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**COUNCIL OF MINISTERS (AMENDMENT)
BILL 2018**

COUNCIL OF MINISTERS (AMENDMENT) BILL 2018

Explanatory Memorandum

1. This Bill is promoted by Mr Malarkey MHK on behalf of the Council of Ministers.
2. The purpose of the Bill is to make explicit the duty of Ministers both collectively and individually to maintain the rule of law and protect judicial independence upon the Island.
3. *Clause 1* provides for the resulting Act's short title and *clause 2* deals with commencement.
4. *Clause 3* inserts two new sections (sections 6A and 6B) into the *Council of Ministers Act 1990*. The first of these sections is declaratory, confirming the continuing principle of the rule of law and stating the continuing obligation of the Council of Ministers collectively, and of individual Ministers, to uphold and support the rule of law. The second imposes a new duty on the Council of Ministers, each Minister and others responsible for matters relating to the judiciary and the administration of justice to uphold and support the continuing independence of the judiciary. These provisions mirror section 1 and section 3 (so far as it relates to England and Wales) of the Constitutional Reform Act 2005 (of Parliament).
5. The Bill has no resource implications.
6. 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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COUNCIL OF MINISTERS (AMENDMENT) BILL 2018

A **BILL** to promote the rule of law, and the independence of the judiciary, on the Island; 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 Council of Ministers (Amendment) Act 2018.

2 Commencement

This Act comes into operation at the beginning of the month following that in which Royal Assent to it is announced to Tynwald.

3 Amendment of the Council of Ministers Act 1990

After section 6 of the *Council of Ministers Act 1990* insert —

«6A Duty of Council of Ministers to uphold and support rule of law

P2005/4/1(adapted)

- (1) The constitutional principle of the rule of law continues to exist.
- (2) The Council of Ministers has, and is to be taken always to have had, a constitutional role in upholding and supporting the constitutional principle of the rule of law.

6B Guarantee of continued judicial independence

P2005/4/3(1) and (4) to (7) (adapted)

- (1) The Council of Ministers acting collectively, each Minister and all with responsibility for matters relating to the judiciary or otherwise to the administration of justice, must uphold and support the continued independence of the judiciary.
- (2) The following particular duties are imposed for the purpose of upholding and supporting that independence.

- (3) The Chief Minister and the other members of the Council of Ministers must not seek (individually or collectively) to influence particular judicial decisions through any special access to the judiciary.
- (4) The Council of Ministers, each Minister and every other person having responsibility as mentioned in subsection (1) must have regard to—
 - (a) the need to defend that independence;
 - (b) the need for the judiciary to have the support necessary to enable them to exercise their functions;
 - (c) the need for the public interest in regard to matters relating to the judiciary or otherwise to the administration of justice to be properly represented in decisions affecting those matters.
- (5) In this section “**the judiciary**” includes the judiciary of any of the following—
 - (a) the High Court;
 - (b) any other court or tribunal established under the law of the Island.».