

PP 0155/12



STANDING ORDERS COMMITTEE OF THE LEGISLATIVE COUNCIL

**REPORT
2012-2013**

**REPORT OF THE STANDING ORDERS COMMITTEE
OF THE LEGISLATIVE COUNCIL 2012-13**

Resolved on 5th February 1980 –

That a committee of three members be appointed to consider the Standing Orders of the Council

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.

Committee Membership

The Hon Clare Christian MLC (Chairman)

Mr D M W Butt MLC

Mr E G Lowey MLC

Mr Stephen Harding, HM Attorney General

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To: The Hon. President and Members of the Legislative Council

**REPORT OF THE STANDING ORDERS COMMITTEE
OF THE LEGISLATIVE COUNCIL**

2012-13

I. BILLS INTRODUCED IN THE KEYS

1. Standing Order 4.2 provides for the introduction of public Bills into the Legislative Council in two ways: on the authority of the Council of Ministers or by a Member who has been given leave to introduce by the Legislative Council itself. The relevant provisions are:

Public Bills - introduction

- 4.2 (1) *The Council of Ministers may cause any Bill to be introduced into the Council as a Government measure. Prints of such Bills shall bear an endorsement to the effect that the same have been prepared by the direction of the Council of Ministers.*
 - (2) *Any Member of the Council may ask leave to introduce a Bill into the Council, and, if the Council by resolution grant such leave, the Bill shall be printed and circulated by the Clerk of the Council.*
2. The wording of these Standing Orders has remained unchanged since 1932, except that "Council of Ministers" has been substituted for "Governor". No difficulties have arisen in practice. However, it has been drawn to our attention there is a gap between the procedure covered by the wording of the Standing Order and that which has become the norm in practice.

3. In practice today all Government Bills start in the House of Keys. Private Members' Bills, meanwhile, are regularly initiated in both Branches. Our regular legislative business may, therefore, be divided into three categories:

- Government Bills originating in the Keys;
- Private Members' Bills originating in the Keys;
- Private Members' Bills originating in the Council.

The first two of these do not fit easily with Standing Order 4.2 as currently drafted.

4. Government Bills originating in the Keys might be said to be introduced into the Legislative Council on the authority of the Council of Ministers, insofar as the Council of Ministers has agreed that they be put through the legislative process. On that basis the introduction of such Bills into the Legislative Council is consistent with our Standing Order 4.2(1). However, the wording of Standing Order 4.2(1) is clearly better suited to a Government Bill which goes through the Legislative Council first and then is sent to the House of Keys.

5. Private Members' Bills originating in the Keys have no route into the Legislative Council under Standing Order 4.2 as it currently stands.

6. To remedy these difficulties and bring our Standing Orders into line with what has become established practice, we consider that provision should be made within Standing Order 4.2 for a Bill to be introduced into the Council on the strength of its having been passed by the Keys. Wording intended to achieve this is set out in Annex 2 at Amendment 1.

II. COMMITTEES OF THE COUNCIL

Remit of the Standing Orders Committee

7. The Standing Orders Committee was established by resolution on 5th October 1980. Its remit has never been written into Standing Orders. In this respect it is unlike any Standing Committee of Tynwald Court or of the House of Keys. We consider it desirable in the interests of transparency that our remit as a permanent committee of the Legislative Council should be written into the Council's Standing Orders.

8. The wording of our remit in February 1980 was “to consider the Standing Orders of the Council”. There is no need to change this.

Membership of the Standing Orders Committee

9. This Committee was first established in the last months of the Governor’s presidency of the Legislative Council. The Governor was never part of the Committee. Since at least 1983 the Council’s presiding officer has served on the Committee; this, however, has been by election rather than being regarded as an *ex officio* responsibility. We propose no change to this arrangement.
10. The Attorney General on the other hand has been a constant presence on the Committee since 1980 without any further electoral process. We regard his membership of the Committee, unlike the President’s, as *ex officio*.
11. The membership of the Committee may therefore be expressed as the Attorney General and three other members.

Expiry of appointments to Committees and deputations

12. In Tynwald Court under Standing Order 5.5, when a Member of the Legislative Council comes to the end of his or her term of office, his or her place on a Committee is vacated. The Member continues to serve on the Committee until the vacancy is filled and is eligible to be re-elected if otherwise qualified.
13. In the Legislative Council, the history of elections to the Standing Orders Committee (Annex 1) shows that the principle in Tynwald Court Standing Order 5.5 has generally been applied but that practice has not been consistent. We consider it desirable in the interests of transparency to make express provision in our own Standing Orders:
 - that appointments to the Standing Orders Committee and any other Committee of the Legislative Council expire when a Member’s term of office expires;
 - but that, as in Tynwald Court, the Member should continue to serve on the committee until a successor is elected, and should be eligible to be re-elected to the committee if otherwise qualified.

14. We consider that the same principles should apply where a Member has been appointed by the Legislative Council to a deputation to a Bill conference.

Committees of the Council: amendment to Standing Orders

15. Wording designed to achieve our intentions in relation to Committees of the Council and deputations to Bill conferences is set out in Annex 2 at Amendment 2.

III. RECOMMENDATION

16. We recommend:

That the amendments to Standing Orders set out in Annex 2 to this report be made.

C M Christian

D M W Butt

E G Lowey

ANNEX 1: STANDING ORDERS COMMITTEE TIMELINE

5 February 1980

Resolved – that a Committee of three members be appointed to consider the Standing Orders of the Council.

Messrs Kneale, Moore and Simcocks with the Attorney General appointed to the Committee.

Committee Membership

- Mr Kneale
- Mr Moore
- Mr Simcocks
- HM Attorney General

1 July 1980

Council records its thanks to His Excellency during his presidency of the Council

28 Oct 1980

Mr Nivison appointed President of the Council.

3 Nov 1981

Council records its thanks to Mr Kneale on the occasion of his retirement

5 Oct 1982

Tributes paid to Crellin, Simcocks and Swales who have indicated that they will not be seeking re-election.

16 Nov 1982

Mr President congratulates Mrs Hanson, Mr Anderson and Mr Lowey on their election to the Council.

11 January 1983

Mr President and Mrs Hanson are unanimously elected to the Committee in place of Mr President and Mr Simcocks.

Committee Membership

- President Nivison
- Mr Moore
- Mrs Hanson
- HM Attorney General

12 March 1985

The President congratulates Mr Callin, Dr Mann and Mr Ward on their election by the Keys.

The election of one member to the Standing Orders Committee takes place. Mr Ward is duly proposed, seconded and declared elected.

Committee Membership

- President Nivison
- Mr Ward
- Mrs Hanson
- HM Attorney General

3 November 1987

The President pays tribute to Mr Ward, who has died.

1 December 1987

Mr Irving sworn in

26 January 1988

Mr Irving elected to the Standing Orders Committee

Committee Membership

- President Nivison
- Mr Irving
- Mrs Hanson
- HM Attorney General

23 February 1988

Tribute paid to Mr Nivison on his retirement

15 March 1988

Mr Anderson elected President of the Council

22 March 1988

Mr President and Mr Radcliffe elected to the Committee in place of Mr Nivison and Mrs Hanson

Committee Membership

- President Anderson
- Mr Irving
- Mr Radcliffe
- HM Attorney General

13 March 1990

Mr President congratulates Mr Radcliffe on his re-election to the Council

8 May 1990

Mr President congratulates Mr Irving on his re-election to the Council

Mr Callin and Mr Irving elected members of the Standing Orders Committee

Committee Membership

- President Anderson
- Mr Irving
- Mr Callin
- HM Attorney General

30 October 1990

Council welcomes President Kerruish to the chair (and resolves that the Minister for Highways, Ports and Properties be requested to investigate the provision of a new Chair for Mr President).

At some point President Kerruish appears to have joined the Committee, as evidenced by the terms of the Council's resolution of 9 May 2000 (below).

23 February 1993

Tribute paid to Mr Anderson on his retirement

28 February 1995

End of terms of office of Messrs Callin, Irving, Radcliffe and Waft

14 March 1995

Mann, Radcliffe and Waft welcomed.

Mr Luft and Mr Lowey elected to the Committee

Committee Membership

- President Kerruish (inferred)
- Mr Lowey
- Mr Luft
- HM Attorney General

Feb 1998

Deemster Luft retires

3 March 1998

Mr Lowey re-elected to the Council

26 May 1998

Mr Lowey and Mr Kniveton elected to the Committee

Committee Membership

- President Kerruish (inferred)
- Mr Lowey
- Mr Kniveton
- HM Attorney General

18 April 2000

Mr Cringle elected President of Tynwald

9 May 2000

Election of one member in place of Sir Charles Kerruish – Mr President elected

Committee Membership

- President Cringle
- Mr Lowey
- Mr Kniveton
- HM Attorney General

July 2001

Mr Cringle re-elected as President

4 March 2003

Mr Lowey re-elected to the Council

20 May 2003

Mr Kniveton re-elected to the Council

24 June 2003

Election of three members, former members being President, Kniveton and Lowey. President, Kniveton and Lowey elected.

2005

Mr Kniveton ceases being an MLC

July 2006

Mr Cringle re-elected as President

30 January 2007

Election of one member, serving members being Mr President, Mr Lowey and HM Attorney General (ex officio) – Mrs Christian elected.

Committee Membership

- President Cringle
- Mrs Christian
- Mr Lowey
- HM Attorney General

4 March 2008

Mrs Christian and Mr Lowey re-elected to the Council

July 2011

Mrs Christian elected President of Tynwald

24 October 2011

Madam President, Mr Butt and Mr Lowey elected to the Committee

Committee Membership

- President Christian
- Mr Butt
- Mr Lowey
- HM Attorney General

ANNEX 2: PROPOSED AMENDMENTS TO STANDING ORDERS

1. To insert after Standing Order 4.2(1) –

(1A) A Bill may be introduced into the Council if it has been passed by the Keys.

2. To insert the following after Standing Order 4.8 –

IV(A): COMMITTEES

Standing Orders Committee

4A.1 (1) *There shall be a Standing Orders Committee to consider the Standing Orders of the Council.*

(2) *The Committee shall be composed of HM Attorney General and three other Members.*

Expiry of appointment to committee or deputation

4A.2 (1) *When a person ceases to be a Member of the Council, his or her membership of any committee of the Council, or of any deputation of the Council to a Bill conference, is vacated but he or she –*

(i) must continue to serve on the committee or deputation until a successor is elected; and

(ii) remains eligible to be re-elected as a member of the committee or deputation if otherwise qualified.

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