



**Isle of Man**

*Ellan Vannin*

**PROPERTY SERVICE CHARGES  
(AMENDMENT) BILL 2019**



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# PROPERTY SERVICE CHARGES (AMENDMENT) BILL 2019

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## Explanatory Memorandum

1. This Bill is promoted by Hon. Ray Harmer M.H.K.
2. *Clause 1* deals with the short title of the resulting Act.
3. *Clause 2* provides that the *Property Service Charges Act 1989* (“the Act”) is to be amended in accordance with the following clauses.
4. *Clause 3* amends the long title of the Act to enable the Act to apply to owners of freehold dwellings in specified circumstances as well as to tenants.
5. *Clause 4* inserts section 12B into the Act to enable the Department of Infrastructure to apply the Act, or certain provisions of it, by order, to persons other than tenants in specified circumstances.
6. The circumstances are that, as a condition of acquiring the freehold of a dwelling, a person to whom the Act is to apply is obliged to pay a service charge throughout the period the person continues to possess the freehold of the dwelling.
7. An order applying the Act to owners of freehold dwellings may apply the Act with such exceptions, modifications or adaptations as are necessary and contain any saving and transitional provisions necessary and expedient to enable the effective operation of the Act with respect to specified persons.
8. An order made under section 12B requires Tynwald approval.
9. The purpose of the Bill is to respond to a recommendation of Tynwald of 12 April 2011. It seeks to enable the application of the Act to owners of freehold dwellings who have to pay a service charge throughout their possession of the freehold. This may, amongst other things, enable such persons to apply to the Isle of Man Rent and Rating Appeal Commissioners for a determination on the reasonableness of the service charge, as tenants of dwellings may already do under the Act.
10. The Bill may have financial implications. The application of the Act to persons other than tenants has the potential to increase the number of applications to the Isle of Man Rent and Rating Appeal Commissioners, or to the High Court.
11. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the *Human Rights Act 2001*.





*Ellan Vannin*

## PROPERTY SERVICE CHARGES (AMENDMENT) BILL 2019

1 A **BILL** to amend the Property Service Charges Act 1989 to provide that the Act  
2 may, by order, be applied to other specified persons and dwellings; and for  
3 connected purposes.

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BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### 4 PART 1 – INTRODUCTORY

#### 5 1 Short title

6 The short title of this Act is the Property Service Charges (Amendment) Act  
7 2019.

### 8 PART 2 – PROPERTY SERVICE CHARGES ACT 1989 9 AMENDED

#### 10 2 Property Service Charges Act 1989 amended

11 The *Property Service Charges Act 1989* is amended as follows.

#### 12 3 Long title amended

13 In the long title after “dwellings”, insert “and by owners of freehold dwellings  
14 in specified circumstances”.

#### 15 4 Section 12B inserted

16 After section 12A (offence by body corporate, etc), insert —

**“12B Application**

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- (1) The Department may, by order, specify that this Act or certain provisions of it (“applied provisions”) apply, subject to such exceptions, adaptations and modifications as may be specified in the order, in relation to a person —
- (a) other than a tenant (“specified person”); and
- (b) who, as a condition of acquiring an estate, right, title or interest in the freehold of a dwelling (“specified dwelling”), is obliged to pay a service charge throughout the period the specified person continues to hold the estate, right, title or interest in the freehold of the specified dwelling.
- Tynwald procedure – approval required.
- (2) An order made under subsection (1) must specify —
- (a) the persons or a class of persons; or
- (b) the dwelling or a class of dwellings, to which the applied provisions apply.
- (3) An order under subsection (1) may do all or any of the following —
- (a) specify the exceptions, adaptations and modifications (including definitions) subject to which the applied provisions apply to a specified person or specified dwelling;
- (b) set out in an annex to the order the text of this Act, incorporating the exceptions, adaptations and modifications subject to which the applied provisions apply to a specified person or specified dwelling;
- (c) without limiting paragraph (a), provide that in the applied provisions as they relate to a specified person or specified dwelling, a reference to —
- (i) a tenant is to be taken as a specified person;
- (ii) a landlord or a superior landlord is to be taken as a person to whom a service charge is payable by the specified person;
- (iii) a lease is to be taken as an agreement by which the specified person is due to pay a service charge;
- (d) contain any consequential, incidental, supplementary, saving, transitional and transitory provisions which the Department considers necessary or expedient.

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- (4) In this section, “service charge” has the meaning given in section 1 (meaning of “service charge” etc) except that reference to —
- (a) a “tenant” is to be taken to mean a specified person;
  - (b) “an amount payable” need not be an amount payable “as part of or in addition to the rent” as specified in section 1(1); and
  - (c) a landlord or a superior landlord is to be taken as a person to whom a service charge is payable by the specified person.”.

IN THE KEYS

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**PROPERTY SERVICE CHARGES (AMENDMENT) BILL  
2019**

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A **BILL** to amend the Property Service Charges Act 1989 to provide that the Act may, by order, be applied to other specified persons and dwellings; and for connected purposes.

Approved by the Council of Ministers  
for introduction in the House of Keys

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MR HARMER

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JUNE 2019