



Isle of Man

Ellan Vannin

AT 8 of 1990

CIVIL SERVICE ACT 1990



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**Isle of Man***Ellan Vannin*

CIVIL SERVICE ACT 1990

<i>Received Royal Assent:</i>	<i>15 May 1990</i>
<i>Passed:</i>	<i>16 May 1990</i>
<i>Commenced:</i>	<i>1 January 1991</i>

AN ACT to re-enact with amendments the Civil Service Acts 1962 and 1986 and related enactments; and for connected purposes.

1 The Isle of Man Civil Service

- (1) There shall continue to be a Civil Service for the Isle of Man.
- (2) Subject to the following provisions of this Act, the Civil Service shall comprise all persons appointed for service with the Government, or with any Department or Board, which is wholly or mainly administrative, professional, technical or clerical.
- (3) A civil servant when carrying out his duties shall be an officer of the Crown and a public servant.
- (4) A civil servant who is appointed to a position in any office of the Government shall perform such duties and observe and conform with such reasonable instructions as the head of the office or persons duly authorised by the head of the office may from time to time give him.
- (5) A civil servant who is appointed to a position with a Department or Board shall perform such duties and observe and conform with such reasonable instructions as the Department or Board, or persons duly authorised by the Department or Board, may from time to time give him.

2 The Civil Service Commission

- (1) The Civil Service Commission shall consist of —
 - (a) a chairperson and a vice-chairperson, who shall be members of Tynwald; and
 - (b) no more than 3 other persons, who shall not be members of Tynwald.¹

- (2) The members of the Commission shall be appointed by the Chief Minister and shall hold office at the Chief Minister's pleasure.²
- (3) A member of the Commission may at any time resign on giving to the Chief Minister notice in writing of intention to do so.³
- (3A) The Chief Secretary and members of the Civil Service are not qualified for membership of the Commission.⁴
- (3B) Where the chairperson or deputy chairperson of the Commission ceases to be a member of Tynwald that person shall continue in office for all purposes (except that of filling the vacancy) until a successor is appointed.⁵
- (4) The Commission may authorise any member or officer of the Commission, or any other person, to exercise any functions of the Commission in its place, either alone or jointly with it or any such other person or persons.⁶
- (5) Any person authorised under subsection (4) to exercise any functions of the Commission may authorise any officer of the Commission to exercise any of those functions in his place.
- (6) Where any person has under subsection (4) or (5) authorised any other person to exercise any functions of the Commission in his place, he is not thereby prevented from exercising those functions himself.
- (7) The Chief Minister may, after consultation with the Commission, give to the Commission such directions as to the exercise of its functions and the Commission shall comply with any such direction.⁷
- (8) The following provisions of the *Statutory Boards Act 1987*, namely —
 - (a) [Repealed]⁸
 - (b) paragraphs 9 (except sub-paragraph (1)(a)), 10, 11 and 12(2) of Schedule 2,apply to the Commission as they apply to a Statutory Board.
- (9) As soon as practicable after the end of each year or more frequently if the Chief Minister so directs, the Commission shall make a report to the Chief Minister with respect to the carrying out of its functions under this Act.⁹
- (10) A copy of every report under subsection (9) shall be laid before Tynwald.¹⁰

3 Functions of the Commission

- (1) The Commission shall —
 - (a) from time to time review and as necessary vary the Civil Service establishment;

- (b) appoint such persons as may be necessary to be civil servants;
 - (c) arrange for the recruitment and training of civil servants;
 - (d) make all necessary promotions and transfers of civil servants in and between Departments, Boards and offices of the Government;
 - (e) determine the scales and rates of salary, and (without prejudice to section 4(5)) other terms and conditions of service, of civil servants, subject to any requirements imposed by resolution of Tynwald as to the settlement of such matters by negotiation or arbitration or both;
 - (f) make such arrangements as it considers necessary for securing the welfare of civil servants; and
 - (g) perform such other functions as may be directed by the Council of Ministers.¹¹
- (1A) The Civil Service Commission may make arrangements for the secondment of persons (being members of the Isle of Man Civil Service) to serve with any Statutory Board or, with the consent of the officers concerned, with any other person for a period not exceeding 3 years.¹²
- (2) The Commission may appoint persons for service with the Government, or with any Department or Board, which is either whole-time or part-time, and either without any term or for a fixed term.
- (3) In exercising its functions under this section the Commission shall consult with any Department or Board, and any public officer, appearing to the Commission to be concerned.
- (4) In exercising its functions the Commission shall be deemed to act on behalf of the Crown.
- (5) The appointment of a person under this section shall not have effect —
- (a) in the case of the position of —
 - (i) the chief executive officer of a Department or Board (by whatever title designated), or
 - (ii) an officer of a Department or Board of the grade of Open Structure Grade 7 or above, or a grade carrying an equivalent salary,without the concurrence of that Department or Board;
 - (b) in any other case, without the concurrence of such person or body (if any) as the Council of Ministers may direct.¹³
- (6) Where any statutory provision, whenever made, provides for a person to be appointed to a particular office or to perform particular functions, but the person or body by whom he is to be appointed is not specified, he shall be appointed by the Commission in accordance with this section.

- (7) The Council of Ministers may by order amend subsection (5)(a)(ii), but no such order shall have effect unless it is approved by Tynwald.¹⁴

4 Conditions of service

- (1) A civil servant shall hold office at the pleasure of the Crown, subject to —
- (a) subsections (2) and (3), and any other relevant enactment;
 - (b) the terms of his appointment; and
 - (c) to the extent that they are not inconsistent with those terms, any regulations under subsection (5).
- (2) The Commission may dismiss any civil servant for good cause.
- (3) A civil servant who is dismissed (whether by virtue of subsection (2) or otherwise) may appeal against his dismissal to a tribunal consisting of such person or persons as the Governor may appoint; and the tribunal may —
- (a) confirm the dismissal; or
 - (b) order that the appellant be reinstated; or
 - (c) in the case of dismissal for a disciplinary offence, substitute such other penalty short of dismissal as it thinks appropriate.
- (4) The Council of Ministers may make rules with respect to the procedure for appeals under subsection (3).¹⁵
- (5) The Commission may make regulations as to the conditions of service of civil servants.
- (6) Regulations under subsection (5) may provide that any regulations in force from time to time with respect to the conditions of service of members of the civil service of the United Kingdom (including regulations in force at a subsequent time) shall apply to civil servants subject to such exceptions and modifications as may be prescribed.
- (7) A civil servant shall be deemed, for the purpose only of recovery of remuneration or superannuation due to or in respect of him as a civil servant, to be employed under a contract of employment by the Treasury.

5 Liability in tort

- (1) In this section “the relevant body” means —
- (a) in the case of a civil servant acting under the direction of any Department or Board, that Department or Board;
 - (b) in any other case, the Treasury.
- (2) The relevant body shall be liable in respect of torts committed by a civil servant in the performance or purported performance of his functions, in like manner as a master is liable in respect of torts committed by his

servant in the course of his employment, and accordingly shall in respect of any such tort be treated for all purposes as a joint tortfeasor.

- (3) If a civil servant is appointed to a position with a Department or Board, or is acting in the performance or purported performance of functions conferred on a Department or Board by any statutory provision, he shall be deemed to be acting under the direction of that Department or Board.
- (4) A certificate signed by the authority of the Commission and stating that at the time specified therein the persons named therein —
 - (a) was or was not a civil servant; or
 - (b) was or was not appointed to a position with the Department or Board specified therein,

shall be conclusive evidence of the facts stated therein; and a certificate stating any such matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

6 Special cases

- (1) In relation to any office —
 - (a) which is for the time being included in the Civil Service establishment, but
 - (b) the power to appoint to which is by virtue of any enactment vested in any person or body other than the Commission,sections 3(1)(b) and (2) and 4(2) shall not apply, and nothing in this Act affects the tenure of the office.
- (2) The following persons shall not be civil servants —
 - (a) the holder of any office specified in Part I of Schedule 1;
 - (b) persons in any description of employment specified in Part II of Schedule 1.
- (3) The Council of Ministers may by order amend Part II of Schedule 1, but no such order shall have effect unless it is approved by Tynwald.¹⁶

7 Office of Chief Secretary

- (1) The office of Government Secretary is renamed “Chief Secretary”; and accordingly for any reference in any statutory provision to the Government Secretary there is substituted a reference to the Chief Secretary.
- (2) The appointment of a person to the office of Chief Secretary shall not have effect without the concurrence of the Chief Minister, and before giving his concurrence the Chief Minister shall consult the Governor.

8 Interpretation

(1) In this Act —

“**Board**” means a body specified in Schedule 2;

“**Civil servant**” means a member of the Civil Service;

“**the Civil Service**” means the Isle of Man Civil Service;

“**the Civil Service establishment**” means the establishment for the Civil Service staff of the Government and of every Department and Board;

“**the Commission**” means the Civil Service Commission;

“**the Crown**” means the Crown in right of the Island.

(2) The Council of Ministers may by order amend Schedule 2, but no such order shall have effect unless it is approved by Tynwald.¹⁷

9 Savings

(1) A person who, immediately before the commencement of this Act, fell within section 1(2) but was not a civil servant shall not become a civil servant by virtue of that section unless he and the Commission otherwise agree in writing.

(2) A person who, immediately before the commencement of this Act, was a civil servant shall not cease to be a civil servant by virtue only of the passing of this Act unless he and the Commission otherwise agree in writing.

(3) A civil servant who has been or is appointed for service of any description shall not be eligible for superannuation under any particular scheme made under section 1 of the *Superannuation Act 1984*, if he was not, or would not have been, eligible therefor by virtue of such service immediately before the commencement of this Act.

(4) Subsection (3) has effect subject to any express provision to the contrary contained in the scheme in question.

(5) Nothing in section 3(1)(f) affects any duty under section 2 of the Health and Safety at Work etc. Act 1974 (an Act of Parliament), as it has effect in the Island.

(6) Nothing in section 4(7) or 5 operates —

(a) to create any liability in tort in respect of an act done or an omission made before the 12th July 1983; or

(b) to allow any execution or other process to be issued or levied against any property, funds or other assets held by, on behalf of or in the name of the Government, or the general revenue of the Island, to enforce any order or judgment.

- (7) Nothing in this Act prevents the appointment of a person to more than one public office at once.

10 Amendments and repeals

- (1) The enactments specified in Schedule 3 are amended in accordance with that Schedule.
- (2) The enactments specified in Schedule 4 are repealed to the extent specified in column 3 of that Schedule.

11 Short title and commencement

This Act may be cited as the Civil Service Act 1990, and shall come into operation on such day as the Commission may by order appoint.¹⁸

Schedule 1

OFFICES AND EMPLOYMENTS OUTSIDE THE CIVIL SERVICE

Section 6(2)

PART I – OFFICIALS WHO ARE NOT CIVIL SERVANTS

Governor

Deemster

Attorney General

High Bailiff

Deputy High Bailiff

Clerk of Tynwald

Member of the Isle of Man Constabulary (including the Chief Constable)

PART II – DESCRIPTION OF EMPLOYMENT OUTSIDE THE CIVIL SERVICE

1. Employment by the Department of Health –
 - (a) as a member of the staff of any hospital managed by that Department, except –
 - (i) administrative and clerical staff; and
 - (ii) professional staff who are not members of a medical or nursing profession or a profession supplementary to medicine;¹⁹
 - (b) as a director of public health or deputy director of public health;²⁰
 - (c) as a school medical officer, school dental officer, nursing officer, district nurse, health visitor or member of a profession supplementary to medicine;²¹
 - (d) as a member of the staff (except administrative and clerical staff) of any accommodation or other facilities or premises provided under –
 - (i) section 22(1)(a) of the *National Assistance (Isle of Man) Act 1951*;
 - (ii) a scheme under section 27(2) of that Act; or
 - (iii) section 23 of the *National Health Service Act 2001*.²²

References in this paragraph to the staff of a hospital include references to a consultant or specialist employed for the purposes of the hospital.²³

2. Employment by the Department of Home Affairs as —
 - (a) a fireman;
 - (b) [Repealed]; or²⁴
 - (c) medical officer or chaplain of an institution appointed under section 13 or 14 of the *Custody Act 1995*.²⁵
- 2A. Employment by the Department of Infrastructure as a traffic warden under section 33 of the *Road Traffic Regulation Act 1985*.²⁶
3. Employment by the Department of Education and Children —
 - (a) as a member of the staff (except clerical staff) of any school or college; or
 - (b) as a member of the staff of the Centre referred to in the *Education (Mentally Handicapped Children) Act 1973*; or
 - (c) as leader of a youth club provided, maintained or aided by the Department.²⁷
4. Employment in the department of the Clerk of Tynwald.
5. Employment by the Department of Community, Culture and Leisure —
 - (a) in any railway, tramway or road passenger transport undertaking of the Department; or
 - (b) wholly or mainly in the management of the Gaiety Theatre or any of the leisure facilities at Derby Castle, Douglas known as Summerland and the Aquadrome.²⁸
- 5A. Employment by the Department of Economic Development of persons with specialist knowledge of one or more areas of the private sector, with the function of assisting the development of business in those or related areas.²⁹
6. [Repealed]³⁰
7. Employment by any Department or Board for the purpose of conducting or assisting in the conduct of public surveys.³¹
8. Employment by way of service with the Government, or with any Department or Board, for a period not exceeding 3 years under secondment from the employer of the person concerned.³²
9. Employment by way of service with the Government, or with any Department or Board, for a period not exceeding 12 months of temporary administrative or clerical staff supplied by an employment business (within the meaning of the *Employment Agencies Act 1975*).³³

Schedule 2

BOARDS

Section 8(1)³⁴

The Isle of Man Office of Fair Trading
The Isle of Man Water and Sewerage Authority
The Manx Museum and National Trust
The War Pensions Committee
The Road Transport Licensing Committee

Schedule 3

AMENDMENT OF ENACTMENTS

Section 10(1)

PART I – ACTS OF TYNWALD³⁵

Criminal Justice Act 1963 q.v.
General Registry Act 1965 q.v.
Agriculture (Safety, Health and Welfare Provisions) Act 1974 q.v.
Estate Agents Act 1975 q.v.
Tourist Act 1975 q.v.
Control of Employment Act 1975 q.v.
Fertilisers and Feeding Stuffs Act 1975 q.v.
Interpretation Act 1976 q.v.
Civil Registration Act 1984 q.v.
Merchant Shipping (Registration) Act 1984 q.v.
Treasury Act 1985 q.v.
Weights and Measures Act 1989 q.v.

PART II³⁶

Schedule 4

ENACTMENTS REPEALED

Section 10(2)

[Sch 4 repeals the following Acts wholly —

Isle of Man Civil Service Act 1962

Public Service Proceedings Act 1983

Civil Service Act 1986

and the following Acts in part —

Criminal Justice Act 1963

General Registry Act 1965

Income Tax Act 1970

Sea-Fisheries Act 1971

Education (Mentally Handicapped Children) Act 1973

Civil Registration Act 1984

Treasury Act 1985

Customs and Excise Management Act 1986

Government Departments Act 1987.]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

-
- ¹ Subs (1) substituted by Civil Service (Amendment) Act 2007 s 1.
- ² Subs (2) substituted by Civil Service (Amendment) Act 2007 s 1.
- ³ Subs (3) substituted by Civil Service (Amendment) Act 2007 s 1.
- ⁴ Subs (3A) inserted by Civil Service (Amendment) Act 2007 s 1.
- ⁵ Subs (3B) inserted by Civil Service (Amendment) Act 2007 s 1.
- ⁶ Subs (4) amended by Interpretation Act 1976 s 16A and by Civil Service (Amendment) Act 2007 s 1.
- ⁷ Subs (7) amended by Civil Service (Amendment) Act 2007 s 2.
- ⁸ Para (a) repealed by Civil Service (Amendment) Act 2007 s 1.
- ⁹ Subs (9) added by Civil Service (Amendment) Act 2007 s 3.
- ¹⁰ Subs (10) added by Civil Service (Amendment) Act 2007 s 3.
- ¹¹ Para (g) amended by GC155/91.
- ¹² Subs (1A) inserted by Companies (Transfer of Functions) Act 2000 Sch 2.
- ¹³ Para (b) amended by GC155/91.
- ¹⁴ Subs (7) amended by GC155/91.
- ¹⁵ Subs (4) amended by GC155/91.
- ¹⁶ Subs (3) amended by GC155/91.
- ¹⁷ Subs (2) amended by GC155/91.
- ¹⁸ ADO (whole Act except amendment to Local Government Act 1985) 1/1/91 (GC437/90).
- ¹⁹ Subpara (a) substituted by SD335/95 with savings and amended by National Health Service (Amendment) Act 1995 Sch.

²⁰ Subpara (b) substituted by SD335/95 with savings and amended by Public Health (Amendment) Act 2000 s 12.

²¹ Subpara (c) substituted by SD335/95 with savings.

²² Subpara (d) substituted by SD335/95 with savings. Item (iii) substituted by National Health Service Act 2001 Sch 4.

²³ Para 1 amended by National Health Service Act 2001 Sch 5 and by SD155/10 Sch 11.

²⁴ Item (b) repealed by SD171/11.

²⁵ Para 2 substituted by GC245/92. Subpara (c) substituted by Custody Act 1995 Sch 4.

²⁶ Para 2A inserted by SD171/11.

²⁷ Para 3 amended by Education (Miscellaneous Provisions) Act 2009 Sch 1 and by SD155/10 Sch 10. Subpara (c) amended by SD155/10 Sch 10.

²⁸ Para 5 added by GC463/90 and amended by SD487/94 and by SD155/10 Sch 1.

²⁹ Para 5A inserted by SD 20/2013.

³⁰ Para 6 repealed with savings by SD335/95.

³¹ Para 7 added by GC245/92.

³² Para 8 added by SD669/98.

³³ Para 9 added by SD669/98.

³⁴ Sch 2 amended by SD579/98, by Gaming, Betting and Lotteries (Amendment) Act 2001 s 12, by Road Transport Act 2001 Sch 3 and by SD155/10 Sch 9.

³⁵ Part I amended by Employment Act 1991 Sch 11, by Statute Law Revision Act 1992 Sch 2, by Gas Regulation Act 1995 Sch 3, by Land Registration (Amendment) Act 1995 Sch 2, by Animal Health Act 1996 Sch 3, by Education Act 2001 Sch 11, by Registration of Electors Act 2006 Sch 3 and by Harbours Act 2010 Sch 5, and amends the following Acts

³⁶ Part II repealed by Statute Law Revision Act 1997 Sch 2.