



Isle of Man

Ellan Vannin

AT 21 of 2011

**FINANCIAL PROVISIONS AND
CURRENCY ACT 2011**



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FINANCIAL PROVISIONS AND CURRENCY ACT 2011

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AN ACT to authorise the making of schemes appropriating sums from the General Revenue and other reserves or funds maintained by the Treasury; to validate certain existing schemes; to confer further powers on the Treasury to promote the economic, social and environmental well-being of the Island; to clarify the Treasury's financial powers; to make minor amendments to the Currency Act 1992; and for connected purposes.

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:—

1 Short title

The short title of this Act is the Financial Provisions and Currency Act 2011.

2 Meaning of "Government authority"

- (1) In this Act "Government authority" means —
- (a) a Department;
 - (b) a Statutory Board; or
 - (c) a person designated in an order made by the Treasury.
- (2) An order under subsection (1)(c) must not —
- (a) designate a local authority; or
 - (b) come into operation unless approved by Tynwald.

3 Appropriation of General Revenue etc for purposes of schemes sanctioned by Tynwald

- (1) Provision may be made by way of a scheme appropriating sums from —
- (a) the General Revenue; or

- (b) other reserves or funds maintained by the Treasury;
for expenditure under the scheme.
- (2) A scheme under subsection (1) may be made by —
- (a) the Treasury; or
- (b) any other Government authority with the concurrence of the Treasury.
- (3) The Treasury may direct that the requirement for concurrence under subsection (2)(b) is not to apply in any particular case or in cases of a description specified in the direction.
- (4) A scheme under subsection (1) may in particular —
- (a) provide for the payment of loans and grants;
- (aa) provide for the acquisition, holding and disposal of securities including, in relation to bodies corporate, shares (including stock), debentures, bonds and other securities, whether constituting a charge on the assets of the body or not, and sums expended in this manner are “payments” for the purposes of this subsection;¹
- (b) specify or provide for the circumstances in which, the conditions under which, the terms on which, and the persons to whom, such a payment may be made;²
- (c) specify the form and manner of an application for such a payment;
- (d) provide for the determination of an application for such a payment;
- (e) provide for a review of such a determination in specified circumstances;
- (f) confer a right of appeal against such a determination in specified circumstances;
- (g) specify changes of circumstances requiring repayment of such a payment, and the notice to be given of such changes;
- (h) provide for the repayment and recovery of such a payment;
- (i) provide for security to be taken by a Government authority on property acquired by means of such a payment;
- (j) provide for the release of a security taken by virtue of provision under paragraph (i) in specified circumstances;
- (k) confer a discretion on any person in connection with the operation of the scheme including, but not limited to, in relation to making provision in respect of any of the matters specified in this subsection;³
- (l) provide for the appointment of managers, advisers, nominees, custodians, agents and others in connection with the management

- or administration of the scheme (including the sums being expended under the scheme) on such terms as are determined by the body making the scheme (whether or not those terms are specified in the scheme) including terms as to remuneration (whether from sums appropriated for the purposes of the scheme or otherwise);⁴
- (m) provide for information in respect of payments under the scheme to be included in an annual report to be laid before Tynwald;⁵
 - (n) provide for the publication of information to serve as guidance with respect to the manner in which powers are to be exercised under the scheme;⁶
 - (o) make such supplemental, incidental, consequential and transitional provisions as are considered to be necessary or expedient by the body making the scheme.⁷
- (5) A scheme under subsection (1) may also provide for the furnishing of false, incomplete or misleading information in connection with an application to be an offence punishable on summary conviction by custody for not more than 6 months, a fine of £5,000, or both.
- (6) The Council of Ministers may by order amend subsection (4) by adding, deleting or amending any of its paragraphs.
- (7) Schemes under subsection (1) and orders under subsection (6) must not come into operation unless approved by Tynwald.
- (8) On and after the coming into operation of this section any scheme to which this subsection applies is to be deemed always to have had effect under subsection (1)(a).
- (9) Subsection (8) applies to any scheme —
- (a) approved by a resolution of Tynwald under section 2(c) or (d) of the *Finance Act 1958* (voting and appropriation of moneys out of General Revenue by resolution of Tynwald); and
 - (b) in operation on the commencement of this section,
- unless the scheme is made (or deemed to have effect) by virtue of an enactment other than section 2 of the *Finance Act 1958*.
- (10) For the sake of clarity, subsection (8) does not render a person guilty of an offence in relation to anything done or omitted to be done before the coming into operation of this section.
- (11) Nothing in this section limits any other power of a Government authority to make provision for expenditure.

4 Power of Treasury to promote well-being etc

- (1) The Treasury has power to do anything which it considers is likely to achieve one or more of the following—

- (a) the promotion or improvement of the Island's economy;
- (b) the promotion or improvement of the social well-being of the Island;
- (c) the promotion or improvement of the Island's environment.

This is subject to the restrictions in subsection (2).

- (2) The power in subsection (1) may not be exercised —
 - (a) if (or to the extent that) the Treasury has power to make the same provision under any other enactment; or
 - (b) in relation to the area of a local authority (or any part of that area) to do something that the local authority can itself do but, subject to that, it may be exercised in relation to, or for the benefit of —
 - (i) the whole or any part of the Island; or
 - (ii) all or any persons resident or present in the Island.
- (3) The power in subsection (1) includes power for the Treasury to —
 - (a) incur expenditure;
 - (b) give financial assistance (including assistance by way of guarantee or indemnity) to any person;
 - (c) enter into arrangements or agreements with any person;
 - (d) co-operate with, or facilitate or co-ordinate the activities of, any person;
 - (e) exercise any of a person's functions on that person's behalf;
 - (f) provide staff, goods, services or accommodation to any person; and
 - (g) subscribe for, or invest in, stock or securities issued by a body corporate.
- (4) Nothing in subsection (3) limits the scope of the power in subsection (1).
- (5) The Treasury must make an annual report on any exercise of the power in subsection (1) to the sitting of Tynwald held in July or, if no sitting occurs in that month, the next convenient sitting.
- (6) For the purpose of subsection (5) there are disregarded —
 - (a) a meeting of Tynwald convened under section 3 of the *Isle of Man Constitution Amendment Act 1919*; and
 - (b) a sitting of Tynwald at St John's.
- (7) This section is subject to section 8.

5 Power to invest

- (1) For the sake of clarity, the Treasury may invest sums held for or on behalf of a Government Department or a Statutory Board in such investments as it thinks prudent, subject to subsection (4).

- (2) Accumulations and interest on sums invested under subsection (1) accrue to the fund from which the sums were drawn for the purpose of the investment, and if they were drawn from more than one fund shall accrue in proportion to the sums so drawn.
- (3) The Treasury may delegate its powers of investment under subsection (1) to persons appearing to it to be appropriately qualified to undertake that function, subject to subsection (4).
- (4) The Council of Ministers may give directions to the Treasury as to the manner in which the powers conferred by subsections (1) and (3) are or are not to be exercised.

6 Power to give guarantees and indemnities

- (1) The Treasury may provide guarantees and indemnities to persons contracting, or proposing to contract, with a Government authority.
- (2) Any other Government authority may provide guarantees and indemnities to persons contracting, or proposing to contract with it, but, subject to subsection (3), only with the concurrence of the Treasury.
- (3) The requirement for Treasury concurrence in subsection (2) does not apply in any case where the giving of the guarantee or indemnity in question is in accordance with normal commercial practice.
- (4) The Treasury must issue guidance as to the meaning of “normal commercial practice” for the purposes of this section, and, in determining any question in connection with a guarantee or an indemnity, a court must have regard to the guidance.
- (5) This section is subject to section 8 but, subject to that, the powers conferred by it are additional to any other power conferred by this Act.

7 Power to enter into hedging transactions

- (1) For the sake of clarity, it is declared that the Treasury may enter into hedging transactions.
- (2) A transaction is a hedging transaction if (but only if) —
 - (a) the transaction is one that may reasonably be regarded as economically appropriate to the elimination of risk in relation to another transaction being undertaken by a Government authority;
 - (b) the risk in question arises by reason of a fluctuation in commodity values, exchange rates, interest rates or the value of securities (“the relevant fluctuation”);
 - (c) any instrument used in the transaction is one that, by virtue of the relationship between fluctuations in its price and the relevant fluctuation may reasonably be regarded as an instrument which

may be appropriately used in order to reduce or eliminate risk arising with respect to the relevant fluctuation; and

- (d) the purpose of the transaction is reduction or elimination of the risk referred to in paragraph (b) and not speculation.
- (3) For the purpose of subsection (2)(d) a transaction is not to be regarded as one for the reduction or elimination of risk if, having regard to other hedging transactions that have been entered into in relation to the relevant fluctuation, it is unreasonable to consider that the risk continues to arise.
- (4) This section is subject to section 8.

8 Limits on power to promote well-being etc

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- (1) Sections 4(1), 6 and 7 do not enable a Government authority to do anything which it is unable to do by virtue of any existing prohibition, restriction or limitation on its powers that is contained in an enactment (whenever passed or made).
- (2) Sections 4(1) and 6 do not enable a Government authority to raise money (whether by way of precepts, borrowing or otherwise).
- (3) The Council of Ministers may give directions to a Government authority preventing it from doing, by virtue of section 4(1), 6 or 7, anything specified, or of a description specified, in the directions.
- (4) A Government authority must comply with a direction under subsection (3).
- (5) Sections 4(1) and 6 do not affect the operation of —
 - (a) any other power contained in this Act;
 - (b) the *Isle of Man Loans Act 1974*; or
 - (c) the *Audit Act 2006*.

9 Amendment of the Currency Act 1992

- (1) The *Currency Act 1992* is amended as follows.
- (2) [Amended section 3(1).]
- (3) [Amended section 4.]
- (4) [Substituted sections 5 and 6.]
- (5) All Orders made under sections 5 and 6 of the *Currency Act 1992*, or under earlier provisions which those provisions re-enact, are revoked other than those listed in subsection (6).

- (6) On the coming into operation of this section the following shall have effect as special currency determinations under section 6 of the *Currency Act 1992* —
- (a) the Currency (Angel Coins) (General) Order 2010¹;
 - (b) the Currency (Crown Coins) (General) Order 2010²; and
 - (c) the Currency (Noble Coins) (General) Order 2010³.
- (7) Despite subsection (5), Government notes and coins issued under an Order revoked by it —
- (a) shall be deemed to be issued, as the case requires, under section 5 or 6 of the *Currency Act 1992* (as substituted by subsection (4));
 - (b) shall be legal tender if they were before this Act comes into operation; and
 - (c) may continue to be issued under the provisions substituted by subsection (4).

¹ SD835/10

² SD837/10

³ SD836/10

ENDNOTES**Table of Endnote References**

¹ Para (aa) inserted by SD2015/0293.

² Para (b) amended by SD2015/0293.

³ Para (k) amended by SD2015/0293.

⁴ Para (l) inserted by SD2015/0293.

⁵ Para (m) inserted by SD2015/0293.

⁶ Para (n) inserted by SD2015/0293.

⁷ Para (o) inserted by SD2015/0293.