



HOUSE OF KEYS

Y Chiare as Feed

VOTES AND PROCEEDINGS

Reaghyssyn as daaltyn

DOUGLAS
TUESDAY 7th MARCH 2000
at 10.00 am

PRESENT: Mr Speaker and 23 Members.

Motion made - that Standing Order 43(2) be suspended to enable the remaining questions tabled for oral answer at this sitting to be put.

Mr Houghton

House divided.

Motion carried.

ELECTION OF FOUR MEMBERS TO THE LEGISLATIVE COUNCIL

The following were proposed and seconded –

Nominee	Proposer	Second
Mr D F K Delaney	Mr R P Braidwood	Hon A F Downie
Dr E J Mann	Hon S C Rodan	Mr J D Q Cannan
Hon D North	Mr J P Shimmin	Hon D J Gelling
Mr J N Radcliffe	Mr R E Quine	Sir Miles Walker
Mr G H Waft	Hon R K Corkill	Mr R P Braidwood

It was agreed by the House that Standing Order 209(1) be suspended and that special ballot papers bearing the names of the proposed and seconded candidates be used.

After a first ballot Mr D F K Delaney, Mr J N Radcliffe and Mr G H Waft were elected.

After a second ballot one vacancy remained. Mr Speaker called for fresh nominations and, under Standing Order 6(3), called a sitting of the House at 9.00 am on Tuesday 21st March 2000 to elect a person to the Legislative Council.

BILL FOR FIRST READING

BODY-PIERCING OF MINORS BILL

Mr Singer

RETIREMENT BENEFITS SCHEMES BILL

Clauses further considered.

Motion made – that Clause 37 and Schedule 1 stand part of the Bill.

Mr Corkill

House divided.

Motion carried.

Motion made – that Clause 38 stand part of the Bill.

Mr Corkill

Amendment moved –

Page 38; for clause 38 substitute –

"Review of Supervisor's decisions.

38. (1) *Any person who is aggrieved by a decision of the Supervisor to -*
- (a) refuse to register a scheme under section 3;*
 - (b) register a scheme subject to conditions under section 3(3);*
 - (c) make an authorisation subject to new conditions under section 3(3)(a);*
 - (d) vary any existing conditions under section 3(3)(b);*
 - (e) revoke an authorisation under section 4;*
 - (f) refuse to extend (or further extend) a period under section 9(7), 13(7) or 14(5);*
 - (g) issue a direction under section 14(2);*
 - (h) refuse to give approval under section 18(3);*
 - (i) issue a direction under section 19(1) or (2);*
 - (j) vary or revoke a consent under section 19(4)(b) or (c);*
 - (k) issue a direction under section 22(1);*

- (l) *issue a notice or direction under section 23(2) or (3);*
- (m) *issue a direction under section 31;*
- (n) *refuse to withdraw or vary a direction under section 31(1);*
- (o) *refuse to register an administrator under section 36(4)(a);*
- (p) *cancel the registration of an administrator under section 36(4)(b);*
- (q) *disqualify a person under section 41; or*
- (r) *refuse to revoke a disqualification order under section 41,*

may apply for a review of the decision.

(2) A review committee shall be established under Schedule 2 to conduct reviews of decisions of the Supervisor in accordance with that Schedule and regulations under paragraph 8 of that Schedule."

Page 57, insert the following new Schedule -

"section 38(2)

SCHEDULE 2

REVIEW OF SUPERVISOR'S DECISIONS

Review Committee.

1. (1) There shall be a panel of 6 persons (in this paragraph and paragraphs 2 and 4 referred to as "the Panel") from whom the members of every review committee established under paragraph 2 shall be appointed.

(2) Appointments to the Panel shall be made by resolution of Tynwald on the nomination of the Council of Ministers.

(3) The Council of Ministers shall nominate a person for appointment to the panel only if the Council of Ministers is satisfied that the nominee is a person who has appropriate experience.

(4) A person appointed to the Panel -

- (a) must be appointed (or re-appointed) for a fixed period not exceeding 5 years, but*
- (b) may be removed from office by resolution of Tynwald on the ground of incapacity or misbehaviour,*

and subject to that, shall hold and vacate office in accordance with the terms of his appointment.

(5) The members of the Panel shall appoint one of their number to be Chairman of the Panel.

(6) The members of the Panel shall appoint one of their number to be deputy chairman to exercise the powers of the Chairman of the Panel in the event of his absence, incapacity or inability to act (for whatever reason).

(7) The Treasury may determine the fees and expenses to be paid to the Chairman and members of the Panel and a review committee, and any other expenses of the Panel or a committee which are to be defrayed.

Initiation of a review.

2. (1) In the first instance an application for a review shall be delivered to the Chief Secretary who, on receiving the application, shall without delay pass the application to the Chairman of the Panel.

(2) On receiving the application, the Chairman shall assign two other members of the Panel who, together with the Chairman of the Panel shall form the review committee in respect of that particular application.

(3) The Chairman of the Panel shall assign persons for membership of a review committee only if he is satisfied that the person is independent of both the Supervisor and the applicant.

(4) The Chairman of the Panel shall be the chairman of all review committees.

Determination of the review.

3. (1) On the determination of a review under this Schedule a review committee shall confirm, vary or revoke the decision in question.

(2) Any variation or revocation by a review committee of a decision of the Supervisor shall not affect the previous operation of that decision or anything duly done or suffered under it.

(3) Without prejudice to any right of recourse to the High Court, a decision of a review committee shall be binding on the Supervisor and the applicant.

Costs and expenses.

4. (1) A review committee may make an order awarding costs to or against the applicant or the Supervisor.

(2) A review committee must, unless it is satisfied that it would not be just to do so, make an order under paragraph (1) against the applicant where the review has been decided against him and a notice was issued to him under sub-paragraph (6).

(3) An order under paragraph (1) may require the party against whom it is made to pay to the other party either -

(a) a specified sum not exceeding the relevant costs incurred by that other party, or

(b) the whole or part of those costs as assessed (if not otherwise agreed),

and, in determining how much the party is required to pay, the committee must take account of the conduct of both parties in relation to the review.

(4) The relevant costs of a party are the costs incurred by the party in –

(a) attending the hearing, including loss of income,

(b) reimbursing the expenses of witnesses attending the hearing on his behalf, or

(c) being represented at the hearing, where the committee consider that it was desirable for him to be represented and that the costs so incurred were reasonable.

(5) Any costs required by an order under this rule to be assessed are to be assessed by the Chief Registrar in the same manner as the assessment of costs in the High Court in accordance with rules of court made under the High Court Act 1991.

(6) Where an application for a review has been received by the Chairman of the Panel and he is of the opinion -

(a) that it is so unlikely that the review will succeed on the basis of the application and any additional material supplied with the application that to proceed with it would be unfair to the Supervisor, or

(b) that the application and any additional material supplied reveal no valid grounds for the review, or that the application for the review is otherwise wholly misconceived,

he may, before assigning two members of the Panel under paragraph 2(2), serve a notice to that effect on the applicant.

(7) A notice under sub-paragraph (6) must state the Chairman's reasons for his opinion and inform the applicant -

- (a) that the review will not proceed unless the applicant informs the Chairman in writing within 14 days of the date of the notice that he wishes it to proceed, and
- (b) that if he makes such a statement, and the review is subsequently withdrawn or decided against him, he may be liable, subject to the limitations imposed by this paragraph, to pay the costs incurred by the Supervisor in connection with the review.

(8) Where a notice is given under sub-paragraph (6) in relation to an application, unless the applicant informs the Chairman in writing before the end of the period of 14 days starting with the date of the notice, that he wishes to proceed with the review no further proceedings shall be taken in relation to the review.

(9) Without prejudice to the generality of section 52, costs awarded against the Supervisor under this paragraph shall, for the purposes of that section, be an expense incurred under this Act by the Supervisor.

Power to regulate own procedure.

5. Subject to the provisions of section 38, this Schedule and regulations under paragraph 8, a review committee may regulate its own procedure.

Irregularities.

6. (1) Any irregularity resulting from failure to comply with any provision of section 38, this Schedule or regulations under paragraph 8 before a review committee has reached its decision shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of a review committee, it may, and must if it considers any person may have been prejudiced by the irregularity, give such directions as it thinks just, before reaching its decision, to cure or waive the irregularity.

(3) Clerical mistakes in any document recording a direction, order or decision of a review committee, or errors arising in such a document from an accidental slip or omission, may be corrected by the Chairman by certificate under his hand.

Appeals to the High Court.

7. (1) The applicant or the Supervisor may, at any time during the period of 6 weeks beginning with the day on which the decision is made, bring

an appeal on any question of law or fact arising from the determination of a review by a review committee.

(2) *An appeal under this paragraph must be made to the High Court.*

(3) *The High Court may confirm, vary, revoke or remit the decision of a review committee, and may make any order the committee could have made.*

(4) *Any decision of the High Court in respect of a determination of a review committee shall not affect the previous operation of the decision of the Supervisor which was the subject of the determination nor anything duly done or suffered under it unless the High Court specifically orders to the contrary.*

Practice and procedure.

8. (1) *An application for a review shall be in such form, made within such time, and be subject to such conditions, as may be prescribed by regulations made by the Council of Ministers.*

(2) *The Council of Ministers may make regulations to provide for the practice and procedure of review committees and for proceedings before them."*

and re-number the subsequent Schedules.

House divided.
Amendment lost.
Motion carried.

Mr Quine

Motion made – that Clause 39 stand part of the Bill.

Motion carried.

Mr Corkill

Motion made – that Clause 40 stand part of the Bill.

Motion carried.

Mr Corkill

Motion made – that Clause 41 stand part of the Bill.

Motion carried.

Mr Corkill

Motion made – that Clauses 42 to 44 inclusive stand part of the Bill.

Motion carried.

Mr Corkill

Motion made – that Clause 45 stand part of the Bill.

Motion carried.

Mr Corkill

Motion made – that Clauses 46 to 48 inclusive stand part of the Bill.
Mr Corkill

Motion carried.

Motion made – that Clause 49 stand part of the Bill.
Mr Corkill

Amendment moved -
Page 47, line 15; for subsection (1) substitute –

“(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such a capacity, he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.”.

Sir Miles Walker

Amendment carried.
Clause 49 as amended carried.

Motion made – that Clause 50 stand part of the Bill.
Mr Corkill

Motion carried.

Motion made – that Clause 51 stand part of the Bill.
Mr Corkill

Motion carried.

Motion made – that Clause 52 stand part of the Bill.
Mr Corkill

Motion carried.

Motion made – that Clauses 53 and 54 stand part of the Bill.
Mr Corkill

Motion carried.

Motion made – that Clause 55 and Schedules 2 and 3 stand part of the Bill.
Mr Corkill

Motion carried.

Motion made – that Clause 56 stand part of the Bill.
Mr Corkill

Motion carried.

POLICE (AMENDMENT) BILL

Clauses considered.

Motion made – that Clause 1 stand part of the Bill.

Mr Shimmin

Amendment moved –

In the substituted section 2 of the Police Act 1993, omit sub-section (4), and re-number subsequent sub-sections and the consequential cross-references within them.

Mr Karran

House divided.

Amendment lost.

Motion carried.

Motion made – that Clause 2 stand part of the Bill.

Mr Shimmin

Motion carried.

Motion made – that Clause 3 stand part of the Bill.

Mr Shimmin

Amendment moved –

Page 4, line 27; for the new section 4A substitute –

“4A. Annual report by Chief Constable

(1) The Chief Constable shall, as soon as possible after the 31st March in each year, submit to the Department a general report in writing on the policing of the Island during the year ending on that date.

(2) The Department shall cause a copy of the report to be laid before Tynwald, and the Minister for Home Affairs shall, as soon as may be, move a resolution that the report be received by Tynwald.”

Mr Bell

Amendment carried.

Clause 3 as amended carried.

Motion made – that Clause 4 stand part of the Bill.

Mr Shimmin

Motion carried.

Motion made – that Clause 5 stand part of the Bill.

Mr Shimmin

House divided.

Motion carried.

Motion made – that Clause 6 stand part of the Bill.

Mr Shimmin

Motion carried.

AGRICULTURE (MISCELLANEOUS PROVISIONS) BILL

Clauses considered.

Motion made – that Clause 1 stand part of the Bill.

Mr Downie

Motion carried.

Motion made – that Clause 2 stand part of the Bill.

Mr Downie

Motion carried.

Motion made – that Clause 3 stand part of the Bill.

Mr Downie

Motion carried.

Motion made – that Clause 4 stand part of the Bill.

Mr Downie

Motion carried.

Motion made – that Clauses 5 and 6 stand part of the Bill.

Mr Downie

Motion carried.

The House rose at 3.34 pm

Prof T StJ N Bates
Secretary of the House

The House adjourned to 14th March 2000