

Statutory Document No. 2020/0550



Government Departments Act 1987
Statutory Boards Act 1987

COMMUNICATIONS AND UTILITIES REGULATORY AUTHORITY ORDER 2020

Approved by Tynwald: 15 December 2020
Coming into Operation: in accordance with article 2

The Governor in Council makes the following Order under paragraph 2 of Schedule 2 to the Government Departments Act 1987 as applied by section 5 of the Statutory Boards Act 1987.

1 Title

This Order is the Communications and Utilities Regulatory Authority Order 2020.

2 Commencement

If approved by Tynwald, this Order comes into operation on the day after Tynwald approval is given¹.

3 Communications Commission Order 1989 amended

- (1) The Communications Commission Order 1989² is amended as follows.
- (2) For articles 2 to 5, substitute —

2 Renaming of the Communications Commission

- (1) The Communications Commission is renamed the Communications and Utilities Regulatory Authority.
- (2) In this Order, “the Authority” means the Communications and Utilities Regulatory Authority.

¹ As required by paragraph 4(4) of Schedule 2 to the Government Departments Act 1987.

² GC 74/89

3 Constitution of the Authority

- (1) The Board of the Authority shall consist of not less than 3 qualified persons, and not more than 7 qualified persons, appointed by the Council of Ministers, subject to the approval of Tynwald.
- (2) A “qualified person” is a person who is not —
 - (a) a member of Tynwald;
 - (b) a civil servant;
 - (c) a connected person within industry, or
 - (d) an employee or member of a Government Department or Statutory Board, with the exception of the Chief Executive Officer of the Authority.

Subparagraph (a) is subject to paragraph (4).
- (3) A connected person within industry is a person who is —
 - (a) currently employed by, or has, within the 5 years immediately preceding the appointment, been an employee of —
 - (i) an entity licenced under the Telecommunications Act 1984;
 - (ii) an entity licenced under the Broadcasting Act 1993; or
 - (iii) a public gas supplier as defined in the Gas Regulation Act 1995;
 - (b) a person otherwise connected to any company, group, or organisation connected to an entity specified in subparagraph (a); or
 - (c) a person who holds any interest in an entity specified in subparagraph (a) or any of its subsidiaries.
- (4) One member of the Board of the Authority shall be a member of Tynwald elected by Tynwald on the nomination of the Council of Ministers, who shall be entitled to speak, but not to vote, at meetings of the Authority.
- (5) Council of Ministers shall appoint a member of the Board of the Authority to be the chairperson, subject to the approval of Tynwald and provided the member —
 - (a) is not a member of Tynwald;
 - (b) has no executive functions within the Authority; and
 - (c) has been a member of the Communications Commission or Authority for a period of not less than 2 years.

- (6) The quorum necessary for the transaction of business by the Board of the Authority is 3 voting members.

4 Tenure of office of members of the Authority

- (1) Section 3 (except subsection (1)) of the Statutory Boards Act 1987 (tenure of office of members of Statutory Boards) does not apply to the Authority.
- (2) A member (other than a member of Tynwald) shall go out of office after a period of 5 years from the date of the member's appointment, or if the member ceases to be a qualified person or, in the case of the member appointed under article 3(4), ceases to be a member of Tynwald.
- (3) A member may be removed from office by resolution of Tynwald if one of the grounds specified in paragraph (4) is satisfied.
- (4) A member may be removed from office by resolution of Tynwald if the member —
 - (a) is absent for 3 consecutive meetings of the Authority without prior consent of the chairperson;
 - (b) becomes incapacitated, either mentally or physically, from carrying out the duties of the office; or
 - (c) is deemed otherwise unfit to discharge the functions of their office.
- (5) The proposal for a resolution of Tynwald under paragraph (3) must specify which of the grounds in paragraph (4) applies.
- (6) A member may resign at any time by giving notice in writing to —
 - (a) the chairperson, in the case of a member other than the chairperson; or
 - (b) the Council of Ministers, in the case of the chairperson.
- (7) Should it be deemed appropriate to do so, Council of Ministers shall fill any vacancy in membership of the Authority in the same manner and subject to the same conditions as the office vacated without undue delay.

5 Proceedings etc. of the Authority

- (1) Paragraphs 1, 3 (except subparagraph (1)) and 7 of Schedule 2 to the Statutory Boards Act 1987 do not apply to the Authority.
- (2) Subject to paragraph (1), the Statutory Boards Act 1987 applies to the Authority provided that a reference to the "chairman" is to be taken as a reference to the "chairperson".

- (3) Paragraph 2(3)(d) of the said Schedule 2 applies to the Authority provided that for “vice-chairman” is substituted “a member (who is not a member of Tynwald) appointed by the members present”.

6 Transitional provision, consequential amendments, revocations etc.

- (1) The members of the Communications Commission (other than the chairperson) holding office immediately before the date on which this Order comes into operation shall continue as members of the Authority with his or her term of service unchanged.
- (2) The first chairperson to be appointed to the Authority after the date on which this Order comes into operation must have been a member of the Communications Commission for a period of not less than 2 years immediately preceding the appointment.
- (3) Schedule 1 makes provision about the amendment of enactments consequential upon the re-naming of the Authority under article 2.
- (4) Without limiting paragraph (3) a reference in any enactment, whether or not specified in the Schedule, to the Communications Commission is to be taken as a reference to the Authority.
- (5) In this article, “enactment” includes —
- (a) an Act;
 - (b) a public document; and
 - (c) any legislation of the United Kingdom, or any part of it, that applies to the Island —
 - (i) expressly or by implication (with or without modification);
 - (ii) by virtue of an Order in Council; or
 - (iii) by virtue of an Act of Tynwald or a provision made under an Act of Tynwald.
- (6) A reference in any instrument, contract or proceedings made or begun before the coming into operation of this order, to the Communications Commission is to be taken as a reference to the Authority.
- (7) The public documents specified in Schedule 2 are revoked. **22.**
- (3) For Schedules 1 and 2, substitute the Schedules in the Schedule to this Order.

MADE

30 NOVEMBER 2020

W GREENHOW

Chief Secretary

SCHEDULE

SUBSTITUTED SCHEDULES 1 AND 2 TO THE COMMUNICATIONS
COMMISSION ORDER 1989

[Article 4(3)]

SCHEDULE 1

AMENDMENT OF ENACTMENTS

[Article 6(3)]

The enactments specified in column 1 of the Table are amended as specified and to the extent specified in column 2.

Column 1	Column 2
Copyright Act 1991	In section 69(3)(c), for “Communications Commission” substitute Communications and Utilities Regulatory Authority .
GDPR & LED Implementing Regulations 2018	In entry 13 of Schedule 1 for “The Communications Commission”, substitute The Communications and Utilities Regulatory Authority .
Broadcasting Act 1993	In section 1 and the heading to that section and in paragraph 2(3) of Schedule 3, for “Communications Commission” substitute Communications and Utilities Regulatory Authority . In section 1, for “the Commission”, substitute “the Authority” . In section 13(1) and in section 16(7), for “the Commission” means the Communications Commission;”, substitute “the Authority” means the Communications and Utilities Regulatory Authority . Wherever else it occurs in the Act, for “the Commission”, substitute the Authority .
Telecommunications Act 1984	In section 1(4), for “the Communications Commission (in this Act referred to as “the Commission”)”, substitute the Communications and Utilities Regulatory Authority (in this Act referred to as “the Authority”) . In section 46(1) for “the Commission” means the Communications Commission;”, substitute “the Authority” means the Communications and Utilities Regulatory Authority .
Performers Protection Act 1996	In paragraph 17(3)(c) of Schedule 1, for “Communications Commission”, substitute Communications and Utilities Regulatory Authority .


Equality Act 2017	In section 163(3)(a), for “Communications Commission”, substitute the Communications and Utilities Regulatory Authority .
Statutory Boards Act 1987	In Schedule 1, for “The Communications Commission”, substitute The Communications and Utilities Regulatory Authority .
Freedom of Information Act 2015	In Schedule 1, entry 13, for “The Communications Commission” substitute The Communications and Utilities Regulatory Authority .
Tynwald Auditor General Act 2011	In section 3(2)(a)(iv) for “the Communications Commission”, substitute the Communications and Utilities Regulatory Authority .
Tynwald Commissioner for Administration Act 2011	In section 3(3)(a)(i) for “the Communications Commission”, substitute the Communications and Utilities Regulatory Authority .
Public Sector Compensation Scheme 2013 ³	In schedule 1, for “Communications Commission” substitute Communications and Utilities Regulatory Authority .
Public Interest Disclosure (Prescribed Persons) Order 2016 ⁴	In the Schedule, for “Communications Commission” substitute the Communications and Utilities Regulatory Authority .
Unsolicited Communications Regulations 2005 ⁵	In regulation 1(2) for ““the “Commission” means the Communications Commission”, substitute “the Authority” means the Communications and Utilities Regulatory Authority . In regulations 8, 9 and 13 for “Communications Commission” wherever it appears substitute the Communications and Utilities Regulatory Authority .
Long Wave Radio Broadcasting Station (Licence Application Fee) Order 1998 ⁶	In article 2, for “Communications Commission” substitute the Communications and Utilities Regulatory Authority .
Payphones (Marking of Charges) Order 1993 ⁷	In article 1(2)(b), for “Communications Commission” substitute the Communications and Utilities Regulatory Authority .
Statutory Boards (Annual Sums) Order 2015 ⁸	In the Schedule, for “Communications Commission” substitute the Communications and Utilities Regulatory Authority .

³ SD 2014/0021⁴ SD 2016/0321⁵ SD 393/05⁶ SD 436/98⁷ SD 428/93⁸ SD 2015/0268

SCHEDULE 2

REVOCATIONS

[Article 6(7)]

1. Communications Commission (Amendment) Order 1999⁹
2. Communications Commission (Amendment) Order 2012¹⁰ .

⁹ SD 745/99

¹⁰ SD 662/12

*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order amends the Communications Commission Order 1989¹¹ (“1989 Order”) so as to change the name of the Communications Commission to the Communications and Utilities Regulatory Authority and provides that references to the Communications Commission in any other enactment, instrument, contract or proceedings are to be taken to be references to the renamed Communications and Utilities Regulatory Authority.

The amendments to the 1989 Order have the effect of removing the political chairmanship of the Authority, to be replaced by a member of Tynwald as a non-voting member of the Board¹² and makes provision for the appointment of a non-political chairperson.

This Order substitutes Schedules 1 and 2 to the 1989 Order so as to amend specified statutory provisions consequential upon the change of name and revokes specified Orders.

¹¹ GC74/89

¹² See Communications Bill 2018 - New clause.1 agreed in House of Keys 27th October 2020 to become section 9 of the resulting Act.