



**INTERIM REPORT  
SELECT COMMITTEE ON IMMIGRATION**

**MAY 2008**

# **INTERIM REPORT OF THE SELECT COMMITTEE OF TYNWALD ON IMMIGRATION**

At a sitting of Tynwald Court held on 17<sup>th</sup> January 2007 it was resolved that a Select Committee of five Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to examine and review the operation and adequacy of the existing legislation available to the Isle of Man for monitoring and controlling immigration to the Island, and to report no later than the sitting of the Court in October 2007 with recommendations.

**Hon S C Rodan SHK (Garff) Chairman**

**Mrs C M Christian MLC**

**Mr Q B Gill MHK (Rushen)**

**Mr R W Henderson MHK (North Douglas)**

**Mr J P Watterson MHK (Rushen)**

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.

*Copies of this Report may be obtained from the Tynwald Library, Legislative Buildings, Finch Road, Douglas IM1 3PW (Tel 01624 685520, Fax 01624 685522) or may be consulted at [www.tynwald.org.im](http://www.tynwald.org.im)*

*All correspondence with regard to this Report should be addressed to the Clerk of Tynwald, Legislative Buildings, Finch Road, Douglas IM1 3PW*



To: The Honourable Noel Q Cringle OBE MLC, President of Tynwald, and the Honourable Members of the Council and Keys in Tynwald assembled

## **INTERIM REPORT SELECT COMMITTEE ON IMMIGRATION**

### **Background**

1. At a sitting of Tynwald Court held on 17<sup>th</sup> January 2007 it was resolved that a Select Committee of five Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to examine and review the operation and adequacy of the existing legislation available to the Isle of Man for monitoring and controlling immigration to the Island, and to report no later than the sitting of the Court in October 2007 with recommendations.
2. Hon S C Rodan SHK was elected as Chairman of the Committee on 20 March 2007 and subsequently made a statement to Tynwald Court at its October 2007 sitting to advise Hon Members that the Committee was unable to report until such time that it had completed its research and consultation.

### **Purpose of interim report**

3. Your Committee has undertaken investigation and research into United Kingdom immigration policy and the extent to which the Isle of Man is obliged to comply with changes to that policy. The work of the Committee coincided with a substantial updating of the Island's immigration legislation which came to fruition at the sitting of Tynwald in April 2008. A "Memorandum for Tynwald Members" was provided along with the papers for that sitting and is attached for reference to this Report. In summary, the updating comprised –
  - (i) the Immigration (Isle of Man) Order 2008 (UK SI 2008 No. 680) ("the 2008 Order"). This is an Order in Council which extends UK primary legislation to the Island. It consolidates previous Orders in Council made in 1991 and 1997, and brings the position up to date by extending to the Island relevant provisions of UK primary legislation enacted between 1996 to 2006. In line with normal procedure, the extension of each enactment was approved by a motion of Tynwald (see paragraph 1.6 of the "Memorandum for Tynwald Members") and the 2008 Order, once made, was laid before Tynwald for information; and
  - (ii) sixteen statutory documents made under the powers in the 2008 Order to update the Island's secondary legislation. These have the reference numbers SD 172/08 to 187/08 and are listed in the Annex to this Report.
4. Your Committee has noted the complexity of this legislation and that the explanatory documentation does not indicate substantial political input. This is an important issue because your Committee believes that immigration is a policy area with far-reaching implications for the Isle of Man and that, as such, it merits consideration by the Island's politicians. The purpose of this Report is to draw this to the attention of the Court and to propose a means by which additional political input could be made into the development of legislation in this area.

## **Comment and recommendations**

5. As far as the 2008 Order is concerned, your Committee understands that the purpose of the Order is to extend UK primary legislation to the Island with “appropriate adaptations and modifications”; and that this purpose has been endorsed by Tynwald through debates on a series of motions. Your Committee would comment that, while the Order itself is a complex document, its purpose is easily expressed. To that extent, an opportunity has already been given for a degree of input by the Island’s politicians into the policy associated with the Order. In terms of overseeing the implementation of that policy, however, your Committee believes that it would be desirable for Tynwald to undertake detailed scrutiny of the 2008 Order, to provide independent assurance that any adaptations and modifications which have been made are indeed appropriate.
  
6. The Committee of Tynwald best placed to do this is the Scrutiny Committee. The remit of that Committee as set out in the Standing Orders of Tynwald Court refers to “secondary legislation” and strictly speaking the 2008 Order is an instrument of primary legislation. Nevertheless, it is arguable that as a UK Statutory Instrument the 2008 Order has some of the characteristics of secondary legislation; and that, in any case, it is open to the Court by resolution to ask one of its Committees to take on any appropriate task. Your Committee accordingly recommends:
  - (i) **that the Immigration (Isle of Man) Order 2008 (UK SI 2008 No. 680) be referred to the Scrutiny Committee to consider (with particular regard to the appropriateness of any adaptations and modifications the Order makes to UK legislation) and to report to Tynwald; and**

7. Further, as the uncertainty in interpreting the remit of the Scrutiny Committee is itself undesirable, your Committee recommends:

**(ii) that the Standing Orders Committee of Tynwald review the remit of the Scrutiny Committee, with a view to making express provision for the Committee to consider Orders in Council extending primary legislation to the Isle of Man and to propose amendments.**

8. As far as the 16 Statutory Documents making changes to the Island's secondary legislation are concerned, similar considerations apply. The implication of the "Memorandum for Tynwald Members" (although this is not stated in terms) is that the secondary legislation is intended, like the primary legislation, to bring the Isle of Man position into line with the UK position with only such adaptations and modifications as are needed to ensure the provisions can be operated in an Isle of Man context. Once again, your Committee believes that it would be desirable to apply a degree of independent scrutiny to ensure that this is indeed the effect of the legislation as drafted. In the case of secondary legislation such consideration lies clearly within the remit of the Scrutiny Committee. Your Committee therefore recommends:

**(iii) that the secondary legislation on immigration laid before Tynwald in April 2008 (SDs 172/08 to 187/08) be referred to the Scrutiny Committee to consider (with particular regard to the appropriateness of any adaptations and modifications the Order makes to UK legislation) and to report to Tynwald.**

S C Rodan (Chairman)

C M Christian

Q B Gill

R W Henderson

J P Watterson

May 2008

**Secondary legislation on immigration laid before Tynwald in April 2008**

Nationality, Immigration and Asylum Act 2002 -

Immigration (Leave to Enter and Remain) Order 2008 [*SD No 172/08*]

Immigration (Continuation of Leave) (Notices) Regulations 2008 [*SD No 173/08*]

Immigration (Certificate of Entitlement to Right of Abode in the Isle of Man) Regulations 2008 [*SD No 178/08*]

Immigration Appeals (Family Visitor) Regulations [*SD No 179/08*]

Immigration Appeals (Specified States) Order 2008 [*SD No 180/08*]

Immigration (Notices) Regulations 2008 [*SD No 181/08*]

Immigration (Provision of Physical Data) Regulations [*SD No 182/08*]

Immigration Appeals (Procedure) Rules 2008 [*SD No 184/08*]

Reporting of Suspicious Marriages Regulations 2008 [*SD No 185/08*]

Immigration Act 1971 -

Immigration (Passenger Information) Order 2008 [*SD No 174/08*]

Immigration (Designation of Travel Bans) Order 2008 [*SD No 187/08*]

Immigration and Asylum Act 1999 -

Immigration (Removal Directions) Regulations 2008 [*SD No 175/08*]

Immigration Control (Provision of Facilities at Ports) Order 2008 [*SD No 176/08*]

Carriers' Liability Regulations 2008 [*SD No 177/08*]

Asylum and Immigration (Treatment of Claimants, Etc) Act 2004 -

Immigration (Procedure for Marriage) Regulations 2008 [*SD No 183/08*]

Asylum and Immigration Act 1996 -

Immigration (Restrictions on Employment) Order 2008 [*SD No 186/08*]

Parliamentary Copyright

available from:

The Tynwald Library  
Legislative Buildings  
Finch Road  
DOUGLAS  
Isle of Man IM1 3PW  
British Isles

Tel: 01624 685520

Fax: 01624 685522

e-mail [library@tynwald.org.im](mailto:library@tynwald.org.im)

May 2008

Price:£1.35