

CHAPTER No. 7

**PERSONAL LIABILITY (MINISTERS,
MEMBERS AND OFFICERS)
ACT 2007**

**© Copyright Treasury of the Isle of Man
Crown Copyright reserved**

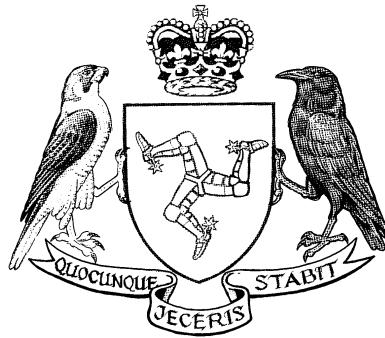
See introductory page for restrictions on copying and reproduction

PERSONAL LIABILITY (MINISTERS, MEMBERS AND OFFICERS) ACT 2007

Arrangement of Sections

Section

1. Liability of members and officers of departments
2. Liability of members and officers of statutory boards
3. Liability of designated persons
4. Indemnification of designated persons
5. Supplementary
6. Transitional provisions
7. Short title



Isle of Man } Signed in Tynwald: 16th October 2007
to Wit } Received Royal Assent: 16th October 2007
Announced to Tynwald: 16th October 2007

AN ACT

to make provision with respect to the personal liability of members of departments and statutory boards, public officers and certain others; and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and 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 (that is to say):—

1. For paragraph 6 of Schedule 1 to the Government Departments Act 1987 substitute —

“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.

Liability of
members and
officers of
Departments

[c.13]

(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.

[c.1]

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.

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;

“officer” 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.”.

2. For paragraph 11 of Schedule 2 to the Statutory Boards Act 1987 substitute —

Liability of
members and
officers of
Statutory
Boards

“Liability of members and officers

11. (1) A member or officer of a Board 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 —

[c.14]

(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 Board 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.

[c.1]

Indemnification of members and officers

11A. (1) Sub-paragraph (2) applies where any action, suit or proceeding has been brought or threatened against a member or officer of a Board 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 Board to indemnify him or her.

(2) The Board 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 Board 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.

*Paragraphs 11 and 11A : supplementary***11B.** In paragraphs 11 and 11A —

“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;

“officer” 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.”.

Liability of
designated
persons

3. (1) A person specified in subsection (2) (“designated person”) shall not be personally liable in respect of any act done in the performance or purported performance of his or her functions if the designated person 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 in their official capacity.

(2) The following are the designated persons referred to in subsection (1) —

- (a) the person holding the office of Chief Minister;
- (b) officers (permanent or temporary) serving in the Chief Minister’s Office;
- (c) a person holding the office of Minister;
- (d) the person holding the office of Attorney General;
- (e) officers (permanent or temporary) serving in the Attorney General’s Chambers;
- (f) the person holding the office of Chief Secretary;
- (g) officers (permanent or temporary) serving in the Chief Secretary’s Office;
- (h) the person holding the office of Clerk of Tynwald;
- (i) officers (permanent or temporary) serving in the Clerk of Tynwald’s Office;

- (j) the person holding the office of Chief Registrar;
- (k) officers (permanent or temporary) serving in any registry, office or division of the General Registry or the court service;
- (l) any other public officer, Government officer or trustee (who holds office by virtue of membership of a public body) who is specified in an order made by the Council of Ministers.

(3) Subsection (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.

[c.1]

(4) Nothing in this section shall be construed as affecting —

- (a) the privileges of Tynwald or any Branch of Tynwald;
- (b) section 5 of the Civil Service Act 1990 (liability in tort);
- (c) any right or privilege that, apart from this section, applies in respect of any office held by a designated person;
- (d) any indemnity or limitation of liability under any other enactment.

[c.8]

4. (1) Subsection (2) applies where any action, suit or proceeding has been brought or threatened against a designated person in respect of any act done by that designated person in the performance or purported performance of his or her functions and the circumstances are such that the designated person is not legally entitled to be indemnified out of the General Revenue.

Indemnification
of designated
persons

(2) The Treasury may indemnify a designated person 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 Treasury or the High Court is satisfied that 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 in their official capacity.

Supplementary **5.** (1) In this Act —

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

“designated person” has the meaning given in section 3 and includes a former designated person and the estate of a former designated person but only in respect of acts done while he or she was a designated person.

(2) For the purposes of sections 3 and 4, a certificate signed by the Governor shall be conclusive evidence for all purposes that an individual is or was at any time a designated person and a certificate purporting to be so signed shall be treated as so signed unless the contrary is proved.

(3) An order under section 3(2)(1) shall not come into operation unless it is approved by Tynwald.

Transitional provisions

[c.13]

6. (1) In respect of a member of a Department, in section 1, the new paragraph 6(1) of Schedule 1 to the Government Departments Act 1987 applies only in respect of an act done on or after the date on which section 1 comes into operation.

(2) In section 1, the new paragraph 7(2) of Schedule 1 to the Government Departments Act 1987 applies in respect of acts done before, on or after the date on which section 1 comes into operation.

[c.14]

(3) In respect of a member of a Board, in section 2, the new paragraph 11(1) of Schedule 2 to the Statutory Boards Act 1987 applies only in respect of an act done on or after the date on which section 2 comes into operation.

(4) In section 2, the new paragraph 11A(2) of Schedule 1 to the Statutory Boards Act 1987 applies in respect of acts done before, on or after the date on which section 1 comes into operation.

(5) Section 3 applies only in respect of any act done on or after the date on which section 3 comes into operation.

(6) Section 4 applies in respect of acts done before, on or after the date on which section 1 comes into operation.

Short title

7. This Act may be cited as the Personal Liability (Ministers, Members and Officers) Act 2007.