



POLICE (AMENDMENT) BILL 2015

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Hon Juan Watterson BA (Hons), ACA, MHK.

INTRODUCTION

1. These explanatory notes relate to the Police (Amendment) Bill 2015. They have been prepared by the Department of Home Affairs in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

SUMMARY AND BACKGROUND

3. The financial climate requires Departments to question what functions or services are essential. Having established that a particular function or service is essential the relevant Department must examine ways in which the service may be performed in a more efficient and cost effective manner. This necessity has provided the impetus for the Department to promote the Police (Amendment) Bill 2015 now.
4. A further issue the Bill addresses is an obligation in terms of international standards and human rights to provide for the investigation of the circumstances surrounding any situation where death or serious injury occurs as a result of contact with the police. The Bill will additionally empower the Chief Constable to refer other matters for investigation even if a member of the public has not made a formal complaint about a police officer.
5. The Bill therefore provides the legal basis for the contracting out of police functions and services subject to Tynwald approval, empowers the Chief Constable to refer matters for investigation even if a complaint has not been made by a member of the public, and also clarifies the Department's power to re-appoint an incumbent Chief Constable for a further term of office.
6. The Bill comprises 6 clauses and 2 schedules.

EUROPEAN CONVENTION ON HUMAN RIGHTS (hereafter referred to as the "Convention")

7. Section 16 of the Human Rights Act 2001 requires the member moving the Bill to make a statement about the compatibility of the provisions of the Bill with the Convention rights (as defined by section 1 of that Act). In the opinion of the member moving the Bill, the provisions of the Police (Amendment) Bill 2015 are compatible with the Convention rights.

FINANCIAL EFFECTS OF THE BILL

8. The Bill is expected to be revenue neutral and, in the view of the mover, is designed to enable existing human resources to continue to be deployed in the most efficient and effective roles.
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NOTES ON CLAUSES

9. **Clauses 1 and 2** give the short title of the Act and provide that the Act may come into operation on a day, or days, appointed by the Department.
10. **Clause 3** inserts new subsections (3A) and (3B) after subsection (3) of section 2 of the Police Act 1993 in respect of the appointment of the Chief Constable. The insertion clarifies that where a person has been appointed as Chief Constable for a fixed term as provided for in subsection (3), with approval from the Council of Ministers, the Department may re-appoint them for a further fixed term and is not required to repeat the process set out in subsection (2).

11. **Clause 4** inserts a new section 77B into the Police Powers and Procedures Act 1998 (PPPA98) to empower the Department to enter into a contract with a person for the provision by that person of services to assist the Isle of Man Constabulary (Constabulary) in the performance of its functions.

Inserted subsections (2) to (8) provide for the making of an order, subject to the approval of Tynwald, conferring powers and duties or functions currently performed by police officers on persons other than members of the Constabulary employed by a contractor. Subsections (3) to (6) are about the functions, powers and duties that may be assigned, conferred or imposed on contracted staff and any necessary modification of statutory provisions in their application to contracted staff. Subsections (7) and (8) require the order to be subject to consultation and approval by Tynwald.

Subsection (9) of this clause inserts a new Schedule 2A into the PPPA98, as set out in Schedule 1 to the Bill.

12. **Clause 5** amends the title and text of section 9 of the Police Act 1993 in relation to complaints so that it includes certain other matters relating to the conduct of the police. Subsection (2) states that Schedule 1 to the Police Act 1993 is amended in accordance with Schedule 2 to this Bill and subsection (3) provides that the amendments have retrospective effect. This is done because the changes in police disciplinary procedure are already effective and there is no reason why other matters that may be referred for investigation should be restricted to any particular period.
13. **Clause 6** states that the provisions in the Bill expire, in effect, once they have all been brought into operation and the Act has been promulgated.
14. **Schedule 1** to the Bill inserts a new Schedule 2A into the PPPA98 and provides detail about contracted staff. Paragraph 1 empowers the Chief Constable to designate staff and assign functions to those staff in accordance with the powers set out in an order under section 77B of the PPPA98. Such staff must be fit and proper persons with appropriate training and the contractor must be fit and proper in order to supervise the carrying out of the functions by its staff. Paragraph 2 outlines the powers and duties of contracted staff. Paragraph 3 is about provision for complaints about contracted staff and paragraph 4 outlines offences against contracted staff.

15. Schedule 2 to the Bill makes amendments to Schedule 1 to the Police Act 1993. Paragraph 1 provides further interpretation so complaints include conduct matters, which are also defined. Disciplinary proceedings are defined to reflect the fact that the concept of “disciplinary charges” has been succeeded by proceedings in relation to conduct and/or performance. Other matters are defined as set out in the paragraph. Paragraph 2 inserts a new sub-paragraph (6) into paragraph 4 of Schedule 1 in relation to complaints which are not suitable for internal resolution. Paragraph 3 inserts new paragraphs 4A, 4B, 4C, 4D and 4E into Schedule 1 in relation to the new provision to empower the Chief Constable or the Police Complaints Commissioner (if the former does not) to refer matters other than complaints about the conduct of officers by members of the public for investigation. Paragraphs 4, 5 and 6 provide amendments consequential on the earlier insertions and the change in terms from “disciplinary charges” to “disciplinary proceedings”. Paragraph 7 substitutes paragraph 9 and the existing provision for the Police Complaints Commissioner to insist that the Chief Constable prefer disciplinary charges against a police officer by restating the provision in like manner but in terms of referring to disciplinary proceedings rather than disciplinary charges. Paragraph 8 expands the power to make regulations in paragraph 13 to enable regulations to be made which provide detail where the investigation into a conduct matter is to be undertaken by a person or body from another jurisdiction within the British Isles.