



Isle of Man

Ellan Vannin

WAR MEMORIALS BILL 2015

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Explanatory Memorandum

1. This Bill is promoted by Mr Watterson MHK. It provides for the creation of a War Memorials Register and is intended to improve the protection accorded to war memorials.
2. *Clauses 1 and 2* provide respectively for the short title and commencement of the resulting Act.
3. *Clause 3* defines certain terms used in the Bill
4. *Clause 4* provides for the maintenance, on a statutory basis, of the War Memorials Register.
5. *Clause 5* makes provision about the creation of war memorials and the designation of property as a war memorial.
6. *Clause 6* provides for the ownership and maintenance of registered war memorials.
7. *Clause 7* enables an owner to apply to vest a war memorial in a local authority.
8. *Clause 8* re-enacts existing powers contained in the War Memorials (Local Authorities' Powers) Act 1927 (which is repealed by *clause 11*).
9. *Clause 9* provides for the application (with modifications) of Parts 3 to 5 of the Town and Country Planning Act 1999 to war memorials.
10. *Clause 10* provides a power for the Council of Ministers to make an order modifying or disapplying sections 5 to 9 of the resulting Act (and any enactment applied under clause 9) in the case of a memorial which forms part of, or is attached to, or lies within the curtilage of a building which is used for ecclesiastical purposes and which is subject to appropriate ecclesiastical control (such as the faculty jurisdiction which applies to buildings which are consecrated to the use of the Church of England).
11. The Bill does not have any impact on revenue or on public expenditure.
12. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



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WAR MEMORIALS BILL 2015

1 **A BILL** to make fresh provision about war memorials; and for connected
2 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:—

3 **1 Short title**

4 The short title of this Act is the War Memorials Act 2015.

5 **2 Commencement**

6 (1) This Act comes into operation on such day or days as the Council of
7 Ministers may by order appoint.

8 (2) An order under subsection (1) may make such consequential, incidental,
9 supplemental, transitional and transitory provision as appears to the
10 Council of Ministers to be necessary or expedient.

11 **3 Interpretation**

12 In this Act—

13 “**the Department**” means the Department of Environment, Food and
14 Agriculture;

15 “**registered war memorial**” means a war memorial entered in the War
16 Memorials Register; and

17 “**war memorial**” means, subject to section 5(6), any property (whether real or
18 personal) which has as its purpose the permanent, physical and public
19 commemoration of service or sacrifice in or in connection with war or
20 other armed conflict, other than —

21 (a) a grave, a grave marker or a tombstone; or

22 (b) a memorial to a single individual or individuals all of whom were
23 members of the same family;

24 “**War Memorial Committee**” means a body established (before or after the
25 commencement of this Act) for the purpose of creating a war memorial;

1 “War Memorials Register” means the register maintained under section 4.

2 4 War Memorials Register

3 The Council of Ministers must cause to be maintained and published, in such
4 form and manner as the Council of Ministers may determine, a register of war
5 memorials in the Island (“the War Memorials Register”).

6 5 Creation of war memorials and designation of property as a war 7 memorial

8 (1) The Council of Ministers may consent to the creation of a war memorial.

9 (2) No person may create a war memorial without such consent.

10 (3) Where consent has been given under subsection (1), the war memorial
11 which the consent authorises may be created without the need for any
12 other consent, licence or permission of any kind.

13 (4) Upon the completion of a war memorial created with the consent of the
14 Council of Ministers under subsection (1) the Council of Ministers must
15 cause the war memorial to be entered in the War Memorials Register.

16 (5) A consent under subsection (1)–

17 (a) must be given in writing;

18 (a) must specify the nature and form of the war memorial which it
19 authorises; and

20 (b) without limiting paragraph (b), may impose, or authorise the
21 imposition by the Department, of such conditions, requirements
22 or restrictions on the consent as appear to the Council of Ministers
23 to be necessary or appropriate.

24 (6) If it appears to the Council of Ministers that it is in the national interest
25 that any real or personal property, which would be a war memorial but
26 for the exception in paragraph (a) or (b) of the definition of that term,
27 should be designated as a war memorial, the Council of Ministers may –

28 (a) designate the property as a war memorial; and

29 (b) cause that war memorial to be entered in the War Memorials
30 Register.

31 (7) Before designating property as a war memorial in accordance with
32 subsection (6) the Council of Ministers must consult–

33 (a) the local authority within whose area the item is situate; and

34 (b) any person appearing to the Council of Ministers to have an
35 interest in the item or in the proposal to designate the item under
36 subsection (6).

37 (8) The Council of Ministers must make rules about the procedure for –

38 (a) an application for consent under subsection (1); and

- 1 (b) the designation of property as a war memorial under subsection
2 (6).
- 3 (9) Rules under subsection (8) must be laid before Tynwald as soon as
4 reasonably practicable after they are made.

5 **6 Ownership and maintenance of war memorials**

- 6 (1) The owner of a registered war memorial must maintain it.
- 7 (2) If, after reasonable enquiry —
- 8 (a) the ownership of a registered war memorial cannot be
9 determined, or
- 10 (b) the owner of a registered war memorial cannot be found,
11 the Council of Ministers may make a declaration under subsection (3).
- 12 (3) A declaration under this subsection may provide that the registered war
13 memorial —
- 14 (a) is the property of the owner of the land comprised in it or upon
15 which it stands; or
- 16 (b) is to vest in the local authority within whose area it is for the time
17 being situate.

18 **7 Vesting of registered war memorials in local authority**

- 19 (1) The owner of a registered war memorial may apply to the Council of
20 Ministers to vest it in a local authority.
- 21 (2) If satisfied that it is in the public interest to do so, on an application
22 under subsection (1) the Council of Ministers may vest the registered war
23 memorial in the local authority within whose area it is for the time being
24 situate.
- 25 (3) Before exercising the power conferred by subsection (2), if it is
26 practicable to do so, the Council of Ministers must consult the owner of
27 the registered war memorial.
- 28 (4) On vesting the local authority becomes the owner of the registered war
29 memorial, and accordingly section 6(1) applies to the authority.

30 **8 Powers of local authorities**

- 31 (1) A local authority may —
- 32 (a) insure any registered war memorial vested in the authority;
- 33 (b) expend monies on the maintenance of a registered war memorial
34 (whether or not vested in the authority and wherever it is located
35 on the Island);

1 (c) with the consent of the Department, borrow money for the
2 purposes of the authority's functions under this Act;

3 (c) accept monies from a War Memorial Committee, or an officer of
4 such a Committee for the purpose of maintaining a registered war
5 memorial.

6 (2) In this section "maintenance" includes repair, protection, alteration,
7 extension, inscription, or renewal.

8 **9 Application of provisions of Parts 3 to 5 of the Town and Country** 9 **Planning Act 1999 to registered war memorials**

10 (1) The Council of Ministers may by order apply Parts 3 to 5 of *the Town and*
11 *Country Planning Act 1999* to war memorials.

12 (2) An order under subsection (1) may —

13 (a) make such modifications of those Parts, and

14 (b) include such consequential, incidental or supplemental
15 provisions,

16 as appears to the Council of Ministers to be appropriate.

17 (3) An order under subsection (1) must not come into operation unless
18 approved by Tynwald.

19 **10 Exceptions for ecclesiastical jurisdiction**

20 (1) The Council of Ministers may by order disapply or modify sections 5 to 9
21 (and enactment applied under section 9) in relation to a registered war
22 memorial which —

23 (a) is attached to,

24 (b) forms part of, or

25 (c) is situate within the curtilage of,

26 a church building which is for the time being used for ecclesiastical
27 purposes and which is subject to appropriate ecclesiastical control.

28 (2) For the purposes of subsection (1) "appropriate ecclesiastical control"
29 and "ecclesiastical purposes" have such meaning as the order under that
30 subsection provides.

31 (3) An order under subsection (1) must not come into operation unless
32 approved by Tynwald.

33 **11 Repeal**

34 The War Memorials (Local Authorities' Powers) Act 1927 is repealed.

IN THE KEYS

WAR MEMORIALS BILL 2015

A **BILL** to make fresh provision
about war memorials; and for
connected purposes.

Leave to introduce given by the Keys
on 25 May 2015.

MR WATTERSON

25 MAY 2015