think it is unfortunate when we read some of the sensational headlines in the papers, having a go at these salary increases. I think that is what sends out the wrong message to members of the public.

I think it is vital that if we are going to attract people with the calibre and the skills required to deal with the international matters, particularly as it has been said before that we are actually playing on a world stage here, it is important that the remuneration is comparative with the private sector, if we are to attract the type of people in these posts.

So I have no problem in supporting this.

**The Acting President:** Mr Downie.

**Mr Downie:** Yes, thank you.

I too support the Report and I was disappointed to hear the way the media had dealt with this issue. Like some of the previous speakers said, we do have a lot of expertise within the judiciary of the Isle of Man. The Attorney General's role is completely different from what it was 10 or 15 years ago and, as has been stated, he does have to deal with a lot more international issues than he has ever dealt with before, including issues relating to the IMF, FATF and all the other international regulatory bodies who are looking at the finance sector.

I did a bit of research over the last week and, far from being overpaid, if you compare the salaries of the judiciary and the Attorney General with the medical profession, there are some GPs in the Island earning over £200,000 a year now. Whilst I am not criticising them in any way, shape or form, you must make these comparisons, because if we want good people, we want some of the top people, we have to be prepared to pay the going rate for the job. When one sees the salaries and remuneration afforded in the private sector for people with high qualifications and good credibility in law, I would suggest that there could be an argument to say that our judiciary are actually still a little underpaid. However, that is the decision of the Committee.

I would apologise to my colleagues on the Committee, I could not make my first meeting. I will be watching this Committee's work with interest and I am fully supportive of the recommendations as before this Council today.

**The Acting President:** Mr Callister.

**Mr Callister:** Just a brief word that I support what has been said to date. In relation to what Mr Turner said about the press and the comments that were made, I think they would probably be quite shocked about some of the doctors' salaries that were referred to by the Hon. Mr Downie.

I would also compare them with payments that are made to Members of Tynwald, to Ministers and Chief Ministers who require no qualifications whatsoever, as against immense qualifications and knowledge that the Deemsters

and the judges and so on require. So I fully support this.

**The Acting President:** Mr Waft.

**Mr Waft:** I would just like to say, Madam Acting President, everything that has been said this morning has been discussed with the Emoluments Committee and it is only after quite a few meetings – we went into all the different aspects – the view that we came to we thought was a fair one, taking into consideration the situation that we find ourselves in, as Members have outlined this morning.

So I would heartily endorse the Report and accept the fact as it is and recommend it to Council.

**The Acting President:** Thank you.

Before I invite Mr Lowey to sum up, I would just note that it does not affect the actual recommendation, but in paragraph 2.1 of the Report the vital word ‘under’ is missing before ‘pensionable age’. The Hon. Member did refer to that, but the text differs from the comments of the Hon. Member.

**Mr Waft:** He did say ‘under’, yes.

**The Acting President:** Mr Lowey, would you like to wind up, please, in reply.

**Mr Lowey:** Thank you, Madam Acting President.

First of all, can I thank colleagues. Every Member of Council has spoken, every Council Member has spoken in support.

Can I deal with the specifics that you raise. I recognise immediately that there is a missing word in that Report. It was clear in our finding that it was for people ‘under’ retiring age, and I am sure that will be taken note of. That is why I emphasised it in my opening remarks.

Can I just say, your Committee would appear to have been taking rather a long time. We deliberately took time. We did not want to – I mentioned that there are two sets of people – the Emoluments look after one set of the judiciary, but the First and Second Deemsters are looked after by the Council of Ministers. We did not realise that until towards the end of our deliberations. We could quite easily have said, ‘Oh, it has got nothing to do with us’ and leave it. That is not the way your Committee works. We thought, as we have done the work, we have done the research, Council of Ministers

then do not have to do that work and the research is there for them. That is why we have included it.

It is like, when you build a bridge, there is a load stone. If you take one stone out, the bridge is very much unstable. That is why, when dealing with the Attorney General and the historic links etc with the Second Deemster, we decided to try and keep it intact and fit it into a system with the UK. We have tried to be middle of the road – not deliberately middle of the road, because our main aim was to be fair.

When I read in the press, like Hon. Members, of the £35,000 rise, I think what the press should have been saying is: why have we been paying these people under par for so long? A lot of it is public duty. Now, while public duty is fine and right, I do not believe that should be the basis of our remuneration; it should be fairness. I believe that this balance is about right, at this particular time. It has the advantages in the Isle of Man of a pension and it also has the advantages of regular review and it is more akin...

Our work of the judiciary is *so* much different: we have seen it, as we have grown internationally, the work of the courts has been transformed in their complexity. They are dealing now with the highest qualified...

I can remember a murder trial in my younger days when we got Rose Heilbron over. Shockwaves went through the system, that we were having to deal with a QC! The reality is now QCs appear regularly in Manx courts and our judiciary has got an international reputation for fairness and justice. I think we have to pay them as is reflected in your Report.

I am delighted with the response from Members. Hon. Members, will be aware that another place has already approved it and I look forward to unanimous support here for the recommendations of your Committee.

I beg to move.

**The Acting President:** Thank you.

The motion is set out at Item 1 on our Order Paper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Can I thank Members for attending today to assist the Committee, because I think they needed to get this through before the Tynwald sitting.

The Council will now adjourn to the sitting of Tynwald Court today, at 10.30. Thank you.

*The Council adjourned at 10.25 a.m.*