



Isle of Man

Ellan Vannin

AT 1 of 2006

TRIBUNALS ACT 2006



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**Isle of Man***Ellan Vannin*

TRIBUNALS ACT 2006

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<i>Commenced:</i>	<i>See endnotes</i>

AN ACT to make new provision for the appointment, tenure of office and proceedings of certain tribunals.

Appointments Commission

1 Appointments Commission

- (1) There is established a body by the name of “the Appointments Commission” (in this Act referred to as “the Commission”).
- (2) The Commission shall consist of 5 persons appointed by the Council of Ministers, subject to the approval of Tynwald.
- (3) A person is disqualified for being appointed or being a member of the Commission if he is a member of the Council or the Keys.
- (4) Schedule 1 shall have effect with respect to the term of office of members of, and the proceedings of, the Commission.

Constitution etc. of tribunals

2 Tribunals to which ss 3 to 9 apply

- (1) Sections 3 to 9 have effect in relation to —
 - (a) a tribunal specified in Part 1 of Schedule 2 (“a Part 1 tribunal”),
 - (b) a panel from which members of a tribunal specified in Part 2 of that Schedule (“a Part 2 tribunal”) are drawn,
 - (c) the chairman of a Part 2 tribunal, other than a chairman (“a panel chairman”) drawn from a panel referred to in paragraph (b);

subject to any express provision to the contrary contained in the statutory provision by which the tribunal in question is established (but without prejudice to section 12(3)(a)).

- (2) The Council of Ministers may by order amend Schedule 2 by adding a body to Part 1 or Part 2 of that Schedule.
- (3) Where the statutory provision by which a Part 1 tribunal or a Part 2 tribunal is established provides for the appointment of a deputy chairman of the tribunal, references in this section and sections 3 to 9 to the chairman of the tribunal include references to the deputy chairman.
- (4) No defect in the appointment of a member of a Part 1 tribunal or a Part 2 tribunal, or of a member of a panel from which members of a Part 2 tribunal are drawn, shall vitiate any proceedings of the tribunal in which he may have taken part.
- (5) Subject to any statutory provision as to the quorum of such a tribunal, no act or proceeding of the tribunal shall be questioned on account of any vacancy in the members of the tribunal.

3 Constitution of Part 1 tribunals

- (1) The members of a Part 1 tribunal shall be appointed by the Commission.
- (2) The chairman of a Part 1 tribunal shall be a barrister, advocate or solicitor, in each case of not less than 7 years' standing.
- (3) Each of the following persons shall be disqualified for being appointed or being a member of a Part 1 tribunal —
 - (a) a member of the Council;
 - (b) a member of the Keys;
 - (c) a member of a Statutory Board.
- (4) Subject to sections 5 to 5B, a member of a Part 1 tribunal shall hold office for the term specified in the warrant of appointment, being not less than 3 nor more than 5 years beginning on the date of the appointment.¹

4 Constitution of Part 2 tribunals

- (1) The chairman (other than a panel chairman) of a Part 2 tribunal, and a member of a panel from which members of a Part 2 tribunal are drawn, —
 - (a) shall be appointed by the Commission; and
 - (b) shall hold office, subject to sections 5 to 5B, for the term specified in the warrant of appointment, being not less than 3 nor more than 5 years beginning on the date of the appointment.²
- (2) A chairman (other than a panel chairman) of a Part 2 tribunal, and a member of a panel from which chairmen of a Part 2 tribunal are drawn, shall be a barrister, advocate or solicitor, in each case of not less than 7 years' standing.

- (3) A person specified in section 3(3) shall be disqualified for being appointed or being —
- (a) the chairman of a Part 2 tribunal; or
 - (b) a member of a panel from which members of a Part 2 tribunal are drawn.

5 Resignation etc. of members of tribunals

- (1) Subsections (2) and (3) apply to —
- (a) a member of a Part 1 tribunal,
 - (b) the chairman of a Part 2 tribunal (other than a panel chairman), and
 - (c) a member of a panel from which the chairman or other members of a Part 2 tribunal are drawn.
- (2) A person to whom this subsection applies may resign his office by notice in writing to the Commission.
- (3) If the Commission is satisfied that a person to whom this subsection applies —
- (a) has been absent from the Island for a period longer than 6 consecutive months;
 - (b) has become bankrupt or made an arrangement with his creditors;
 - (c) is incapacitated by physical or mental illness; or
 - (d) is otherwise unable or unfit to discharge his functions as a member of a tribunal,

it may by an instrument in writing remove him from office.

- (3A) The Commission must, after consulting the Deemsters, make an order specifying the procedure to be adopted in connection with the determination of any matter for the purposes of subsection (3).³
- (3B) An order under subsection (3A) may provide for —
- (a) the suspension of a member while a question about the member's ability or fitness is investigated;
 - (b) an appeal to the High Bailiff against a decision of the Commission under subsection (3); and
 - (c) the suspension of the operation of any instrument issued under subsection (3) pending the disposal of the appeal.⁴
- (4) If a member of a Part 1 tribunal or the chairman of a Part 2 tribunal (other than a panel chairman) is, by reason of physical or mental illness, absence from the Island or other reasonable cause, for the time being unable to perform the duties of his office, either generally or in relation to particular proceedings, the Commission may appoint a person to

discharge his duties for a period not exceeding 6 months at one time or in relation to those proceedings, as the case may be.

- (5) A person appointed under subsection (4) shall have the same powers as the person in whose place he is appointed during the period of his appointment, or in relation to the proceedings in question, as the case may be.

5A Appointment to fill casual vacancy

- (1) This section applies if —
- (a) a vacancy has arisen —
 - (i) by virtue of a person's being disqualified under section 3(3) or 4(3) for being a member of a Part 1 Tribunal, or for being a chairman or a member of Part 2 tribunal; or
 - (ii) by reason of a resignation or removal from office under section 5; and
 - (b) the Commission consider it appropriate to make an appointment for the remainder of the term of the person who has been disqualified or removed from office or who has resigned.
- (2) If this section applies the Commission may appoint a person for a term —
- (a) beginning on the date of the appointment; and
 - (b) ending on the date on which the term of appointment of the person who has been disqualified or removed from office or who has resigned would have ended (even though that term is less than 3 years).⁵

5B Continuation of appointment where appeal part-heard

- (1) If a member of a Tribunal has begun to hear an appeal, the member may, with the consent of the Commission, continue to deal with it despite the expiry of the member's appointment.
- (2) A consent under subsection (1) may be without limit of time, or be subject to a time limit as the Commission sees fit, and may be renewed from time to time.
- (3) The Commission may only give a consent under subsection (1) or renew a consent under subsection (2) if it appears to the Commission to be in the interests of justice to do so.⁶

6 Conflicts of interest or duty

- (1) Immediately a member of a tribunal becomes aware that he has or will have a material conflict of interest or duty in respect of any proceedings of the tribunal, the member —

- (a) shall declare the nature of his conflict of interest or duty; and
 - (b) shall not take part in, or any further part in, the case in which the conflict of interest or duty arises
- (2) If a member of a tribunal has declared the nature of his conflict of interest or duty as required by subsection (1)(a) and all the parties to the proceedings consent, the member may, notwithstanding subsection (1)(b), take part in those proceedings.
- (3) Rules under section 8 may —
- (a) provide for the time and manner in which, and the persons to whom, —
 - (i) members of tribunals shall declare the nature of any conflict of interest or duty;
 - (ii) members of panels shall declare the nature of any conflict of interest or duty or any potential conflict of interest or duty; and
 - (b) specify circumstances in which members of panels and tribunals are to be treated as having a conflict of interest or duty.
- (4) Subsection (3)(b) and rules made under section 8 do not limit the generality of subsection (1).

7 Objections to membership of tribunals

- (1) A party to any proceedings before a tribunal may object to any member of the tribunal continuing as such on the ground that the member has or will have a material conflict of interest or duty in respect of the proceedings.
- (2) Rules under section 8 may include provision for —
- (a) the hearing of objections under subsection (1);
 - (b) the manner in which such objections shall be determined; and
 - (c) the powers of the tribunal to continue the proceedings on the determination of such an objection.

8 Rules of procedure

- (1) The Council of Ministers, after consultation with the Deemsters, may make rules for regulating the practice and procedure of a Part 1 tribunal or a Part 2 tribunal.
- (2) Rules under this section may in particular make provision —
- (a) with respect to the period within which and the manner in which proceedings before the tribunal may be commenced;
 - (b) with respect to the parties to such proceedings, and for the giving of notice of such proceedings;

- (c) for the burden of proof in such proceedings;
 - (d) for the summoning of witnesses and the administration of oaths;
 - (e) for securing the production of documents and other records (including records held on a computer);
 - (f) for conducting such proceedings in the absence of a party;
 - (g) for prescribing the quorum of the tribunal;
 - (h) for determining such proceedings without a hearing;
 - (i) for enabling any matter preliminary or incidental to such proceedings to be dealt with by the chairman;
 - (j) for the awarding of costs, and for taxing or otherwise settling any such costs (and in particular for enabling such costs to be taxed in the High Court);
 - (k) for the registration and proof of decisions and orders of the tribunal;
 - (l) for the publication of reports of the tribunal's decisions;
 - (m) for the enforcement of summonses and orders of the tribunal by the High Court;
 - (n) for conferring on the tribunal such ancillary powers as the Council of Ministers thinks necessary for the proper discharge of its functions.
- (3) Rules under this section shall provide for proceedings of the tribunal to be conducted in public unless —
- (a) the proceedings relate to a matter of national security, or
 - (b) the tribunal in its discretion decides that they shall be conducted wholly or partly in private.
- (4) This section does not apply to the Income Tax Commissioners referred to in Part 1 of Schedule 2.⁷

9 Staff of tribunals etc.

The Council of Ministers may make regulations as to —

- (a) the provision of officers and other staff of Part 1 tribunals and Part 2 tribunals; and
- (b) the selection, by a person specified in the regulations (who may be the chairman or an officer of the tribunal or any other officer specified in the regulations), of a member of a panel to take part in any proceedings of a Part 2 tribunal.

10 Names of certain tribunals⁸

A tribunal constituted under a statutory provision specified in column 1 of the following table shall be known by the name specified in relation to it in column 2 of the table —

Schedule 2 to the <i>Tourist Act</i> 1975	the Tourist Premises Appeal Tribunal
Chapter I of Part I of the Social Security Act 1988 (an Act of Parliament), as it has effect in the Island	a social security appeal tribunal
section 5 of the <i>Residence Act</i> 2001	the Residence Act Tribunal

11 Training

- (1) This section applies to —
 - (a) a member of a Part 1 tribunal or a Part 2 tribunal, and
 - (b) a member of a panel from which members of a Part 2 tribunal are drawn.
- (2) The Treasury may —
 - (a) defray the whole or part of the cost of the attendance by a person to whom this section applies at a course of training relevant to his duties as a member of the tribunal in question and approved by or on behalf of the Treasury for the purpose of this section, and
 - (b) pay to such a person allowances, of such amounts and subject to such conditions as the Treasury may determine, in respect of his attendance at any such course of training.

Supplemental

12 Subordinate legislation

- (1) This section applies to —
 - (a) orders under section 2(2);
 - (aa) orders under section 5(3A);⁹
 - (b) rules under section 8; and
 - (c) regulations under section 9.
- (2) An instrument to which this section applies shall not have effect unless it is approved by Tynwald.
- (3) An instrument to which this section applies may make such consequential, incidental, supplemental and transitional provisions as

appear to the Council of Ministers to be necessary or expedient for the purposes of the instrument.

13 Amendments and transitional provisions

- (1) The enactments specified in Schedule 3 are amended in accordance with that Schedule.
- (2) Notwithstanding sections 3 and 4, but subject to subsection (4), the following persons —
 - (a) a member of a Part 1 tribunal,
 - (b) a member of a panel from which members of a Part 2 tribunal are drawn, and
 - (c) the chairman of a Part 2 tribunal (other than a panel chairman),who is in office immediately before the day appointed under section 14(2) shall remain in office until the date specified in subsection (3).
- (3) The date referred to in subsection (2) is —
 - (a) the date of the first appointment of a member of that tribunal or panel, or the appointment of a chairman in his place, as the case may be, in accordance with this Act,
 - (b) the expiration of 12 months beginning with the day appointed under section 14(2),
 - (c) the date on which he would have gone out of office if this Act had not been passed, or
 - (d) if he resigns or is removed from office, the date on which the resignation or removal takes effect,whichever is first.
- (4) Where, in any proceedings before a tribunal, a hearing has begun on the date specified in subsection (3) but the proceedings have not been concluded, the members of the tribunal hearing the proceedings shall continue to hear and determine them, even though any of them has gone out of office under subsection (2).

14 Short title and commencement

- (1) This Act may be cited as the Tribunals Act 2006.
- (2) This Act, except section 1, Schedule 1 and this section, shall come into operation on such day as the Council of Ministers may by order appoint.¹⁰

SCHEDULE 1**APPOINTMENTS COMMISSION**

Section 1(4)

Term of office of members

1. (1) The first members of the Commission shall be appointed to hold office for terms expiring on the next 5 anniversaries of the 1st January 2006, that is –

- (a) one member for a term expiring on the 1st January 2007,
- (b) one member for a term expiring on the 1st January 2008,

and so on.

(2) Subject to sub-paragraph (3), each subsequent appointment of a member of the Commission shall be for a term expiring on the fifth anniversary of the expiry of his predecessor's term of office.

(3) A member appointed to fill a casual vacancy shall hold office until the expiry of the term of office of the person in whose place he was appointed.

(4) A retiring member shall be eligible to be re-appointed if he is otherwise qualified.

Resignation etc. of member

2. (1) A member of the Commission may at any time resign on giving to the Chief Secretary notice in writing of his intention to do so.

(2) If the Council of Ministers is satisfied that a member of the Commission –

- (a) has been absent from meetings of the Commission for a period longer than 12 consecutive months without the leave of the Commission;
- (b) has become bankrupt or made an arrangement with his creditors;
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge his functions as a member,

the Council of Ministers may direct that his office as a member is vacant.

(3) A direction under sub-paragraph (2) shall not have effect unless it is approved by Tynwald.

Proceedings of Commission

3. (1) The Commission shall elect one of its number to be chairman, who shall hold office during the pleasure of the Commission.

(2) The chairman of the Commission, if present, shall preside at meetings of the Commission, and in his absence a member of the Commission chosen by the members present shall preside.

(3) The following provisions of Schedule 2 to the *Statutory Boards Act 1987* apply to the Commission as they apply to a Statutory Board —

paragraph 2 (meetings), except sub-paragraph (3)(d);

paragraph 5 (minutes of proceedings)

paragraph 9 (execution of documents), except sub-paragraph (1)(a).

Appointments etc. by Commission

4. (1) Each of the following —

(a) the appointment of any person under section 3(1), 4(1) or 5(4), and

(b) the removal of any person under section 5(3),

shall be made by an instrument in writing.

(2) Every such instrument shall be filed in the General Registry.

SCHEDULE 2

[Section] 2

TRIBUNALS**PART 1**

1. The Tourist Premises Appeal Tribunal (see section 10).
2. The Income Tax Commissioners.
3. The Independent Schools Tribunal.
4. The Isle of Man Copyright Tribunal.
5. The Isle of Man Data Protection Tribunal.
6. The Isle of Man Rent and Rating Appeal Commissioners.
7. The Riding Establishments Appeal Tribunal.
8. The Residence Act Tribunal (see section 10).

9. The Mental Health Review Tribunal.
10. [Repealed]¹¹
11. The Education (Awards) Tribunal.¹²

PART 2

1. A social security appeal tribunal (see section 10).
2. The Employment and Equality Tribunal.¹³
3. The Health and Safety Tribunal.
4. The Work Permit Appeal Tribunal (see section 10).
5. The VAT and Duties Tribunal.
6. [Repealed]¹⁴
7. The Gambling Appeals Tribunal.¹⁵
8. The Financial Services Tribunal established under section 32 of the *Financial Services Act 2008*.¹⁶
9. [Repealed]¹⁷
10. [Repealed]¹⁸
11. The Harbour Works Tribunal established under section 28 of the *Harbours Act 2010*.¹⁹
12. The Legal Aid Appeals Tribunal established under section 23A of the *Legal Aid Act 1986*.²⁰
13. The Care Services Tribunal established under the *Regulation of Care Act 2013*.²¹
14. The Flood Risk Management Tribunal established under section 57(1) of the *Flood Risk Management Act 2013*.²²

SCHEDULE 3

AMENDMENT OF ENACTMENTS

Section 13(1)

[Sch 3 amended by the Financial Services Act 2008 Sch 7 and by Control of Employment Act 2014 Sch 4, and amends the following Acts and Orders —

Riding Establishments (Inspection) Act 1968 q.v.

Income Tax Act 1970 q.v.

Tourist Act 1975 q.v.

Employment Agencies Act 1975 q.v.

Rent and Rating Appeals Act 1986 q.v.

Payment of Members' Expenses Act 1989 q.v.

Copyright Act 1991 q.v.

Employment Act 1991 q.v.

Value Added Tax Act 1996 q.v.

Mental Health Act 1998 q.v.

Health and Safety at Work Order 1998 (SD155/98)

Retirement Benefits Schemes Act 2000 q.v.

Social Security Act 1998 (Application) Order 2000 (SD92/00)

Residence Act 2001 q.v.

Education Act 2001 q.v.

Data Protection Act 2002 q.v.

Inquiries (Evidence) Act 2003 q.v.]

Payment of Members' Expenses Act 1989

8. (3) Sub-paragraph (1) shall not affect any legally binding agreement or arrangement entered into before the commencement of this paragraph.

Health and Safety at Work Order 1998 (SD155/98)

17. In Part 2 of the Schedule, for the substituted section 10(1) and (2) substitute —
- “(1) A Health and Safety Tribunal (in this Act referred to as “the Tribunal”) shall be constituted for the purposes of this Act.
- (2) Subject to subsection (5)(g), the Tribunal shall consist of —
- (a) a chairman, appointed in accordance with the *Tribunals Act 2006* (an Act of Tynwald);

- (b) 2 other members, one drawn by the Chief Secretary from each of the panels referred to in paragraph 1(b) of Schedule 4 to the *Employment Act 1991* (an Act of Tynwald).”

Social Security Act 1998 (Application) Order 2000 (SD92/00)

20. In the Schedule, for sections 4 to 6 substitute —

“4 Social security appeal tribunals

(1) Subject to the provisions of this Act the functions of social security appeal tribunals and disability appeal tribunals constituted under Part II of the Administration Act are hereby transferred to social security appeal tribunals constituted under the following provisions of this Chapter.

(2) Accordingly appeals under —

- (a) section 12 below; . . .
 (d) section 11 of the Social Security (Recovery of Benefits) Act 1997;

shall be determined by social security appeal tribunals so constituted (in the following provisions of this Chapter referred to as “appeal tribunals”).

5 Panels of chairmen of tribunals

(1) A panel of chairmen of appeal tribunals shall be appointed in accordance with the *Tribunals Act 2006*.

(2) Schedule 1 to this Act shall have effect for supplementing this section.

6 Panels of other members of tribunals

(1) A panel of persons shall be appointed in accordance with the *Tribunals Act 2006* to act as members (otherwise than as chairman) of appeal tribunals.

(2) The panel shall include —

- (a) persons who appear to the Appointments Commission to represent employed earners;
 (b) persons who appear to it to represent employers and earners other than employed earners;
 (c) medical practitioners;
 (d) persons, other than medical practitioners, who are experienced in dealing with the needs of disabled persons —
 (i) in a professional or voluntary capacity; or
 (ii) because they are themselves disabled; and
 (e) such other persons as the Appointments Commission thinks fit.

(3) Before appointing members of the panel, the Appointments Commission shall take into consideration any recommendations from such organisations or persons as it considers appropriate.”.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

-
- ¹ Subs (4) substituted by Legislation Act 2015 s 99.
- ² Para (b) amended by Legislation Act 2015 s 99.
- ³ Subs (3A) inserted by Legislation Act 2015 s 99.
- ⁴ Subs (3B) inserted by Legislation Act 2015 s 99.
- ⁵ S 5A inserted by Legislation Act 2015 s 99.
- ⁶ S 5B inserted by Legislation Act 2015 s 99.
- ⁷ Subs (4) inserted by Income Tax Legislation (Amendment) Act 2017 s 17, effective in relation to any appeal in respect of which a notice is filed after 18/07/2017.
- ⁸ Table amended by Control of Employment Act 2014 Sch 4.
- ⁹ Para (aa) inserted by Legislation Act 2015 s 99.
- ¹⁰ ADO (ss 2(2), 8, 9, 12) 15/9/2006; (remainder of Act not already in operation) 1/11/2006 (SD729/06).
- ¹¹ Para 10 added by SD730/06 and repealed by Public Services Commission Act 2015 Sch.
- ¹² Para 11 added by SD286/07.
- ¹³ Entry 2 substituted by Equality Act 2017 Sch 23.
- ¹⁴ Entry 6 repealed by Insurance (Amendment) Act 2017 Sch 2.
- ¹⁵ Entry 7 added by SD834/07.
- ¹⁶ Entry 8 added by Financial Services Act 2008 Sch 6.
- ¹⁷ Entry 9 repealed by Insurance (Amendment) Act 2017 Sch 2.
- ¹⁸ Entry 10 repealed by Insurance (Amendment) Act 2017 Sch 2.
- ¹⁹ Entry 11 added by Harbours Act 2010 Sch 4.
- ²⁰ Entry 12 added by Legal Aid (Amendment) Act 2012 s 19.

²¹ Entry 13 added by Regulation of Care Act 2013 s 205.

²² Entry added by Flood Risk Management Act 2013 s 93.

