

Explanatory Memorandum to Tynwald Members

Issued by the Cabinet Office

To the Hon Stephen Rodan OBE MLC, President of Tynwald and the Hon Council and Keys in Tynwald assembled

1. Title of measure

Communication and Utilities Regulatory Authority Order 2020.

2. Changes in policy

The Order reflects the Commission's new role as regulator in the gas market and amends the constitution of the Commission in line with the Communications Bill.

3. Effects of the measure

The Order changes the name of the Communications Commission to the Communications and Utilities Regulatory Authority and also gives effect to the removal of the political Chairmanship of the Communications Commission, to be replaced by a member of Tynwald as a non-voting member of the Board and makes provision for the appointment of a non-political Chairperson¹.

Earlier in 2020 the Communications Commission ran a public consultation on the future composition of its Board. The consultation recommended the removal of the political chairperson of the Commission with the retention of a political member on the Board; this was further revised by Council of Ministers' amendment to the Communications Bill which removed the voting rights from the political member. It is envisaged that the political member would provide a link to the public interest and allow for scrutiny of the Commission's decisions by Tynwald should the need arise.

The proposed Order is broadly in line with the public consultation on the issue of the chair of the Commission and the amended Communications Bill as voted for by the Branches, as such there should be no conflict between the two.

4. Reasons for the measure

To support the Commission in its role as a party to the voluntary regulatory agreement with Manx Gas Limited and to re-establish the organisation as the Communications and Utilities Regulatory Authority. The negotiated Heads of Terms for the voluntary regulatory agreement were approved at the November 2020 sitting of Tynwald. It would also make provision for an appropriate body for statutory regulation of the sector should the need arise.

5. Resource implications

The Commission's new role in regulating the gas market and ensuring compliance with a regulatory agreement will result in a lower surplus being returned to Treasury. Treasury approval has been received for the Commission to return a lower surplus. The surplus expected to be returned to Treasury for the current year is £817,512.

¹ See Communications Bill 2018 - New clause.1 agreed in House of Keys 27th October 2020 to become section 9 of the resulting Act

The average surplus returned each year for the previous three years is c.£715,000 and the projected cost of gas regulation is c.£230,000.

6. Tynwald procedure

If approved by Tynwald, this Order comes into operation on the day after Tynwald approval is given, as required by paragraph 4(4) of Schedule 2 to the Government Departments Act 1987.