

# TYNWALD

Tinvaal



## VOTES AND PROCEEDINGS

Reaghyssyn as daaltyn

DOUGLAS

TUESDAY 20<sup>TH</sup> OCTOBER 2009

WEDNESDAY 21<sup>ST</sup> OCTOBER 2009

**Revenue sharing arrangement changes and international developments -**

Statement made by the Chief Minister.

**Bill signed**

Animal Health (Amendment) Bill 2008

**1. Questions -**

Questions 1 to 26 were answered orally.

Questions 27 to 46 were answered in writing.

**2. Laid before the Court -**

Proceeds of Crime Act 2008 -

Proceeds of Crime (External Requests and Orders) Order 2009  
[SD No 687/09]

Proceeds of Crime (Prescribed Disclosure Form) Order 2009  
[SD No 715/09]

Finance Act 2008 -

Information Notice: Resolution of Disputes as to Privileged Communications Regulations 2009 [SD No 576/09]

Customs and Excise Act 1993 -

Export Control (Amendment) (No. 2) Order 2009 (Application) Order 2009 [SD No 575/09]

Customs and Excise Acts (Application) Order 2009 [SD No 584/09]

Customs and Excise Acts (Application) (No. 2) Order 2009 [SD No 595/09]

Export Control (Amendment) (No. 3) Order 2009 (Application) Order 2009 [SD No 630/09]

Export of Objects of Cultural Interest (Control) (Amendment) Order 2009 (Application) Order 2009 [SD No 649/09]

Value Added Tax Act 1996 -

Value Added Tax (Buildings and Land) Order 2009 [SD No 577/09]

Value Added Tax (Change of Rate) Order 2009 [SD No 583/09]

Value Added Tax Act 1996 (Amendment) (No. 5) Order 2009 [SD No 596/09]

Hydrocarbon Oil Duties Act 1986 -

Hydrocarbon Oil Duties Act 1986 (Amendment) (No. 2) Order 2009 [SD No 648/09]

Income Tax Act 1970 -

Income Tax (Belgium) (Double Taxation) Order 2009 [SD No 665/09]

Income Tax (New Zealand) (Double Taxation) Order 2009 [SD No 667/09]

Income Tax (Disclosure of Information) (Enforcing Authority) Order 2009 [SD No 707/09]

Income Tax Act 2003 -

Income Tax (New Zealand) Order 2009 [SD No 666/09]

Income Tax Act 1995 -

Income Tax (Individuals) (Temporary Taxation) Order 2009 [SD No 708/09]

Financial Services Act 2008 -

Compensation of Depositors (Amendment) (No. 3) Regulations 2009 [SD No 671/09]

Compensation of Depositors (Amendment) (No. 4) Regulations 2009 [SD No 645/09]

Gaming (Amendment) Act 1984 -

Controlled Machines (Prescribed Amounts) (No. 2) Regulations 2009  
*[SD No 718/09]*

Fees and Duties Act 1989 -  
Passport Fees Order 2009 *[SD No 713/09]*

Agricultural Wages Act 1952 -  
Agricultural Wages Regulations 2009 *[SD No 703/09]*

Inland Fisheries Act 1976 -  
Inland Fisheries (Winter Fishing) Regulations 2009 *[SD No 705/09]*

Pig Premium Quota Scheme 2009 -  
Pig Premium Quota Scheme 2009 *[GC No 28/09]*

Social Security Act 2000 -  
Social Security Act 2000 (Amendment) Order 2009 *[SD No 592/09]*  
Social Security Legislation (Benefits) (Application) (No. 4) Order 2009  
*[SD No 594/09]*

Pension Schemes Act 1995 -  
Pension Schemes Order 2009 *[SD No 593/09]*

Fireworks Act 2004 -  
Fireworks (Variation of Time Restrictions on Fireworks Displays) Order  
2009 *[SD No 714/09]*

Litter Act 1972 -  
Litter Control Notices (Amendment) Regulations 2009 *[SD No 717/09]*

Tynwald Membership Pension Scheme 1995 -  
Tynwald Membership Pension Scheme 1995 as amended *[PP119/09]*

Reports –  
Isle of Man Government Report 2009 on the Government Strategic Plan  
2007-2011 *[GD No 45/09]*  
Standing Committee on Public Accounts Report on Fines Collection  
*[PP118/09]*  
Report of the Department of Health and Social Security on the Ending  
of the Reciprocal Health Agreement between the United Kingdom and  
the Isle of Man *[GD No 44/09]*

Statement of Changes in Immigration Rules –  
Statement of Changes in Immigration Rules *[GC No 35/09]*

European Communities (Isle of Man) Act 1973 -

Nationality, Immigration and Asylum Act 2002 -  
Immigration (European Economic Area) Regulations 2009  
*[SD No 635/09]*

European Community –  
EC Secondary Legislation – June to September 2009 *[GC No 030/09]*

High Court Act 1991 -  
Rules of the High Court of Justice (Amendment) 2009 *[SD No 686/09]*

Payment of Members' Expenses Act 1989 -  
Payment of Members' Expenses (Specified Bodies) (Amendment)  
Order 2009 *[SD No 467/09]*

Finance Act 1996 -  
Customs and Excise Duties (Interest Rate) Regulations 2009  
*[SD No 598/09]*  
Air Passenger Duty (Interest Rate) (Amendment) Regulations 2009  
*[SD No 597/09]*

Value Added Tax Act 1996 -  
Value Added Tax (Tour Operators) (Amendment) Order 2009  
*[SD No 629/09]*  
Value Added Tax (Interest Rate) (Amendment) Order 2009  
*[SD No 599/09]*  
Value Added Tax (Amendment) (No. 3) Regulations 2009  
*[SD No 600/09]*  
Value Added Tax (Emissions Allowances) Order 2009 *[SD No 585/09]*

Currency Act 1992 -  
Currency (500<sup>th</sup> Anniversary of the Accession of Henry VIII and  
25<sup>th</sup> Anniversary of the Angel Crown) Order 2009 *[SD No 474/09]*

European Communities (Isle of Man) Act 1973 -  
Aquatic Animal Health Regulations 2009 *[SD No 736/09]*

Appointed Day Orders –  
Companies (Amendment) Act 2009 (Appointed Day) Order 2009  
*[SD No 572/09]*

Reports –

Annual Report Radio Manx Limited Financial Statements for the year ended 31<sup>st</sup> March 2009  
Manx Electricity Authority Annual Report 2008/2009  
Isle of Man Post Office Annual Report and Accounts for the 52 weeks ended 29<sup>th</sup> March 2009  
Isle of Man Water Authority Annual Report and Accounts 2008/2009  
Tynwald Membership Pension Scheme Management Committee Report for the Session 2009-10 [PP120/09]  
Isle of Man Limited Report and Financial Statements for the year ended 31<sup>st</sup> March 2009 [GD No 37/09]  
Isle of Man National Transport Limited Report and Financial Statements for the year ended 31<sup>st</sup> March 2009 [GD No 38/09]  
Isle of Man Film Limited Directors' Report and Consolidated Financial Statements for the year ended 31<sup>st</sup> March 2006 [GD No 42/09]  
Isle of Man Film Limited Directors' Report and Consolidated Financial Statements for the year ended 31<sup>st</sup> March 2007 [GD No 39/09]  
Isle of Man Film Limited Directors' Report and Consolidated Financial Statements for the year ended 31<sup>st</sup> March 2008 [GD No 40/09]  
Isle of Man Film Limited Directors' Report and Consolidated Financial Statements for the year ended 31<sup>st</sup> March 2009 [GD No 41/09]  
Annual Report of the Commissioner under the Code of Practice on Access to Government Information for the period 1<sup>st</sup> September 2008 to 31<sup>st</sup> August 2009  
Isle of Man Government Accounts for the year ended 31<sup>st</sup> March 2009 [GD No 033/09]  
Report of the Police Complaints Commissioner for the year ended 31 March 2009  
Isle of Man Financial Supervision Commission Annual Report 2008/2009  
Tynwald Policy Decisions Report 2009: a Report by the Council of Ministers [GR No 43/09]

**3. Public Sector Pensions Review -**

Statement made by the Chief Minister.

**4. Independent Review of Whitley Council -**

Statement made by the Chief Minister.

**5. Depositors' Compensation Scheme -**

Statement made by the Minister for the Treasury.

**11. Isle of Man Government Annual Report 2009 -**

Motion made -

That the Isle of Man Government Annual Report 2009 on the Government Strategic Plan 2007 – 2011 [GD No 45/09] be received.

Mr Brown

Court divided.

Motion carried.

**6. GP surgery - Peel -**

Motion made -

That Tynwald approves of the Department of Health and Social Security incurring expenditure not exceeding £1,378,000 for the construction of a new GP surgery for Peel Medical Centre in Peel.

Mr Teare

Motion carried.

**7. Central Community Healthcare Development, Phase 3 -**

Motion made -

That Tynwald approves of the Department of Health and Social Security incurring expenditure not exceeding £918,974 to include the relocation of non-patient services from the former Noble's Hospital, Westmoreland Road, Douglas.

Mr Teare

Motion carried.

**8. Airport Security - Perimeter Control -**

Motion made -

That Tynwald approves the Department of Transport incurring expenditure not exceeding £728,330 in respect of the Perimeter Control at the Airport.

Mr Anderson

Court divided.

Motion carried.

**9. Douglas Quayside Development Scheme -**

Motion made -

That Tynwald approves the Heads of Terms and the Department of Local Government and the Environment progressing the scheme.

Mr Shimmin

Motion made –

That this debate be adjourned for three months.

Mr Crookall

Court divided.

Adjournment motion lost.

Court divided.

Motion carried.

**10. Re-development of the former Summerland site -**

Motion not made.

Motion made -

That Standing Order 1.2(2) be suspended to enable business to continue until 9.00 pm.

Mr Brown

Court divided.

Motion carried.

**15. Proceeds of Crime Act 2008 -**

Motion made –

That the Proceeds of Crime (External Requests and Orders) Order 2009 [SD No 687/09] be approved.

HM Attorney General

Motion carried.

**16. Finance Act 2008 -**

Motion made -

That the Information Notice: Resolution of Disputes as to Privileged Communications Regulations 2009 be approved [SD No 576/09]

Mr Bell

Motion carried.

**17. Customs and Excise Act 1993 -**

Motion made -

That the Export Control (Amendment) (No. 2) Order 2009 (Application) Order 2009 be approved [*SD No 575/09*]

Mr Bell

Motion carried.

**18. Customs and Excise Act 1993 -**

Motion made -

That the Customs and Excise Acts (Application) Order 2009 be approved [*SD No 584/09*]

Mr Bell

Motion carried.

**19. Customs and Excise Act 1993 -**

Motion made -

That the Customs and Excise Acts (Application) (No. 2) Order 2009 be approved [*SD No 595/09*]

Mr Bell

Motion carried.

**20. Customs and Excise Act 1993 -**

Motion made -

That the Export Control (Amendment) (No. 3) Order 2009 (Application) Order 2009 be approved [*SD No 630/09*]

Mr Bell

Motion carried.

**21. Customs and Excise Act 1993 -**

Motion made -

That the Export of Objects of Cultural Interest (Control) (Amendment) Order 2009 (Application) Order 2009 be approved [*SD No 649/09*]

Mr Bell

Motion carried.

**22. Value Added Tax Act 1996 -**

Motion made -

That the Value Added Tax (Buildings and Land) Order 2009 be approved  
[SD No 577/09]

Mr Bell

Motion carried.

**23. Value Added Tax Act 1996 -**

Motion made -

That the Value Added Tax (Change of Rate) Order 2009 be approved  
[SD No 583/09]

Mr Bell

Motion carried.

**24. Value Added Tax Act 1996 -**

Motion made -

That the Value Added Tax Act 1996 (Amendment) (No. 5) Order 2009 be  
approved [SD No 596/09]

Mr Bell

Motion carried.

**25. Hydrocarbon Oil Duties Act 1986 -**

Motion made -

That the Hydrocarbon Oil Duties Act 1986 (Amendment) (No. 2) Order 2009  
be approved [SD No 648/09]

Mr Bell

Motion carried.

**26. Income Tax Act 1970 -**

Motion made -

That the Income Tax (Belgium) (Double Taxation) Order 2009 be approved  
*[SD No 665/09]*

Mr Bell

Motion carried.

The Court rose at 9.04 pm and adjourned to Wednesday, 21<sup>st</sup> October 2009.

**DOUGLAS  
WEDNESDAY 21<sup>ST</sup> OCTOBER 2009**

**12. UK Reciprocal Health Agreement -**

Motion made -

That Tynwald notes that as from 1<sup>st</sup> April 2010 the United Kingdom Department of Health will no longer provide a reciprocal health agreement under which Isle of Man residents visiting the United Kingdom will receive free health care, except for the provision of GP services and treatment at Accident and Emergency facilities.

As a consequence, the report of the Department entitled "The Ending of the Reciprocal Health Agreement between the United Kingdom and the Isle of Man" be received by Tynwald and its recommendations approved.

- (a) That from April 1st 2010, the payment of any NHS charges incurred by Manx residents visiting the UK is an individual responsibility and further that the Department of Health and Social Security will continue to cover the costs associated with any medical referrals off-Island for Isle of Man residents.
- (b) That the Department undertakes these actions
  - (i) Seeks to replace the contribution currently made by the UK DoH to the DHSS budget bearing in mind that the recovery of funds from patients is expected to fall significantly below the

- allowance given by the UK for the treatment of their residents whilst visiting the Isle of Man.
- (ii) Ensures that all Manx residents travelling to the UK are aware that if they require emergency treatment in the UK which requires admission, it will be given but they will have to pay for it, either personally or through travel insurance.
  - (iii) Proposes amendments to the NHS Act 2001 as necessary.
  - (iv) Clarifies the position and continues dialogue with the other devolved administrations within the UK jurisdiction.
  - (v) Continues to support developments in the Insurance Industry.
  - (vi) Continues dialogue and information-sharing with the Channel Islands.
  - (vii) Continues a public awareness campaign on the Isle of Man.
  - (viii) Conducts specific insurance-awareness campaign for sports, cultural, trade and other organisations and for other Government Departments.
  - (ix) Addresses any ongoing or emerging detailed aspects of the ending of the Agreement, through the DHSS Reciprocal Agreement Sub-group chaired by the Member for Health.

Mr Teare

Motion made -

That this debate be adjourned until the sitting of the Court in February 2010.

Mr Speaker

Court divided.

Motion lost.

Amendment moved but not seconded -

*To leave out all the words after "facilities" and add: "; and is of the opinion that the Council of Ministers should consider the imposition of a levy on all sea and air travel off-Island to pay for a compulsory insurance scheme for medical treatment in the UK; and is further of the opinion that no charges should be levied on visitors to the Island for healthcare during their stay; and*

*requests the Council of Ministers to report to Tynwald on this matter at its December sitting”.*

Mr Karran

Amendment moved -

*To leave out all the words after “facilities” and add:”; and further that Tynwald is of the opinion that the Isle of Man Government should cover the cost of:*

*(a) Isle of Man residents receiving NHS treatment in the United Kingdom; and*

*(b) United Kingdom residents receiving NHS treatment in the Isle of Man”.*

Mr Cannan

Mr Cannan’s amendment -

Court divided.

Amendment lost.

Court divided.

Motion carried.

**13. Tynwald Membership Pension Scheme Management Committee -**

Motion made -

That Tynwald approves the draft Rules of the Members’ Pension Scheme [PP119/09], laid before this Hon Court, which reflect the technical changes to the Scheme Rules agreed in principle by both Branches of Tynwald on 27<sup>th</sup> January 2009.

Mr Speaker

Motion carried.

**14. Standing Committee on Public Accounts -**

Motion made -

That the Report of the Standing Committee on Public Accounts on Fines Collection be received and the following recommendations approved:

(i) that the Council of Ministers

- (a) designate a body, with the authority and powers to direct all the various bodies who have responsibility for the collection of court financial penalties and fixed penalties;
  - (b) ensure that a Service Level Agreement is put into place to facilitate the efficient exchange of information between all those responsible bodies; and
  - (c) examine whether the facility to share information from other Government bodies for the purposes of the collection of court financial penalties and fixed penalties could be extended.
- (ii) that the Working Party should consider whether changes to legislation are required to –
- (a) simplify the Attachment of Earnings procedure, and
  - (b) provide for Attachment of Benefits Orders.
- (iii) that the Working Party's Review should evaluate the following measures:
- Additional financial penalties in respect of late payment to offset the additional expense incurred in attempting to obtain payment
  - Registration of outstanding court debts which would potentially affect the defaulter's credit rating, as is the case with civil debts
  - Collection of outstanding amounts via the Income Tax system
  - Community Service as an alternative to imprisonment
  - Clamping\*
  - Penalty points or cancellation of driving licences\*
  - Refusal to re-licence cars until fines/fixed penalties are paid\*
  - Investigate whether reciprocal agreements with neighbouring jurisdictions over the collection of outstanding financial penalties (including costs) would be a feasible option
  - Using debt collection agencies to recover debts from persons living in other jurisdictions,

and that any of the above options which are approved should be progressed without further delay.

\* *Only in respect of parking and motoring offences.*

- (iv) that the Insolvency Services Office Bill should be progressed as a matter of urgency. If there are practical difficulties which may delay this Bill, then other interim measures to address the issues set out in section 6.3 of this Report should be introduced.
- (v) that the Council of Ministers should consult with the Attorney General's Chambers to investigate the feasibility of the introduction of legislation which would provide for automatic regular increases to fines and fixed penalties and report back to Tynwald by April 2010.

Mrs Christian

Amendment moved -

*In Recommendation iii: to delete the word: "*

- *clamping\*"*.

Mr Callister

Amendment moved -

*After the word "Ministers" in paragraph (i) to leave out the remaining words in paragraphs (a) (b) and (c) and to insert the words:*

*"(a) designate the Post Office as the main body with the authority and powers to have responsibility for the collection of court financial penalties and fixed penalties;*

*(b) ensure that a Service Level Agreement is put into place to facilitate the efficient exchange of information between the Post Office and relevant bodies; and*

*(c) examine whether the facility to share information from other Government bodies for the purposes of the collection of court financial penalties and fixed penalties could be extended. "*

*The further words in the motion to remain.*

Mr Houghton

Amendment moved -

*After the word "Ministers" in paragraph (i) to leave out the remaining words in paragraphs (a) (b) and (c) and to insert the words:*

*"(a) designate the Post Office as a body with the authority and powers to have responsibility for the collection of court financial penalties and fixed penalties;*

*(b) ensure that a Service Level Agreement is put into place to facilitate the efficient exchange of information between the Post Office and relevant bodies; and*

*(c) examine whether the facility to share information from other Government bodies for the purposes of the collection of court financial penalties and fixed penalties could be extended. "*

*The further words in the motion to remain.*

Mr Downie

Mr Houghton's amendment by leave of the Court withdrawn.

Mr Callister's amendment -  
Court divided.  
Amendment lost.

Mr Downie's amendment -  
Court divided.  
Amendment lost.

Court divided.  
Motion carried.

**27. Income Tax Act 1970 -**

**28. Income Tax Act 2003 -**

Motion made -

That the Income Tax (New Zealand) (Double Taxation) Order 2009 be approved [*SD No 667/09*]

That the Income Tax (New Zealand) Order 2009 be approved [*SD No 666/09*]

Mr Bell

Item 27 -  
Motion carried.

Item 28 -  
Motion carried.

**29. Income Tax Act 1970 -**

Motion made -

That the Income Tax (Disclosure of Information) (Enforcing Authority) Order 2009 be approved [*SD No 707/09*]

Mr Bell

Motion carried.

**30. Income Tax Act 1995 -**

Motion made -

That the Income Tax (Individuals) (Temporary Taxation) Order 2009 be approved [SD No 708/09]

Mr Bell

Motion carried.

**31. Financial Services Act 2008 -**

Motion made -

That the Compensation of Depositors (Amendment) (No. 3) Regulations 2009 be approved [SD No 671/09]

Mr Bell

Motion carried.

**32. Financial Services Act 2008 -**

Motion made -

That the Compensation of Depositors (Amendment) (No. 4) Regulations 2009 be approved [SD No 645/09]

Mr Bell

Motion carried.

**33. Gaming (Amendment) Act 1984 -**

Motion made -

That the Controlled Machines (Prescribed Amounts) (No. 2) Regulations 2009 be approved [SD No 718/09]

Mr Bell

Motion carried.

**34. Fees and Duties Act 1989 -**

Motion made -

That the Passport Fees Order 2009 be approved [SD No 713/09]

Mr Bell

Motion carried.

**35. Agricultural Wages Act 1952 -**

Motion made -

That the Agricultural Wages Regulations 2009 be approved [*SD No 703/09*]

Mr Gawne

Motion carried.

**36. Inland Fisheries Act 1976 -**

Motion made -

That the Inland Fisheries (Winter Fishing) Regulations 2009 be approved [*SD No 705/09*]

Mr Gawne

Motion carried.

**37. Pig Premium Quota Scheme 2009 –**

Motion made -

That the Pig Premium Quota Scheme 2009 be approved [*GC No 28/09*]

Mr Gawne

Motion carried.

**Announcement of Royal Assent –**

Animal Health (Amendment) Act 2009

Church (Miscellaneous Provisions) Measure (Isle of Man) 2009

**38. Social Security Act 2000 -**

**39. Pension Schemes Act 1995 -**

Motion made -

That the Social Security Act 2000 (Amendment) Order 2009 be approved [*SD No 592/09*]

That the Pension Schemes Order 2009 be approved [*SD No 593/09*]

Mr Teare

Item 38 -

Motion carried.

Item 39 -  
Motion carried.

**40. Social Security Act 2000 -**

Motion made -

That the Social Security Legislation (Benefits) (Application) (No. 4) Order 2009 be approved [SD No 594/09]

Mr Teare

Motion carried.

**41. Fireworks Act 2004 -**

Motion made -

That the Fireworks (Variation of Time Restrictions on Fireworks Displays) Order 2009 be approved [SD No 714/09]

Mr Malarkey

Motion carried.

**42. Proceeds of Crime Act 2008 -**

Motion made -

That the Proceeds of Crime (Prescribed Disclosure Form) Order 2009 be approved [SD No 715/09]

Mr Earnshaw

Motion carried.

**43. Litter Act 1972 -**

Motion made -

That the Litter Control Notices (Amendment) Regulations 2009 be approved [SD No 717/09]

Mr Shimmin

Motion carried.

**44. Petition for Redress of Grievance of Stephen Broad -**

Motion made -

That a Select Committee of three 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 consider the Petition for Redress of Grievance of Stephen Broad presented at St John's on 6<sup>th</sup> July 2009 with regard to the impact on the administration of justice of awarding Civil Legal Aid to one side only in family cases in the Isle of Man and to report with recommendations.

Mr Teare

Motion carried.

Mr Crookall, Mr Gill, Mr Malarkey and Mr Teare were proposed and seconded.

After a ballot Mr Crookall, Mr Malarkey and Mr Teare were elected.

**45. Petition for Redress of Grievance of Mrs Helen Parry -**

Motion made-

That a Select Committee of three 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 consider the Petition for Redress of Grievance of Mrs Helen Parry presented at St John's on 6<sup>th</sup> July 2009 with regard to the provision in the Isle of Man of free nursery education for all children aged 3 to 4 in the year prior to their admission to school and to report with recommendations.

Mr Watterson

Motion made –

That this debate be adjourned to the sitting of the Court in March 2010, to enable the Department of Education to complete its policy considerations for free pre-school education and to report to Tynwald at that sitting.

Mrs Craine

Adjournment motion carried.

The Court adjourned at 7.47 pm.

**The Hon Noel Quayle Cringle  
President of Tynwald**