



**Isle of Man**

*Ellan Vannin*

**AT 13 of 1987**

**GOVERNMENT DEPARTMENTS ACT 1987**





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## GOVERNMENT DEPARTMENTS ACT 1987

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**Isle of Man***Ellan Vannin*

## GOVERNMENT DEPARTMENTS ACT 1987

*Received Royal Assent:* 17 December 1987  
*Passed:* 19 January 1988  
*Commenced:* 1 February 1988

**AN ACT** to re-enact with amendments various enactments relating to Departments of the Government; to provide for the appointment of members of Departments; to provide for the exercise of the functions of Departments; and for connected purposes.

### *Constitution of Departments*

#### **1 Constitution of Departments**

[P1984/26/1(1)]

- (1) The following are the Departments established under this Act —
  - (a) the Treasury;
  - (b) the Department of Economic Development;
  - (c) the Department of Education and Children;
  - (d) the Department of Environment, Food and Agriculture;
  - (e) the Department of Health and Social Care;
  - (f) the Department of Home Affairs;
  - (g) the Department of Infrastructure; and
  - (h) the Cabinet Office<sup>1</sup>
- (2) Each Department shall consist of —
  - (a) the Minister; and
  - (b) one or more other members, who shall be members of Tynwald.
- (3) Each Department is a body corporate with perpetual succession.

## **2 Appointment of members of Departments**

- (1) The members of each Department (other than the Minister) shall be appointed by the Council of Ministers, and shall hold office during the pleasure of the Council of Ministers<sup>2</sup>.
- (2) A member of the Treasury shall not be eligible to be a member of any other Department.

### *Functions of Departments*

## **3 Exercise of functions of Department**

- (1) Subject to subsections (2) and (3), the functions of each Department shall be exercised by the Minister in the name and on behalf of the Department.
- (2) The Minister may authorise any member or officer of the Department, or any other person, to exercise any functions of the Department in his place, either alone or jointly with him or with any other such person or persons.
- (3) Any person authorised under subsection (2) to exercise any functions of the Department may authorise any officer of the Department to exercise any of those functions in his place.
- (4) The Department may make standing orders regulating the exercise by any person of any functions of the Department which he is authorised to exercise under subsection (2) or (3).
- (5) Where any person has under subsection (2) or (3) authorised any other person to exercise any functions of the Department in his place, he is not thereby prevented from exercising those functions himself.

## **4 Proceedings etc of Departments**

Schedule 1 shall have effect with respect to the proceedings of every Department.

## **5 Transfer of functions**

Schedule 2 shall have effect for the purposes of —

- (a) the transfer of functions of Departments; and
- (b) the establishment and abolition of Departments;

and for the other purposes mentioned therein.

## 6 Directions etc

[1981/18/15; 1984/26/3(8)]

- (1) The Council of Ministers may, after consultation with any Department, give to the Department directions as to the exercise of its functions in relation to any matter which appears to the Council of Ministers to affect the public interest, and the Department shall comply with any such directions.<sup>3</sup>
- (2) Every Department shall supply to the Chief Minister such information, and render such other assistance, as the Chief Minister may from time to time require, and shall permit any person appointed for the purpose by the Chief Minister to inspect and make copies of its accounts, books, documents and papers, and shall afford such explanation thereof as that person may reasonably require.

### *Supplemental*

## 7 Interpretation

- (1) In this Act —

“**Department**” means one of the bodies listed in section 1(1);<sup>4</sup>

“**member**”, in relation to a Department, includes the Minister;

“**the Minister**”, in relation to a Department, means the Minister (including for this purpose the Chief Minister) assigned to the Department under section 5(1) of the *Council of Ministers Act 1990*.<sup>5</sup>

- (2) Unless the context otherwise requires, references to a Board of Tynwald in any enactment passed before the commencement of this Act shall be construed as references to a Department.

## 8 Amendments, repeals etc

- (1) The enactments specified in Schedule 3 are amended in accordance with that Schedule.
- (2) [Repealed]<sup>6</sup>

## 9 Short title and commencement

- (1) This Act may be cited as the Government Departments Act 1987.
- (2) This Act shall come into operation on such day as the Governor in Council may by order appoint.<sup>7</sup>



## Schedule 1

### PROCEEDINGS OF DEPARTMENTS

[1974/6/1 and 2; P1959/53/29(1)] Section 4

#### *Acquisition and disposal of property*

1. (1) Subject to the provisions of this paragraph, the Department may
  - (a) acquire, hold and dispose of real and personal property; and
  - (b) accept any gift, devise or bequest of real or personal property,
 for the purpose of any of the Department's functions.
  - (2) All land for the time being vested in the Department (other than land held on charitable trusts) shall be deemed to be held in trust for Her Majesty in right of the Island for the public service of the Island.
  - (3) The Department may not dispose of land without the consent of the Treasury.
  - (4) Sub-paragraph (3) does not apply to —
    - (a) any disposal of land the value of which does not exceed such amount as may for the time being be prescribed order of the Council of Ministers for the purpose of that sub-paragraph;<sup>8</sup>
    - (b) any disposal of land held on charitable trusts; or
    - (c) any disposal of land by the Department to another Department or to a Statutory Board; or
    - (d) any letting for a term of 21 years or less.
  - (5) Where the Department purports to dispose of land —
    - (a) in favour of any person claiming under the Department, the disposal shall not be void by reason that a consent required by sub-paragraph (3) has not been given; and
    - (b) a person dealing with the Department, or with a person claiming under the Department, shall not be concerned to see or inquire whether any such consent has been given.

#### *Compulsory acquisition of land*

2. The Department may acquire land compulsorily for the purpose of any of its functions.

#### *Exercise of functions*

3. (1) No-one other than the Department shall be concerned to see or inquire whether a person purporting to exercise any functions of the Department pursuant to

section 3(2) or (3) has in so doing complied with any standing orders under section 3(4).

(2) Nothing in this paragraph affects any duty or power of an inspector or the court under the *Audit Act 2006*.<sup>9</sup>

#### *Resolutions*

3A. Where by virtue of any statutory provision any thing may be done by a resolution of a Department, whether or not subject to any consent, approval or other matter, that provision shall have effect as if it enabled that thing to be done also, subject to the like consent, approval or other matter (if any), by an order or other instrument in writing made by the Department.<sup>10</sup>

#### *Execution of documents*

4. (1) Where the Department has power to execute any deed, or to make any public document, or to make or give any direction, requirement, notice, authority, licence, consent, decision or determination, the deed may be executed or the document made or the direction or other matter signified under the hand of the Minister, or of a person authorised for the purpose by the Minister.

(1A) Sub-paragraph (1) applies to an instrument made in pursuance of a provision mentioned in section 173(1) of the *Copyright Act 1991* as it applies to a deed.<sup>11</sup>

(2) Where any document or instrument purports to bear the signature of a member of the Department —

- (a) the document or instrument shall be presumed, until the contrary is proved, to be signed by him, and
- (b) if he was not the Minister at the time of signature, he shall be presumed to have been authorised for the purpose by the Minister.

(3) Any document or instrument purporting to bear the signature of a person authorised for the purpose by the Minister shall be presumed, until the contrary is proved, to have been duly made by or by authority of the Department.

(4) Where a document or instrument purports to bear the signature of a person holding the office of secretary, clerk, director, administrator or chief executive of the Department, it shall be presumed, until the contrary is proved, that at the material time —

- (a) the signatory held the office in question; and
- (b) he, or the holder for the time being of that office, was authorised for the purpose by the Minister.

(5) In sub-paragraphs (3) and (4) “signature” includes a facsimile of a signature.

(6) A document which —

- (a) purports to be a copy of a document or instrument made by the Department; and
- (b) bears a certificate purporting to be signed by a person holding an office mentioned in sub-paragraph (3), or a person authorised for the purpose by such a person or the Minister, and stating that the document or instrument was made on a date specified in the certificate,

shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the document or instrument in question.

This sub-paragraph is without prejudice to section 18 of the *Evidence Act 1871* or section 2 of the *Evidence Act 1976*.

#### *Legal proceedings*

5. (1) The Department may sue and be sued in the name of the Department.
- (2) Service of any legal process or notice may be effected by service on the secretary, clerk, director, administrator or chief executive of the Department.
- (3) The Department may appear in any legal proceedings by the secretary, clerk, director, administrator or chief executive of the Department or any other officer of the Department appointed for the purpose.
- (4) The Department may apply any money in its hands for the purpose of indemnifying itself against any costs or damages which it may incur in or in consequence of the exercise of its functions.

#### *Liability of members and officers*

6. (1) A member or officer of a Department shall not be personally liable in respect of any act done in the performance or purported performance of his or her functions if he or she acted in good faith and in the honest belief —
  - (a) that his or her functions required or empowered the doing of the act; or
  - (b) that he or she was acting in the exercise or execution of any authority conferred on him or her as a member or officer.
- (2) Nothing in sub-paragraph (1) shall be construed as relieving the Department of any liability in respect of the acts of its members and officers.
- (3) Sub-paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of section 6(1) of the *Human Rights Act 2001*.<sup>12</sup>

#### *Indemnification of members and officers*

7. (1) Sub-paragraph (2) applies where any action, suit or proceeding has been brought or threatened against a member or officer of a Department in respect of any act

done by that member or officer in the performance or purported performance of his or her functions and the circumstances are such that the member or officer is not legally entitled to require the Department to indemnify him or her.

(2) The Department may, with the concurrence of the Treasury, indemnify the member or officer against the whole or any part of any liability, damages, loss, claim or proceedings, costs or legal expenses which he or she may have been ordered to pay or may reasonably incur, if the Department or the High Court is satisfied that the member or officer acted in good faith and in the honest belief —

- (a) that his or her functions required or empowered the doing of the act; or
- (b) that he or she was acting in the exercise or execution of any authority conferred on him or her as a member or officer.<sup>13</sup>

*Paragraphs 6 and 7: supplementary*

8. In paragraphs 6 and 7 —

“act” includes an omission and “done” and “doing” shall be construed accordingly;

“member” includes a former member and the estate of a former member but only in respect of acts done while he or she was a member;

“office” includes a former officer and the estate of a former officer but only in respect of acts done while he or she was an officer.<sup>14</sup>

## Schedule 2

### TRANSFER OF FUNCTIONS

#### Section 5

*Power to transfer functions etc.*

1. The Governor in Council may by order —

- (a) transfer any functions of one Department to another Department, the Governor in Council or the Council of Ministers;
- (b) transfer any functions of the Governor in Council to the Council of Ministers or a Department; or
- (c) transfer any functions of the Council of Ministers to the Governor in Council or a Department.<sup>15</sup>

*Establishment of new Department etc.*

2. (1) The Governor in Council may by order —

- (a) establish a new Department;

- (b) dissolve an existing Department; or
  - (c) change the name or constitution of an existing Department.
- (2) An order under this paragraph may amend section 1.

*Amendment of enactments*

3. Without prejudice to paragraph 2(2), an order under paragraph 1 or 2 may amend or repeal any statutory provision appearing to the Governor in Council to be inconsistent with, or to be unnecessary or to require modification in consequence of, the order.

*Supplemental provisions*

4. (1) An order under paragraph 1 or 2 may make provision for —
- (a) the transfer to one Department of any property, rights and liabilities held, enjoyed or incurred by another Department;
  - (b) the continuance and completion by or under one Department of anything begun by or under another Department;
  - (c) the substitution of one Department for another Department in any instrument, contract or proceedings made or begun before the coming into operation of the order;
  - (d) compensating officers of any Department or any other employees of the Public Services Commission who may be prejudicially affected by the order.<sup>16 17</sup>

(1A) Any reference to a Department in sub-paragraph (1)(b) or (c) includes a reference to the Governor in Council or the Council of Ministers.<sup>18</sup>

(2) An order under paragraph 1 or 2 may make such consequential, incidental, supplemental and transitional provisions as appear to the Governor in Council to be necessary or expedient for the purposes of the order.

(3) A certified copy of an order under paragraph 1 or 2 which is recorded in the General Registry shall be conclusive evidence of any transfer of any property, rights and liabilities specified therein under sub-paragraph (1)(a).

(4) An order under paragraph 1 or 2 shall not have effect unless it is approved by Tynwald.

*Standard provisions as to transfer of property etc.*

5. (1) The following provisions of this paragraph have effect in relation to any order under paragraph 1 by which any functions (“the transferred functions”) are transferred from one Department (“the transferor”) to another Department (“the transferee”), but subject to any express provision to the contrary contained in the order.

(2) All real and personal property which immediately before the coming into operation of the order was vested in or held by the transferor for the purpose of

the transferred functions shall on such coming into operation vest in the transferee without any conveyance or other assurance for the purpose of those functions.

(3) A certificate signed by or on behalf of the transferee and stating that any property specified in the certificate, being property which immediately before such coming into operation was vested in or held by the transferor, was so vested or held for the purpose of the transferred functions shall be conclusive evidence of that fact; and, a certificate purporting to be so signed shall be presumed to be so signed until the contrary is proved.

(4) All rights, obligations and liabilities which immediately before such coming into operation were enforceable by or against the transferor and were enjoyed or incurred for the purpose of the transferred functions shall on and after such coming into operation be enforceable by or against the transferee.

(5) All references to the transferor, so far as they relate to the transferred functions and not otherwise, in any statutory provision, agreement, deed, instrument, licence, consent, application, notice or other document whatsoever shall, unless the context otherwise requires, be construed as references to the transferee.

(6) All persons who immediately before such coming into operation were officers of or employed by or in the service of the transferor wholly or mainly for the purpose of the transferred functions shall on and after such coming into operation be deemed to be officers of or employed by or in the service of the transferee without further appointment on and subject to the like terms and conditions as those on and subject to which they held office or were employed or served immediately before such coming into operation.

(7) The order shall not affect the validity of anything done by or in relation to the transferor before such coming into operation; and anything which on such coming into operation is in process of being done by or in relation to the transferor, so far as it relates to any of the transferred functions, may be continued by or in relation to the transferee.

(8) Anything made or done by the transferor, so far as it relates to any of the transferred functions, shall, if in force on such coming into operation, have effect as if made or done by the transferee so far as that is required for continuing its effect after such coming into operation.

(9) Documents or forms printed or otherwise prepared for use in connection with any of the transferred functions may be so used notwithstanding that they contain references to the transferor, and those references shall be construed as references to the transferee; and likewise with references to an officer of the transferor.

(10) In relation to a document or instrument made by the transferor, or any predecessor of the transferor, the reference to the transferor or an officer of the transferor in paragraph 4(6)(b) of Schedule 1 includes a reference to the transferee and any successor of the transferee or to an officer of the transferee or any such successor.

### Schedule 3

#### AMENDMENT OF ENACTMENTS

##### Section 8(1)

[Sch 3 amended by Council of Ministers Act 1990 Sch 2, by Civil Service Act 1990 Sch 4, by Broadcasting Act 1993 Sch 5 and by Audit Act 2006 Sch 2, and amends the following Acts –

Members of Tynwald (Disqualification) Act 1930 q.v.

Government Property Trustees Act 1971 q.v.

Control of Employment Act 1975 q.v.

Interpretation Act 1976 q.v.]

##### *Constitution (Executive Council) Act 1984*

9. (5) A Minister holding office as chairman of a Department immediately before the commencement of this Act shall be deemed, for the purposes of this Act, to have been assigned to that Department under section 2A(6B) of the 1984 Act.

### Schedule 4<sup>19</sup>



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Subs (1) substituted by SD2015/0405.

<sup>2</sup> Subs (1) amended by SD 861/11.

<sup>3</sup> Subs (1) amended by GC155/91.

<sup>4</sup> Definition of “Department” substituted by SD155/10.

<sup>5</sup> Definition of “the Minister” substituted by Council of Ministers Act 1990 Sch 1.

<sup>6</sup> Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.

<sup>7</sup> ADO (whole Act) 1/2/1988 (GC19/88).

<sup>8</sup> Item (a) amended by GC155/91.

<sup>9</sup> Subpara (2) amended by Audit Act 2006 Sch 1 and by Audit (Amendment) Act 2015 Sch.

<sup>10</sup> Para 3A inserted by Statute Law Revision Act 1992 Sch 1 and deemed to be operative on 1/2/1988.

<sup>11</sup> Subpara (1A) inserted by Copyright Act 1991 Sch 2.

<sup>12</sup> Para 6 substituted by Personal Liability (Ministers, Members and Officers) Act 2007 s 1.

<sup>13</sup> Para 7 inserted by Personal Liability (Ministers, Members and Officers) Act 2007 s 1.

<sup>14</sup> Para 8 added by Personal Liability (Ministers, Members and Officers) Act 2007 s 1.

<sup>15</sup> Para 1 substituted by Council of Ministers Act 1990 Sch 1.

<sup>16</sup> Item (d) amended by Public Services Commission Act 2015 Sch.

<sup>17</sup> Subpara (1) substituted by Council of Ministers Act 1990 Sch 1.

<sup>18</sup> Subpara (1A) inserted by Council of Ministers Act 1990 Sch 1.

<sup>19</sup> Sch 4 repealed by Statute Law Revision Act 1992 Sch 2.