

**FIRST REPORT OF THE STANDING ORDERS
COMMITTEE OF TYNWALD
FOR THE SESSION 2007-08**

STANDING ORDERS COMMITTEE OF TYNWALD

The Hon S C Rodan SHK (Garff)

Mr G D Cregeen MHK (Malew and Santon)

Mr E G Lowey MLC

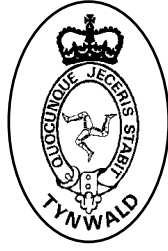
Hon G M Quayle MHK (Middle)

The remit of the Standing Orders Committee is stated by paragraph 7
of the Schedule to Standing Orders

The powers, privileges and immunities relating to the work of a committee of Tynwald are those conferred by sections 3 and 4 of the Tynwald Proceedings Act 1876, sections 1 to 4 of the Privileges of Tynwald (Publications) Act 1973 and sections 2 to 4 of the Tynwald Proceedings Act 1984.

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**To The Honourable Noel Q Cringle, President of Tynwald, and
the Honourable Members of the Council and Keys in
Tynwald assembled.**

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SESSION 2007-08**

Introduction

- 1 Your Committee have been asked to consider, as a matter of urgency, the possibility of the quorum for the Legislative Council being unattainable for a period after the end of February 2008 and to put proposals to the Court for a temporary suspension of it.
- 2 We take the opportunity of addressing certain other matters concerning the Court's Standing Orders at the same time.

The Quorum of the Legislative Council

- 3 Standing Order 11.4 prescribes that the quorum of the Legislative Council shall be five Members. It is specifically provided by section 1(2) of the Isle of Man Constitution Act 1971 that the Attorney General's presence is not to reckon towards quorum, and it has been the practice to regard the President's presence similarly.

- 4 The eight elected Members and the Bishop are therefore regarded as those who are eligible to form a quorum of the Council, and the number is set at five. At the end of February 2008, four of the elected Members go out of office and it cannot be predicted with any certainty that a new Bishop will be sitting by then. Accordingly, the four remaining elected Members would not suffice to make up a quorum and the business of Tynwald would be suspended until at least one of the outgoing Members had been replaced.
- 5 Elections to the Council are apt, on recent experience, to require a number of weeks to be completed. Moreover, at this point in time it is impossible to say whether the Constitution (Amendment) Bill which has been with the branches will have been enacted in time to allow elections to be conducted according to a revised, and hopefully quicker, procedure which would abbreviate the period during which seats in the Council remain vacant. In addition, the possibility of absence through illness must be taken into account.
- 6 In view of the serious consequences of the sittings of Tynwald in the spring and early summer of 2008 being inquorate, and therefore unable to transact public business, *your Committee recommend that Standing Order 11.4 be amended for the remainder of the Session 2007-08 by reducing the quorum of the Council to three.*

Tynwald Day Petitions

- 7 The existing wording of Order 6.11(c) adequately eliminates from the subject matter of petitions those issues which could be the subject of court or similar appeal or review proceedings (unless the petitioner shows that it would not be reasonable to expect that they should be pursued). But if decided cases are referred to in petitions, an awkwardness could occur, because it is clearly undesirable, and inconsistent with the separation of functions between the judiciary and the legislature, for Tynwald to be put in the position of acting in any sense as a court of appeal from decisions of the courts of law.

- 8 On the other hand, it may happen that a decided case throws up matters of public concern which do merit investigation by the legislature as a general issue, so that it would not be right to block petitions merely on the ground that the topics they raise have been the subject of proceedings. The solution appears to be to distinguish between petitions which are really about individual cases which could be or have been appealed, and petitions which disclose a matter of general concern, albeit arising out of a particular decision.
- 9 *We therefore recommend that the wording of Order 6.11(c) should be amended to disqualify specific cases which either could be or have been the subject of proceedings or appeals.*

Local Authority Bye-laws

- 10 Standing Order 7.5 (reproduced in the Appendix) currently requires a local authority to submit the bye-laws directly to the Clerk of Tynwald, and then be forwarded to the Department of Local Government and the Environment to report on them to Tynwald.
- 11 In order to streamline the procedures and save time, the Department have suggested that bye-laws simply be referred direct to the Department who would then submit the bye-laws, on behalf of the local authority, as Government business in the normal way. This would accord with the reality that when local authorities decide to make bye-laws, they work closely with the Department which advises on them. When the Department and the local authority are satisfied that the bye-laws are in an acceptable form, the local authority then make them.
- 12 In view of this, we see no objection to the Department's proposal, and *we recommend removing the requirement to submit bye-laws to the Clerk of Tynwald before transmission to the Department of Local Government and the Environment.*

Recommendations

13 Your Committee recommend the following changes to Standing Orders-

(i) add to Standing Order 11.4:-

after the sitting of the Court in February 2008 for the remainder of the Session 2007-08, 'Quorum' in relation to the Council shall be three members."

(ii) amend Standing Order 6.11(c) by inserting the words in italics:-

"(c) not relate to any specific case which could be or has been adjudicated upon by the High Court or any tribunal or arbitration, or any formal officially recognised complaints procedure, unless the petition shows that in the circumstances it is not reasonable to expect the petitioner to resort, or have resorted, to such remedy;"

(iii) in Standing Order 7.5 delete the words:-

"on receipt by the Clerk of Tynwald".

S C Rodan (Chairman)
G D Cregeen
E G Lowey
G M Quayle

November 2007

APPENDIX

Extracts from existing Standing Orders

6.11 Every Petition for Redress must -

- (a) relate to a matter of public interest;
- (b) relate to a matter falling within the province of Tynwald;
- (c) contain no reference to any matter capable of adjudication upon by the High Court or any tribunal or arbitration, or any formal officially recognised complaints procedure, unless the petition shows that in the particular circumstances it is not reasonable to expect the petitioner to resort, or to have resorted, to such remedy;
(December 2004)
- (d) contain no reference to any matter the substance of which has been determined by Tynwald in the current Session.

Approval of Bye-Laws made by Local Authority

7.5 Where a local authority applies to Tynwald for the approval of bye-laws made by the local authority, the petition of the local authority shall, on receipt by the Clerk of Tynwald, be forwarded to the Minister for Local Government and the Environment, who shall report on it to Tynwald.

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